

The Ontario Securities Commission

# OSC Bulletin

January 21, 2005

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

**The Ontario Securities Commission**

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

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

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**Carswell**  
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M1T 3V4

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

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One Corporate Plaza  
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M1T 3V4

Customer Relations  
Toronto 1-416-609-3800  
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## Chapter 1

# Notices / News Releases

### 1.1 Notices

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

JANUARY 21, 2005

#### CURRENT PROCEEDINGS

#### BEFORE

#### ONTARIO SECURITIES COMMISSION

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

The Harry S. Bray Hearing Room  
Ontario Securities Commission  
Cadillac Fairview Tower  
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Susan Wolburgh Jenah, Vice-Chair	—	SWJ
Paul K. Bates	—	PKB
Robert W. Davis, FCA	—	RWD
Harold P. Hands	—	HPH
David L. Knight, FCA	—	DLK
Mary Theresa McLeod	—	MTM
H. Lorne Morphy, Q.C.	—	HLM
Robert L. Shirriff, Q.C.	—	RLS
Suresh Thakrar, FIBC	—	ST
Wendell S. Wigle, Q.C.	—	WSW

### SCHEDULED OSC HEARINGS

TBA **Yama Abdullah Yaqeen**

s. 8(2)

J. Superina in attendance for Staff

Panel: RLS/ST/DLK

TBA **Brian Peter Verbeek** and Lloyd Hutchison Ebenezer Bruce\*

s. 127

K. Manarin in attendance for Staff

Panel: WSW/ST

\* Lloyd Bruce settled November 12, 2004

January 24, 2005

**Andrew Campbell**

s. 127 & 127.1

10:00 a.m.

G. Mackenzie in attendance for Staff

Panel: PMM/ST/DLK

January 24, 2005

**Wells Fargo Financial Canada Corporation**

s. 127 & 127.1

10:00 a.m.

G. Mackenzie in attendance for Staff

Panel: PMM/ST/DLK

January 26, 27 31 and February 1, 2 and 3, 2005

**Cornwall et al**

s. 127

10:00 a.m.

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.

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

s. 127  
M. Britton in attendance for Staff  
Panel: SWJ/HLM/MTM

April 11 to May 13, 2005, except Tuesdays

**Philip Services Corp. et al**  
s. 127

10:00 a.m.  
K. Manarin in attendance for Staff  
Panel: PMM/RWD/ST

May 30, June 1, 2, 3, 6, 7, 8, 9 and 10, 2005  
10:00 a.m.

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

s. 127  
J. Superina in attendance for Staff  
Panel: TBA

\* David Bromberg settled April 20, 2004  
\* Lloyd Bruce settled November 12, 2004

**1.1.2 Notice of Commission Approval – IDA Proposed Amendments to By-law 40, Regarding Individual Approvals, Notifications and Related Fees and National Registration Database**

**THE INVESTMENT DEALERS ASSOCIATION (IDA)**

**PROPOSED AMENDMENTS TO IDA BY-LAW 40 REGARDING INDIVIDUAL APPROVALS, NOTIFICATIONS AND RELATED FEES AND NATIONAL REGISTRATION DATABASE**

**NOTICE OF COMMISSION APPROVAL**

The Ontario Securities Commission approved proposed amendments to IDA By-law 40 regarding individual approvals, notifications and related fees and National Registration Database (NRD). In addition, the Alberta Securities Commission approved and the British Columbia Securities Commission did not object to the amendments. The purposes of the amendments are to extend the requirement to file through NRD to Quebec Members, applicants and approved persons and provide for the transition from paper to electronic filing. A copy and description of the proposed amendments were published on November 5, 2004, at (2004) 27 OSCB 9144. No comments were received.

**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**

**1.1.3 CSA Staff Notice 58-302 Implementation of Corporate Governance Policy and Related Disclosure Instrument**

Sylvie Anctil-Bavas  
Autorité des marchés financiers  
Telephone: (514) 395-0558 x. 4373  
E-mail: Sylvie.Anctil-Bavas@lautorite.qc.ca

**CSA STAFF NOTICE 58-302  
IMPLEMENTATION OF CORPORATE GOVERNANCE  
POLICY AND RELATED DISCLOSURE INSTRUMENT**

Proposed National Policy 58-201 *Corporate Governance Guidelines* (the **Proposed Policy**) and proposed National Instrument 58-101 *Disclosure of Corporate Governance Practices* (the **Proposed Instrument**) were published for comment on October 29, 2004. The comment period expired on December 13, 2004 (December 28, 2004 in Manitoba).

Staff are currently considering the comments received and incorporating changes as appropriate. Subject to receiving all necessary Commission and ministerial approvals, staff anticipate that the Proposed Policy and the Proposed Instrument will apply to information circulars or AIFs, as the case may be, which are filed following financial years ending on or after June 30, 2005. For example, an issuer with a June 30<sup>th</sup> year end would include the disclosure required by the Proposed Instrument in its information circulars commencing with the first information circular it files after June 30, 2005. Similarly, an issuer with a July 31<sup>st</sup> year end would include the required disclosure in its information circulars commencing with the first information circular it files after July 31, 2005.

Questions may be referred to the following people:

Rick Whiler  
Ontario Securities Commission  
Telephone: (416) 593-8127  
E-mail: rwhiler@osc.gov.on.ca

Michael Brown  
Ontario Securities Commission  
Telephone: (416) 593-8266  
E-mail: mbrown@osc.gov.on.ca

Susan Toews  
British Columbia Securities Commission  
Telephone: (604) 899-6764  
E-mail: stoews@bcsc.bc.ca

Kari Horn  
Alberta Securities Commission  
Telephone: (403) 297-4698  
E-mail: kari.horn@seccom.ab.ca

Barbara Shourounis  
Saskatchewan Financial Services Commission  
Telephone: (306) 787-5842  
E-mail: bshourounis@sfsc.gov.sk.ca

Bob Bouchard  
Manitoba Securities Commission  
Telephone: (204) 945-2555  
E-mail: bbouchard@gov.mb.ca

1.3 News Releases

1.3.1 CSA News Release - Canada's Securities Regulators Issue Guidance on Retirement Benefits Disclosure

FOR IMMEDIATE RELEASE

**CANADA'S SECURITIES REGULATORS ISSUE GUIDANCE ON RETIREMENT BENEFITS DISCLOSURE**

**January 14, 2005 – Toronto, ON** -- The Canadian Securities Administrators (CSA) issued guidance today on disclosure of retirement benefits that goes beyond the disclosures required in securities regulation. The guidance was issued to assist issuers that choose to provide additional disclosure in identifying items that could be disclosed, as well as the assumptions used to derive the information, in a form that is clearly presented for the benefit of investors.

Additional disclosure could include the total retirement benefit liability of the issuer associated with each executive, the total service costs in respect of the plan during the past year, and the estimated annual benefits payable to specific executives on their retirement. Some of the key assumptions that the CSA suggest could also be disclosed include assumptions on retirement age, vesting, increases in compensation, interest rates and employee contributions.

"The complexity of compensation mechanisms has grown steadily in recent years, making it more difficult for investors to understand what executives are paid and how that compensation is determined," said John Hughes of the Corporate Finance Branch at the Ontario Securities Commission. "We understand that a number of issuers are considering providing enhanced disclosure on retirement benefits and we encourage these issuers to consider how to provide this disclosure in a clear and transparent way."

CSA Staff Notice 51-314 – *Retirement Benefits Disclosure* is available on several CSA members' web sites, except British Columbia, which is not participating in the notice. The requirements for executive compensation disclosure are in Form 51-102F6 *Statement of Executive Compensation* of National Instrument 51-102 *Continuous Disclosure Obligations*.

The CSA is the council of the securities regulators of Canada's provinces and territories whose objectives are to improve, coordinate and harmonize regulation of the Canadian capital markets.

Media Relations Contact:

Eric Pelletier  
Ontario Securities Commission  
416-595-8913  
1-877-785-1555 (toll free in Canada)  
www.osc.gov.on.ca

1.3.2 OSC Panel Approves Mutual Fund Settlements - \$156.5 Million Set Aside For Harmed Investors

FOR IMMEDIATE RELEASE  
December 16, 2004

**OSC PANEL APPROVES MUTUAL FUND SETTLEMENTS - \$156.5 MILLION SET ASIDE FOR HARMED INVESTORS**

**TORONTO** – A panel of Commissioners of the Ontario Securities Commission (OSC) approved four settlement agreements today that will result in \$156.5 million being distributed to mutual fund unit holders who suffered harm from market timing activities in those funds. The settlement agreements, approved in the public interest, were reached earlier this week by OSC Staff with CI Mutual Funds Inc., AGF Funds Inc., I.G. Investment Management, Ltd. and AIC Limited.

The agreements said that the conduct of the four fund managers - in failing to protect fully the best interests of the relevant funds - was contrary to the public interest. As well, the fund managers had entered into agreements with institutional investors who profited by the frequent trading market timing activities.

"Every penny of the \$156.5 million will go to the people who were negatively affected by the frequent trading market timing," said Michael Watson, OSC Director of Enforcement. "The fund managers will pay for the distribution of the funds to unit holders under the supervision of an independent consultant, under a plan that will need to be approved by the Chair and a Vice-Chair of the OSC. As well, the fund managers will ensure that the investors who were responsible for the frequent trading market timing do not receive any of these funds.

"While the behaviour of the investors who profited by the frequent trading market timing was not in violation of Ontario securities law, the mutual fund managers did not implement appropriate measures to fully protect the funds against the harm caused by the market timing trading. We expect fund managers will monitor trading vigilantly to ensure these practices, and any other abusive trading harmful to investors, do not reoccur," added Watson.

Meanwhile, OSC Chair David Brown announced that the probe into trading activities in mutual funds is now complete. The OSC said it is not contemplating any further regulatory proceedings on this matter.

"We have concluded our investigations into possible late trading and market timing activities in mutual funds authorized for sale in Ontario," said Brown. "Letters have been sent to all other fund managers confirming that the OSC is not contemplating proceedings against them.

"This has been an intensive effort, completed within a short period of time, on a scale never before undertaken by us. Our staff were diligent and focussed at every step of the investigation. I also recognize the contribution made by our



colleagues at other provincial securities regulators, the Investment Dealers Association and the Mutual Fund Dealers Association.

"Investors can now be confident that our year-long probe has uncovered the frequent trading market timing that has taken place and that the activity has been stopped," added Brown.

"The experience we gained throughout the analysis and research conducted during the probe will certainly shape our thinking as we turn our minds to developing governance guidelines for the mutual fund industry," added Brown. "Our mutual fund investors deserve, and I know that the mutual fund industry is willing to embrace, good governance to ensure that investors will know that they are investing in an industry that has integrity and that they are being treated fairly. As we have committed, we are preparing a full report on the results of the probe which will be made public once it is completed."

The OSC also confirmed that it had issued a letter last week to a final mutual fund manager, Franklin Templeton Investments, to say that it is contemplating enforcement proceedings related to possible frequent trading market timing in certain funds managed by Franklin Templeton Investments.

No evidence of ongoing market timing activity has been found since the review of the Canadian mutual fund industry began in November 2003. In the probe, OSC staff did not uncover any evidence of late trading.

## Facts and Terms of Settlements

### 1. CI Mutual Funds Inc.

In the period September 1998 to September 2003:

- the total profit realized in CI Funds by the market timing traders was approximately \$90.2 million;
- the market timing traders achieved a return on their overall investment in the relevant funds that was significantly higher than the return that long-term investors would have achieved on their investments in the relevant funds in the same period;
- in connection with the activities of the market timing traders, CI charged management fees to the relevant funds of approximately \$7.9 million; and
- fees of approximately \$9.4 million were charged by CI to the three market timing traders and paid to the CI Funds.

CI agrees that, as a term of settlement, it will make a payment in the amount of \$49.3 million to be distributed to affected investors.

### 2. AGF Funds Inc.

In the period August 2000 to June 2003:

- the total profit realized in AGF Funds by the market timing traders was approximately \$47.9 million;
- the market timing traders achieved a return on their overall investment in the relevant funds that was significantly higher than the return that long-term investors would have achieved on their investments in the relevant funds in the same period;
- in connection with the activities of the market timing traders, AGF charged management fees to the relevant funds of approximately \$2.1 million; and
- no fees were charged by AGF to the market timing traders.

AGF agrees that, as a term of settlement, it will make a payment in the amount of \$29.2 million to affected investors.

### 3. I.G. Investment Management, Ltd.

In the period October 2000 to November 2002:

- the total profit realized in IG Funds by the market timing client was approximately \$36 million;
- the market timing client achieved a return on its overall investment in the relevant funds that was significantly higher than the return that long-term investors would have achieved on their investments in the relevant funds in the same period;
- Investors Group received revenues in connection with activities of the market timing client of approximately \$4.2 million; and
- no fees were charged by IG.

IG agrees that, as a term of settlement, it will make a payment in the amount of \$19.2 million to be distributed to affected investors.

### 4. AIC Limited

In the period January 1999 to September 2003:

- the total profit realized in AIC Funds by the market timing traders was approximately \$127 million;

- the market timing traders achieved a return on their overall investment in the relevant funds that was significantly higher than the return that long-term investors would have achieved on their investments in the relevant funds in the same period;
- in connection with the activities of the market timing traders, AIC charged management fees to the relevant funds of approximately \$3.1 million; and
- fees of approximately \$0.5 million were charged by AIC to the market timing traders and paid to the relevant funds.

AIC agrees, as a term of settlement, that it will make a payment in the amount of \$58.8 million to affected investors.

A hearing into trading practices at I.G. Investment Management, Ltd. was held concurrently with the OSC hearing by the Manitoba Securities Commission. As well, the Investment Dealers Association and the Mutual Fund Dealers Association of Canada held related hearings today.

Copies of the approved Settlement Agreements and distribution plans for CI Mutual Funds Inc., AGF Funds Inc., I.G. Investment Management, Ltd. and AIC Limited, and orders against CI Mutual Funds Inc., AGF Funds Inc., I.G. Investment Management, Ltd. and AIC Limited are available on the OSC's web site ([www.osc.gov.on.ca](http://www.osc.gov.on.ca)).

### 1.3.3 Backgrounder: OSC's Mutual Fund Trading Probe Completed

FOR IMMEDIATE RELEASE  
December 16, 2004

#### BACKGROUNDER: OSC'S MUTUAL FUND TRADING PROBE COMPLETED

##### Mutual Fund Probe Critical Path

In November, 2003, the OSC launched **Phase One** of the mutual fund probe into trading practices by sending a letter to the 105 managers of publicly offered retail mutual funds that trade in Ontario. They were required to confirm that they have effective policies and procedures in place to detect and prevent trading abuses, such as late trading and market timing.

In February, 2004, the OSC initiated **Phase Two** of the probe by requesting detailed trading information from 36 of the 105 fund managers originally surveyed. These 36 fund managers were selected based on the information they provided in Phase One and also included a random sampling of fund managers. The data they submitted was analysed for the purpose of identifying indicators that would require further analysis.

**Phase Three** of the probe, which is now complete, was launched in May, 2004. In this phase, the OSC conducted detailed analysis of trading data as part of the site visits of 20 mutual fund managers. This phase resulted in settlements reached with four fund managers. One other fund manager received a letter from staff of the OSC warning of potential enforcement action.

The fund managers reviewed in Phase Three of the probe account for approximately 90% of the \$473 billion in assets under management in Canada. The OSC's probe teams closely examined trades worth a total of \$100 billion.

The probe was conducted by teams of OSC staff from the Compliance Team of the Capital Markets Branch, the Investment Funds Branch and the Enforcement Branch. It was the largest investigation ever undertaken by the OSC resulting in record settlements reached and that payments will be made to the affected investors.

##### Definitions

##### 1) Mutual Fund Managers' Responsibility

A mutual fund manager is required by Ontario securities law to exercise the powers and discharge the duties of its office honestly and in good faith and in the best interests of the mutual fund and, in connection therewith, to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances. Compliance with this duty requires that a mutual fund manager have regard to the potential for harm to a fund from an investor seeking to employ a frequent trading market timing strategy and take reasonable steps to protect a mutual fund from such harm to the extent that a

reasonably prudent person would have done in the circumstances.

## **2) Market Timing**

Market timing involves short-term trading of mutual fund securities to take advantage of short term discrepancies between the “stale” values of securities within a mutual fund’s portfolio and the current market value of those securities. Stale values can occur in mutual fund portfolios comprised, in whole or in part, of non-North American foreign equities. Stale values of those securities may result in stale values of the units of a mutual fund as a result of the way in which the net asset value of most mutual funds is calculated for the purpose of determining the price at which an investor may buy or sell a unit of the fund.

A market timer will attempt to take advantage of the difference between the “stale” value and an expected price movement of a fund the following day by trading in anticipation of those price movements.

### **The Harm Caused by Frequent Trading**

When certain investors engage in frequent trading market timing in foreign funds, and when those investors are not required to pay a proportionate fee to the fund, the economic interest of long-term unitholders of these foreign funds is adversely affected. Significant harm may be incurred by a fund in which frequent trading market timing occurs. Any such harm would be borne by all investors in the fund. In addition to dilution, market timing in a fund also may result in certain inefficiencies in that fund. Those inefficiencies, which will vary depending upon the particular fund, may involve increased transaction costs and disruption of a fund’s portfolio management strategy (including the maintenance of cash or cash equivalents and/or monetization of investments to meet redemption requirements) and may impair a fund’s long-term performance.

**For Media Inquiries:** Wendy Dey  
Director, Communications  
416-593-8120

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

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## Chapter 2

# Decisions, Orders and Rulings

## 2.1 Decisions

### 2.1.1 ADA Investments Inc. - ss. 5.1 of OSC Rule 13-503

#### Headnote

Exemption regarding the calculation of Capital Markets Participation Fees payable by a registrant registered as an adviser in the category of commodity trading manager under the Commodity Futures Act (Ontario). The registrant's revenues include revenues earned from advice provided to clients located outside of Ontario and which are regulated by other jurisdictions. Because the registrant does not have a permanent establishment in any other jurisdiction in Canada, the income allocated to Ontario in its corporate tax filings is not an accurate proxy for the registrant's use of the Ontario capital markets and the OSC's cost of regulation of the registrant's activities. Exemption granted so that the "Ontario percentage" is calculated as the percentage of its income allocated to Ontario in its corporate tax filings less the percentage of revenues generated in those other jurisdictions in which it is also registered.

#### Ontario Rules

Ontario Securities Commission Rule 13-503 – Fees.

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

**AND**

**IN THE MATTER OF  
ADA INVESTMENTS INC.**

**DECISION  
(Subsection 5.1 of Rule 13-503 Fees)**

**WHEREAS** the Ontario Securities Commission (the "Commission") has received an application from ADA Investments Inc. ("ADA"), pursuant to section 5.1 of the Rule, for an order exempting ADA, in part, from the requirement to pay participation fees calculated in the manner prescribed by Part 2 of the Rule;

**AND WHEREAS**, the Rule requires that certain registrants under the Act which have a permanent establishment in Ontario determine their participation fees by taking into account income allocated to Ontario in the corporate income tax filings for the registrant under the *Income Tax Act* (Canada);

**AND WHEREAS**, unless otherwise defined, the terms herein have the meanings set out in Ontario Securities Commission Rule 14-501- Definitions;

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

1. ADA was incorporated under the laws of the Province of Ontario with its head office in Toronto. Other than its Toronto office, ADA has no other permanent establishment in Canada.
2. ADA is registered as an adviser in Ontario under the *Commodity Futures Act* (Ontario) in the category of Commodity Trading Manager and is also registered in the United States under the *Commodity Exchange Act* (the "CEA") as a Commodity Trading Advisor and a Commodity Pool Operator and is a member of the National Futures Association which is the self regulatory organization in the United States responsible for the administration and enforcement of the CEA.
3. ADA principally provides discretionary management to its clients with respect to the trading of futures contracts on regulated exchanges outside Canada. Its clients are almost exclusively non-Canadian.
4. ADA is not in default of any of the requirements of the securities and/or commodity futures legislation of Ontario.
5. As a registrant firm in Ontario, ADA must pay, for each of its financial years, the participation fee shown in Appendix A of the Rule that applies to it according to ADA's specified Ontario revenues earned from its CFA activities.
6. In accordance with section 2.6 of the Rule, ADA's specified Ontario revenue for a financial year is calculated by multiplying the gross revenues earned by it as disclosed in its annual financial statements for the financial year less specified deductions, by its Ontario percentage.
7. Registrants that have a permanent establishment in Ontario must calculate their Ontario percentage by referring to the amount allocated to Ontario in their corporate income tax filings made under *Income Tax Act* (Canada). Registrants who do not have a permanent establishment in Ontario must calculate their Ontario percentage by determining the percentage of its total revenues which are attributable to its CFA activities in Ontario.

8. ADA does not have a permanent establishment in any other jurisdiction in Canada other than Ontario. Accordingly, ADA reports all of its Ontario income and all of its non-Ontario income in its Ontario corporate income tax returns. ADA does not file corporate income tax returns in any other jurisdiction in Canada. ADA's corporate tax filings do not distinguish between income earned in Ontario and income earned in jurisdictions outside of Ontario in which it is also registered.
9. Based on the calculation method disclosed above there is a material difference between the Ontario percentage for ADA and the percentage of its total revenues which are attributable to its CFA activities in Ontario.

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

**IT IS THE DECISION** of the Director pursuant to section 5.1 of Rule 13-503, that for purposes of calculating the Participation Fee pursuant to Part 2 of Rule 13-503, ADA is granted relief to the extent that the "Ontario percentage" for each financial year of ADA should be calculated as the amount allocated to Ontario in ADA's corporate income tax filings made under the *Income Tax Act* (Canada) less the percentage of revenues generated in the United States pursuant to ADA's registration under the CEA.

January 10, 2005.

"David M. Gilkes"

## 2.1.2 Rogers Communications Inc. - MRRS Decision

### Headnote

Mutual Reliance Review System - Take-over bid – Relief from the prohibition against collateral benefits. In connection with the bid, the Offeror has offered to exchange options to acquire the targets shares for options to acquire the Offeror's shares. Offeror also proposing to grant holders of its options who receive options under the option exchange, a one time right to require the Offeror to repurchase such options for a cash payment equal to the "in the money" value of such options. The repurchase agreements entered into for reasons other than to increase the value of the consideration paid to the selling security holders for their shares. Agreements may be entered into despite the prohibition against collateral benefits.

### Statute Cited

Securities Act R.S.O. 1990, c. S.5, as amended, ss. 97(2) and 104(2)(a).

December 30 2004

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

**AND**

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

**AND**

**IN THE MATTER OF  
ROGERS COMMUNICATIONS INC., THE FILER**

**MRRS DECISION DOCUMENT**

### Background

The Filer has offered to purchase all of the issued and outstanding Class B Restricted Voting Shares (RWCI Restricted Voting Shares) of Rogers Wireless Communications Inc. (RWCI) not owned by it (the RCI Offer). In connection with the RCI Offer, the Filer has offered to exchange (the Option Exchange) options to acquire RWCI Restricted Voting Shares (RWCI Options) for options (RCI Options) to acquire Class B Non-Voting shares of the Filer (RCI Non-Voting Shares).

The local securities regulatory authority or regulator (the Decision Maker) in each of the Jurisdictions has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) that the proposed grant to holders of RCI Options issued upon the Option Exchange of a one-time right to require the

Filer to repurchase such options for a cash payment equal to the "in the money" amount of such RCI Options (the Repurchase Right) is being granted for reasons other than to increase the value of the consideration paid to RWCI optionholders for their RWCI Restricted Voting Shares pursuant to the RCI Offer and may be entered into despite the prohibition on collateral benefits in the Legislation (the Requested Relief).

Under the Mutual Reliance Review System for Exemptive Relief Applications:

- (a) the Autorité des marchés financiers is the Principal Regulator for this application, and
- (b) this MRRS decision document evidences the decision of each Decision Maker.

**Interpretation**

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

**Representations**

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

- 1. The Filer is a British Columbia corporation and is a reporting issuer (or equivalent) in each of the provinces of Canada and, to the best of its knowledge, is not in default of any requirement of the Legislation.
- 2. The authorized share capital of the Filer consists of 56,235,394 Class A Multiple Voting Shares (the RCI Class A Shares), without par value, 1.4 billion RCI Non-Voting Shares with a par value of \$1.62478 per share and 400,000,000 Preferred Shares (the RCI Preferred Shares), issuable in one or more series. As at November 30, 2004 there were outstanding 56,235,394 RCI Class A Shares and 189,835,328 RCI Non-Voting Shares. The Filer has three authorized series of RCI Preferred Shares and Shares of the Series XXVII Preferred Shares, Series XXX Preferred Shares and Series XXXI Preferred Shares are currently outstanding.
- 3. The RCI Class A Shares are listed and traded on the Toronto Stock Exchange (the TSX). The RCI Non-Voting Shares are listed and traded on the TSX and the New York Stock Exchange (the NYSE).
- 4. RWCI is continued under the *Canada Business Corporations Act* and is a reporting issuer (or equivalent) in each of the provinces of Canada and, to the best of its knowledge, is not in default of any requirement of the Legislation.

- 5. The authorized capital of RWCI consists of an unlimited number of Class A Multiple Voting Shares (the RWCI Class A Shares), without par value, an unlimited number of RWCI Restricted Voting Shares, without par value, and an unlimited number of First Preferred Shares (the RWCI Preferred Shares), issuable in series, without par value. As at November 30, 2004, 62,820,371 RWCI Class A Shares, 80,614,063 RWCI Restricted Voting Shares and no RWCI Preferred Shares were issued and outstanding.
- 6. The RWCI Restricted Voting Shares are listed and traded on the TSX and the NYSE.
- 7. Under the RCI Offer, the Filer has offered to purchase any and all of the RWCI Restricted Voting Shares not currently owned by the Filer or its affiliates which are tendered to the RCI Offer. As consideration for each RWCI Restricted Voting Share to be taken up pursuant to the RCI Offer, the Filer has offered 1.75 RCI Non-Voting Shares.
- 8. The RCI Offer was mailed to the holders of RWCI Restricted Voting Shares on November 25, 2004, together with a directors' circular of the Board of Directors of RWCI recommending that the holders of RWCI Restricted Voting Shares accept the RCI Offer and tender their RWCI Restricted Voting Shares to the RCI Offer. The RCI Offer will expire at midnight on December 30<sup>th</sup>, 2004 unless extended or varied.
- 9. Holders of RWCI Options have previously been granted the opportunity to exchange their existing vested and unvested RWCI Options for RCI Options with the same vesting date that entitle each holder to receive upon exercise, a number of RCI Non-Voting Shares equal to the holder's entitlement under the RWCI Options multiplied by 1.75, at an exercise price per RCI Non-Voting Share equal to the exercise price per share of the RWCI Option divided by 1.75 (the Replacement Options). These adjustments are applied separately to options with the same vesting dates and exercise prices and reflect the exchange ratio under the RCI Offer.
- 10. Following the Option Exchange, each holder of vested RCI Options will be granted the right, exercisable for a period of 20 days from the date of issue of the RCI Options, to require the Filer to repurchase the RCI Options in consideration for a cash payment equal to the "in the money" amount of such options. For this purpose, the "in the money" amount means the amount by which the market price of the RCI Non-Voting Shares (determined based on the average closing prices of the RCI Non-Voting Shares for the five trading days immediately prior to the exercise of the Repurchase Right) exceeds the exercise price of the relevant RCI Option. Any RCI Options so purchased will be cancelled.

## Decisions, Orders and Rulings

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|-----|---|--|
| 11. | The TSX has conditionally accepted notice of the proposed grant of the Replacement Options and approved the reservation for issuance under the RCI 2000 Stock Option Plan of the Replacement Options.   | Maker with the jurisdiction to make the decision has been met.                                     |
| 12. | The RWCI Options are held by directors, officers and employees of RWCI.   | The decision of the Decision Makers under the Legislation is that the Requested Relief is granted. |
| 13. | As of November 30, 2004, there were vested RWCI Options outstanding to acquire 1,065,475 RWCI Restricted Voting Shares, and unvested options to acquire an additional 1,864,581 RWCI Restricted Voting Shares outstanding.  | "Daniel Laurion"<br>Surintendant de la Direction de<br>l'encadrement des marchés des valeurs       |
| 14. | The Repurchase Right would be available only to former RWCI option holders who exchange their vested RWCI Options for vested RCI Options pursuant to the Option Exchange.   |  |
| 15. | Directors and senior officers of RWCI who hold RWCI Options own or control approximately 24,000 RWCI Restricted Voting Shares, or less than 1% of the total outstanding RWCI Restricted Voting Shares. To the best of RCI's knowledge, other employees of RWCI own a <i>de minimus</i> number of RWCI Restricted Voting Shares. Holders of RWCI Options are not required to participate in the Option Exchange or, if they do, to exercise the Repurchase Right. No holder of RWCI Options is required to tender the RWCI Restricted Voting Shares they own, if any, to the RCI Offer in order to participate in the Option Exchange or to exercise the Repurchase Right. |  |
| 16. | There are two benefits to RCI of the grant of the Repurchase Right. First, no RCI Non-Voting Shares will be issued to holders of RCI Options who exercise the Repurchase Right resulting in no dilution to the position of existing shareholders of RCI and no need to sell those shares in the market. Second, for Canadian federal income tax purposes, RCI would be entitled to a deduction for the cash amount paid pursuant to the exercise of the Repurchase Right. In the view of RCI, it is preferable for RCI and its shareholders to obtain these benefits than for RCI to simply issue RCI Non-Voting Shares on the exercise of RCI Options.                   |  |
| 17. | The Repurchase Right is being granted to RWCI Option holders for valid business reasons unrelated to their holding of RWCI Restricted Voting Shares and not to increase the value of the consideration being paid by RCI pursuant to the RCI Offer for the RWCI Restricted Voting Shares held by such option holders.   |  |

### Decision

Each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision



### 2.1.3 Retrocom Growth Fund Inc. and Retrocom Investment Management Inc. - MRRS Decision

#### Headnote

Variation of a prior order to permit a labour sponsored investment fund to pay distribution costs out of fund assets contrary to section 2.1 of National Instrument 81-105 Mutual Fund Sales Practices. Variation granted on the condition that the distribution costs are included in the management expense ratio.

#### Statutes Cited

Securities Act (Ontario), R.S.O. 1990 c. S.5., as am., s. 144.

#### Rules Cited

National Instrument 81-105 Mutual Fund Sales Practices.

January 12, 2005

**IN THE MATTER OF  
THE SECURITIES LEGISLATION OF  
ONTARIO, NOVA SCOTIA AND NEW BRUNSWICK (THE "JURISDICTIONS")**

**AND**

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

**AND**

**IN THE MATTER OF  
RETROCOM GROWTH FUND INC. (THE "FUND")**

**AND**

**RETROCOM INVESTMENT MANAGEMENT INC. (THE "MANAGER")  
(COLLECTIVELY, THE "FILER")**

**MRRS DECISION DOCUMENT**

#### Background

On January 26, 1999, an order was granted to the Fund by the Ontario Securities Commission and Nova Scotia Securities Commission (collectively, the "**Previous Decision**") for an exemption permitting the Fund to make certain payments to participating dealers and their representatives in connection with the distribution of shares of the Fund. The Previous Decision was adopted by the New Brunswick Securities Commission on January 16, 2001.

The local securities regulatory authority or regulator (the "**Decision Maker**") in each of the Jurisdictions has received an application from the Filer for a decision (the "**Requested Relief**") under the securities legislation of the Jurisdictions (the "**Legislation**") to revoke the Previous Decision and replace it with this decision to reflect:

- (a) that the Fund will now charge sales commissions paid on the sale of shares of the Fund to retained earnings as share issue cost as they occur;
- (b) that the Fund will issue an additional new series of Class A Shares of the Fund with an alternative sales commission structure to that which currently exists in respect of the distribution of Class A Shares; and
- (c) consequential variations to the Previous Decision as are necessary to reflect changes in the Fund since the date of the Previous Decision.

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 Filer:

1. The Filer's head office is located at 135 Queens Plate Drive, Suite 400, Toronto, Ontario, M9W 6V1.
2. The Fund is a corporation amalgamated under the laws of Canada on April 26, 2000 and is a reporting issuer under the Legislation and is not on the list of defaulting reporting issuers maintained pursuant to the Legislation.
3. The Manager is a corporation incorporated under the laws of Ontario on January 16, 1995 and acts as the manager of the Fund pursuant to the terms of a written agreement made between the Manager and the Fund (the "**Management Agreement**").
4. The Fund is registered as a labour sponsored investment fund corporation under the *Community Small Business Investment Funds Act* (Ontario) (the "**Ontario Act**") and as a registered labour-sponsored venture capital corporation under the *Income Tax Act* (Canada) (the "**Federal Act**") and is a prescribed labour-sponsored venture capital corporation by regulation under the New Brunswick *Income Tax Act* (the "**New Brunswick Act**").
5. The Fund is a mutual fund which makes investments in small and medium-sized Canadian businesses which are eligible investments for the Fund under the Federal Act, the Ontario Act and, in respect of funds raised in Nova Scotia prior to December 31, 2004, the *Equity Tax Credit Act* (Nova Scotia) (the "**Nova Scotia Act**"), and which are subject to certain investment commitments made to the Minister of Finance (New Brunswick).
6. The Class A Series I Shares and Class C Series 10 Shares of the Fund are currently distributed in the Jurisdictions pursuant to a prospectus dated January 14, 2004 (the "Existing Prospectus"). Class C Series 10 Shares will cease to be distributed on the lapse date of the Existing Prospectus.
7. The Fund has filed a preliminary and pro forma prospectus dated December 14, 2004 (the "**Prospectus**") with the securities regulatory authorities in each of the Jurisdictions, pursuant to which the Fund intends to distribute Class A Series I Shares, Class A Series V Shares and Class C Series 11 Shares once a receipt for a final prospectus has been issued by the principal regulator. The Prospectus is a preliminary prospectus in respect of the Class A Series V Shares and Class C Series 11 Shares.
8. As at November 30, 2004, the Fund had issued and outstanding (i) in the aggregate, 2,377,971.002 Class A Series I Shares, Class A Series II Shares, Class A Series III Shares and Class A Series IV Shares (referred to hereinafter, collectively with the Class A Series V Shares, as "**Class A Shares**") and (ii) in the aggregate, 4,674,338.713 Class C Series 1 Shares, Class C Series 2 Shares, Class C Series 3 Shares, Class C Series 4 Shares, Class C Series 5 Shares, Class C Series 6 Shares, Class C Series 7 Shares, Class C Series 8 Shares, Class C Series 9 Shares and Class C Series 10 Shares (referred to hereinafter, collectively with the Class C Series 11 Shares, as "**Class C Shares**"), having an aggregate net asset value of \$70,070,635.04. The Class A Series II Shares, Class A Series III Shares and Class A Series IV Shares of the Fund were issued in connection with the amalgamation of the Fund with Sportfund Inc. on April 26, 2000, pursuant to a court-approved plan of arrangement. These shares are not qualified for sale by prospectus.
9. The Class A Shares and Class C Shares are equity shares, with the Class A Shares entitling the holder to receive tax credits under the Federal Act, the Ontario Act and the New Brunswick Act, as applicable, and the Class C Shares designed for institutional investors, having a prohibition on redemption for a five-year period following their issue and during such period an entitlement to a cumulative preferential dividend.
10. Section 2.1 of National Instrument 81-105 (the "**National Instrument**") prohibits the Fund, in connection with the distribution of its securities, from making payments or providing benefits to dealers participating in the distribution of its securities, including the payment of sales commissions to, or the reimbursements of costs or expenses incurred or to be incurred by such dealers. The Previous Decision exempted the Fund from section 2.1 of the National Instrument, subject to certain conditions.

## Decisions, Orders and Rulings

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11. The Fund currently pays a commission to registered dealers in the amount of 6.0% of the gross proceeds derived on the sale of Class A Series I Shares. As detailed in the Prospectus, the Fund will pay a commission to registered dealers in the amount of 10% of the gross proceeds derived on the sale of Class A Series V Shares and 2.0% of the gross proceeds derived on the sale of Class C Series 11 Shares.
12. The Fund is responsible for all marketing expenses incurred in connection with the Fund and may, from time to time, enter into expense reimbursement programs with dealers distributing Class A Series I and V Shares which provides for the reimbursement by the Fund of advertising, mailing and other expenses incurred by such dealers in the promotion of Class A Series I and V Shares (the "Marketing Expenses").
13. The Fund currently provides registered dealers with a monthly servicing commission equal to 1/12th of 0.5% of the average net asset value of Class A Shares (other than Class A Series V Shares) held by the clients of such dealers exclusive of Class A Shares purchased prior to September 1, 1997. As detailed in the Prospectus, the Fund will provide registered dealers, after a period of eight years, with a monthly servicing commission equal to 1/12th of 0.5% of the average net asset value of Class A Series V Shares held by the clients of such dealers. No monthly servicing commission is payable before the eighth anniversary of the date of issue of Class A Series V Shares.
14. For accounting purposes, all Marketing Expenses and monthly servicing commissions will be expensed in the fiscal period when incurred.
15. Until August 31, 2004, sales commissions payable by the Fund on the Class A Shares were amortized by the Fund over a period of 8 years in the financial accounts of the Fund, and were recoverable on a declining basis, at the rate of 0.75% per annum, in the event Class A Shares of the Fund were redeemed by the holders thereof prior to the expiry of an 8 year period following the purchase thereof. Sales commissions payable by the Fund on the Class C Shares were amortized by the Fund over a period of five years in consequence of the prohibition on redemption of Class C Shares during such period.
16. As a result of the implementation, effective for financial years beginning on or after October 1, 2003, of Section 1100 of the CICA handbook ("**Section 1100**"), labour sponsored investment funds, including the Fund, are no longer permitted to defer and amortize commissions on a straight line basis over an eight year period. The Fund now charges commissions to retained earnings as a share issue cost as the expenses are incurred, a practice that is consistent with Section 1100.
17. The payment of commissions on the sale of Class A Shares and Class C Shares by the Fund is an event contemplated under the Federal Act, the Ontario Act, the New Brunswick Act and the Nova Scotia Act.
18. The Prospectus discloses the payment by the Fund of the distribution expenses incurred by the Fund as described in paragraphs 11, 12 and 13 (collectively, the "**Distribution Costs**") and discloses that the Fund is responsible for payment of these expenses.
19. The Management Agreement between the Fund and the Manager does not provide a mechanism for the Manager's assumption of the obligation to pay the Distribution Costs and accordingly, compliance by the Fund with section 2.1 of the National Instrument would require a renegotiation of such Management Agreement and the approval of the shareholders of the Fund to the extent any renegotiated agreement results in an increase in the costs and expenses incurred by the Fund.
20. The Manager is capitalized only to the extent necessary for its operations, is dependent on management fee revenue derived from the Fund under the Management Agreement for the purpose of satisfying its ongoing obligations, and would need to renegotiate the quantum of its management fees received from the Fund to the extent it assumed responsibility for the Distribution Costs incurred in respect of the Fund.
21. The Fund desires to continue to incur directly the Distribution Costs. The Fund and the Manager will comply with all of the relevant provisions of the National Instrument, other than the prohibition contained in section 2.1 of the National Instrument against the Fund paying the Distribution Costs. The Distribution Costs payable to participating dealers are compensation permitted to be paid to participating dealers under the National Instrument.

### 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 to permit the Fund to pay the Distribution Costs, provided that:

## Decisions, Orders and Rulings

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1. the Distribution Costs are otherwise permitted by, and paid in accordance with, the National Instrument;
2. the Distribution Costs are being included in the Fund's calculation of its management expense ratio for fiscal years beginning on or after September 1, 2003;
3. the Fund will in its financial statements expense the monthly servicing commissions and Marketing Expenses as described in paragraphs 12 and 13 in the fiscal period when incurred; unless any securities laws applicable to the Fund from time to time specifically require accounting treatments other than as described;
4. the summary section (the "Summary Section") of the Prospectus of the Fund has full, true and plain disclosure explaining to investors that they indirectly support the payment of the 6.0% Class A Series I sales commission and the 10% Class A Series V sales commission as the Fund pays such commissions out of the proceeds from the sale of Class A Series I and V Shares of the Fund, and the Summary Section must be placed within the first 10 pages of the prospectus;
5. the Fund shall include in the Summary Section a summary table of fees and expenses payable by the Fund in substantially the following format:

### **Summary of Fees, Charges and Other Expenses Payable by the Fund**

#### **Type and Amount of Fee**

#### **Description**

6. the summary table shall also include the annual management expense ratio of the Fund for each of the last five completed financial years of the Fund with a brief description of the method of calculating the management expense ratio and the annual returns of the Fund for each of the last five completed financial years of the Fund; and
7. this exemption shall cease to be operative with respect to each Decision Maker on the date that a rule or regulation replacing or amending section 2.1 of the National Instrument comes into force.

"Wendell S. Wigle"  
Commissioner  
Ontario Securities Commission

"Suresh Thakrar"  
Commissioner  
Ontario Securities Commission

**2.1.4 Gienow Windows & Doors Income Fund - MRRS Decision**

**Headnote**

Mutual Reliance Review System for Exemptive Relief Applications — relief from the requirement to provide the most recent interim financial statements and pro forma financial statements for a significant acquisition in a Business Acquisition Report — Business Acquisition Report contains the interim financial statements and pro forma financial statements included in a prospectus of the issuer dated October 8, 2004.

**Rules Cited**

National Instrument 51-102, Continuous Disclosure Obligations, s. 8.4.

**Citation: Gienow Windows & Doors Income Fund, 2005 ABASC 2**

**December 30, 2004**

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

**AND**

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

**AND**

**IN THE MATTER OF  
GIENOW WINDOWS & DOORS INCOME FUND  
(THE "FILER")**

**MRRS DECISION DOCUMENT**

**Background**

The local securities regulatory authority or regulator (the "Decision Maker") in each of the Jurisdictions has received an application from the Filer for (i) a decision under the securities legislation of the Jurisdictions (the "Legislation") to exempt the Filer from the requirement to include in the business acquisition report to be filed by the Filer under Part 8 of National Instrument 51-102 *Continuous Disclosure Obligations* ("NI 51-102") in connection with the Filer's acquisition of interests in Gienow Windows & Doors Limited Partnership (the "Partnership") and Farley Windows Inc. ("Farley") on October 19, 2004, the financial statement disclosure prescribed in that Part, provided that such business acquisition report includes the Prospectus Financial Statements (as defined below), and (ii) in Quebec, for a revision of the general order that will provide

the same result as an exemption order (the "Requested Relief"),

Under the Mutual Reliance Review System for Exemptive Relief Applications:

- (a) Alberta 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 Filer:

1. The Filer is an open-ended, limited purpose trust established under and governed by the laws of the Province of Alberta pursuant to an amended and restated deed of trust dated October 19, 2004 (the "Deed of Trust").
2. The Filer's head office is located at 7140 - 40th Street S.E., Calgary, Alberta T2C 2B6.
3. The Filer has been a reporting issuer or the equivalent in each of the Jurisdictions since October 8, 2004, being the date on which a receipt was issued for a (final) prospectus of the Filer dated October 7, 2004 (the "Prospectus") in respect of an initial public offering of 16,500,000 trust units (the "Offering").
4. To the best of its knowledge, the Filer is not in default of any requirements of the Legislation.
5. The trust units of the Filer are listed on the Toronto Stock Exchange. As at December 22, 2004, there were 25,147,500 trust units issued and outstanding.
6. Although the Filer is also a reporting issuer or the equivalent in Prince Edward Island, the Yukon Territory, the Northwest Territories and Nunavut, the Requested Relief is not being sought in these jurisdictions on the basis that NI 51-102 is not in force in such jurisdictions.
7. Although the Filer is also a reporting issuer in British Columbia, the Requested Relief is not being sought in this jurisdiction on the basis that Part 8 of NI 51-102 does not apply in British Columbia pursuant to BC Implementing Rule 51-801.

8. The Prospectus was prepared in accordance with the form requirements of Ontario Securities Commission Rule 41-501 *General Prospectus Requirements* ("OSC Rule 41-501") and the Legislation in Jurisdictions other than Ontario which impose comparable requirements or which permit compliance with the Ontario requirements for purposes of complying with the applicable Legislation in the local jurisdiction (collectively, the "Long Form Prospectus Rules").
9. The Prospectus included the financial statement disclosure required under Part 6 of OSC Rule 41-501 for "significant acquisitions" in respect of Gienow Building Products Ltd. ("GBPL") and Farley. The Partnership had acquired the operating assets and related window and door manufacturing and assembly business of GBPL and its subsidiaries after the close of business on June 30, 2004.
10. The Filer closed the Offering on October 19, 2004, and immediately thereafter completed its indirect investment in the Partnership for an initial 98% limited partnership interest therein and its indirect purchase of all of the issued and outstanding shares of Farley (together, the "Transactions").
11. The Transactions constitute "significant acquisitions" within the meaning of Part 8 of NI 51-102 for which a business acquisition report is required to be filed.
12. Pursuant to the Long Form Prospectus Rules, the Prospectus included the following financial statement disclosure:
- (a) audited financial statements of Farley for the 12 months ended December 31, 2003, 2002 and 2001 (with a balance sheet as at December 31, 2003 and 2002), together with an auditors' report thereon;
  - (b) audited financial statements of GBPL for the 12 months ended February 1, 2004, 2003 and 2002 (with a balance sheet as at February 1, 2004 and 2003), together with an auditors' report thereon;
  - (c) unaudited interim financial statements of Farley for the 6 months ended June 30, 2004 and 2003 (with a balance sheet as at June 30, 2004);
  - (d) unaudited interim financial statements of GBPL for the 5 months ended June 30, 2004 and 2003 (with a balance sheet as at June 30, 2004), prepared as of the close of business on June 30, 2004;
  - (e) pro forma financial statements (including a pro forma balance sheet and pro forma income statement) of the Filer as at and for the 12 month period ended December 31, 2003 and the 6 month period ended June 30, 2004, together with a compilation report thereon
- (together, the "Prospectus Financial Statements").
13. The Prospectus was filed 12 days before the closing of the Transactions.
14. Compliance with the financial statement disclosure requirements under the Long Form Prospectus Rules does not necessarily satisfy the financial statement disclosure requirements under Part 8 of NI 51-102.
15. Pursuant to section 8.4(2) of NI 51-102, the business acquisition report to be filed in connection with the Transactions is required to include, among other things, interim financial statements of the acquired businesses for the most recently completed interim period that ended before the date of acquisition and the comparable period in the preceding financial year. In the circumstances of the Transactions, the most recently completed interim period is the period ended September 30, 2004. The Prospectus included financial statement disclosure as at and for the interim periods ended June 30, 2004.
16. Interim financial statements of Farley as at and for its interim period ended September 30, 2004, and therefore pro forma financial statements of the Filer as at and for the same period, are not available. The business acquisition report to be filed in connection with the Transactions will, however, include interim financial statements of the Partnership as at and for its interim period ended September 30, 2004.
17. After giving effect to the closing of the Transactions, and based on the historical and pro forma financial statement information contained in the Prospectus, the relative significance of the Partnership to the Filer under the asset, investment and income measures of significance contemplated in Part 8 of NI 51-102 is between 60% and 80% and the relative significance of Farley to the Filer under each such measure is between 20% and 40%.
18. Other than completion of the Transactions, there have been no material changes relating to Farley from June 30, 2004, being the date of the most recent financial statements of Farley included in the Prospectus, to October 19, 2004, being the date of closing of the Transactions.

**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 the business acquisition report to be filed by the Filer in connection with the Transactions includes the Prospectus Financial Statements.

“Mavis Legg”  
Manager, Securities Analysis  
Alberta Securities Commission

## 2.1.5 CMN International Inc. - MRRS Decision

### Headnote

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

### Ontario Statutes

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

December 24, 2004

### Fogler Rubinoff LLP

1200 – 95 Wellington Street West  
Toronto-Dominion Centre  
Toronto, Ontario M5J 2Z9

Attention: Elliott Vardin

Dear Sirs:

**Re: CMN International Inc. (the Applicant) - application to cease to be a reporting issuer under the securities legislation of Alberta, Saskatchewan, Ontario, Québec, Nova Scotia, New Brunswick and Newfoundland and Labrador (the Jurisdictions)**

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

As the Applicant has represented to the Decision Makers that,

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

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

“Erez Blumberger”  
Assistant Manager, Corporate Finance  
Ontario Securities Commission

## 2.1.6 Stratos Global Corporation - MRRS Decision

### Headnote

Mutual Reliance Review System for Exemptive Relief Applications – modified dutch auction issuer bid – with respect to securities tendered at or below clearing price – circular to contain certain disclosure including information regarding take up – offeror to comply with all other legislative requirements – offeror exempt from requirement to take up and pay for securities proportionately according to number of securities deposited by each shareholder – offeror also exempt from the associated disclosure requirement.

### Applicable Statutory Provision

Securities Act, R.S.O. 1990, c. S.5, as amended, ss. 95(7) and 104(2)(c).

### Applicable Regulatory Provision

Ontario Regulation 1015 – General Regulation made under the Securities Act, R.R.O. 1990, Reg. 1015, as amended, s. 189(b).

January 10, 2005

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

**AND**

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

**AND**

**IN THE MATTER OF  
STRATOS GLOBAL CORPORATION (THE “FILER”)**

### **MRRS DECISION DOCUMENT**

### Background

The local securities regulatory authority or regulator (the “Decision Maker”) in each of the Jurisdictions has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the “Legislation”) that, in connection with the proposed purchase by the Filer of a portion of its outstanding common shares (“Shares”) by way of an issuer bid (the “Offer”), the Filer be exempt from the following:

- (i) the requirements in the Legislation to:
  - (a) take up and pay for securities on a pro rata basis according to the number of



securities deposited by each security holder;

- (b) provide disclosure in the issuer bid circular (the "Circular") of such proportionate take up and payment; and
- (ii) the requirement in the Legislation of each of the Jurisdictions, except for Ontario and Quebec, to obtain a formal valuation of the Shares (the "Valuation Requirement");

(collectively, the "Requested Relief").

Under the Mutual Reliance Review System for Exemptive Relief Applications

- (a) the Securities Commission of Newfoundland and Labrador 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 presented by the Filer:

1. The Filer is a corporation continued under the Canada Business Corporations Act on May 28, 1996.
2. The Filer is authorized to issue an unlimited number of Shares. As of November 30, 2004, the Filer had 49,376,603 issued and outstanding Shares.
3. The Filer is a reporting issuer under the Act and its Shares are listed and posted for trading on the Toronto Stock Exchange (the "TSX") under the trading symbol "SGB".
4. The Filer is a reporting issuer in all Provinces of Canada, is not in default of any requirement of the securities legislation of the Jurisdictions, and is not on the list of defaulting reporting issuers maintained pursuant to such Legislation, where applicable.
5. To the knowledge of the Filer, the only Shareholders that currently hold greater than 10% of the Shares are: (a) I.G. Investment Management, Ltd., which owns 5,231,979 Shares as of June 30, 2004, representing up to approximately 10.6% of the issued and outstanding Shares; and (b) Van Berkomp and

Associates Inc., whose clients hold through managed accounts an aggregate of 5,379,100 Shares as of December 31, 2003, representing up to approximately 10.9% of the issued and outstanding Shares.

6. The Filer intends to acquire up to 9,900,000 Shares representing approximately 20% of the outstanding Shares, or up to such other number of Shares not to exceed 9,900,000 Shares as will be specified in the Circular (the "Specified Number").
7. The Offer will be made pursuant to a modified dutch auction procedure as follows:
  - (a) the Filer will offer to purchase up to the Specified Number of Shares;
  - (b) the price per Share to be paid to holders will be anywhere between a range of two prices to be determined by the Filer (the "Price Range") which will be specified in the Circular;
  - (c) Shareholders wishing to tender to the Offer will be able to specify the lowest price within the Price Range at which they are willing to sell all or a portion of their Shares (an "Auction Tender");
  - (d) Shareholders willing to tender to the Offer but who do not wish to make an Auction Tender may elect to tender such Shares at the Clearance Price determined in accordance with paragraph (e) below (a "Purchase Price Tender");
  - (e) The Filer will select a purchase price (the "Clearance Price") that will be the lowest price that will enable it to purchase up to the Specified Number of Shares. The Clearance Price will be determined based on the number of Shares deposited pursuant to the Auction Tenders and Purchase Price Tenders, the prices specified by shareholders making Auction Tenders, and the price at which the Shares deposited pursuant to the Purchase Price Tenders are considered to have been deposited;
  - (f) all Shares tendered at or below the Clearance Price pursuant to an Auction Tender and all Shares tendered pursuant to a Purchase Price Tender will be taken up and paid for at the Clearance Price (calculated to the nearest whole Share, so as to avoid the creation of fractional Shares), subject to proration as described herein to enable the Filer to purchase up to the Specified Number of Shares;

- (g) all Shares tendered at prices above the Clearance Price will be returned to the appropriate Shareholders;
- (h) the aggregate amount that the Filer will expend pursuant to the Offer will not be ascertained until the Clearance Price is determined;
- (i) the Filer will first accept for purchase Shares properly deposited by any shareholder who beneficially holds fewer than 100 Shares and who deposits all such Shares pursuant to an Auction Tender at or below the Clearance Price or pursuant to a Purchase Price Tender and who checks the "Odd Lots" box in the Letter of Transmittal. These purchases shall not be subject to proration.
- (j) subject to paragraph (i) above, if more than the Specified Number of Shares are tendered for purchase at or below the Clearance Price the Filer will purchase such tendered Shares on a pro rata basis;
- (k) in the event that the Offer is under-subscribed by the expiration date but all the terms and conditions thereof have been complied with, with the exception of those waived by the Filer, the Filer may wish to extend the Offer for at least 10 days, in which case the Filer must first take up and pay for all Shares deposited thereunder and not withdrawn. In the event that the Offer is under-subscribed at the expiration date, there would be no proration among the tendered Shares taken up and paid for at such time. However, by the time any extension is over, the Offer may be over-subscribed in which case the Filer intends to pro-rate only among tendered Shares received during the extension and after the original expiration date (and subject to the exception relating to "Odd Lots" described in (i) above);
- (l) all Shares tendered by Shareholders who specify a tender price that falls outside the Price Range will be considered to have been improperly tendered, will be excluded from the determination of the Clearance Price, will not be purchased by the Filer and will be returned to the tendering Shareholders;
- (m) all Shares tendered by Shareholders who fail to specify any tender price for such tendered Shares and fail to indicate that they have tendered their Shares pursuant to a Purchase Price Tender will be deemed to have been tendered pursuant to a Purchase Price Tender; and
- (n) tendering Shareholders who make either an Auction Tender or a Purchase Price Tender but fail to specify the number of Shares that they wish to tender will be considered to have tendered all Shares held by such Shareholder.
8. During the period of 12 months before December 20, 2004:
- (a) the number of outstanding Shares was at all times at least 5,000,000, excluding Shares beneficially owned, directly or indirectly, or over which control or direction was exercised, by related parties of the Filer and Shares that were not freely tradeable;
- (b) the aggregate trading volume of the Shares on the TSX was at least 1,000,000;
- (c) there were at least 1,000 trades in Shares on the TSX; and
- (d) the aggregate trading value based on the price of the trades referred to in clause (c) above was at least \$15,000,000.
9. The market value of the Shares on the TSX was at least \$75,000,000 for the calendar month of November 2004.
10. Prior to the expiry of the Offer, all information regarding the number of Shares tendered and the prices at which such Shares are tendered will be kept confidential, and the Filer's selected depositary for the Offer will be directed by the Filer to maintain such confidentiality until the Clearance Price has been determined.
11. Since the Offer will be for fewer than all the Shares, if the number of Shares tendered to the Offer at or below the Clearance Price exceeds the Specified Number of Shares, the Legislation would require the Filer to take up and pay for deposited Shares proportionately, according to the number of Shares deposited by each Shareholder. In addition, the Legislation would require disclosure in the Circular that the Filer would, if Shares tendered to the Offer exceeded the Specified Number of Shares, take up such Shares proportionately according to the number of Shares tendered by each Shareholder to the Offer.
12. The Filer has determined it is reasonable to conclude that, following completion of the Offer, there will be a market for the beneficial owners of

Shares who do not tender to the Offer that is not materially less liquid than the market that exists at the time the Offer is made and the Filer intends to rely upon the exemptions from the Valuation Requirement contained in sections 3.4(3) of Ontario Securities Commission Rule 61-501 and Quebec Local Policy Statement Q-27 (the "Presumption of Liquid Market Exemptions").

13. The Circular will:
- (a) specify that the aggregate number of Shares that the Filer intends to purchase under the Offer will be up to the Specified Number of Shares;
  - (b) disclose the mechanics for the take up of and payment for, or the return of, Shares as described in paragraph 7 above;
  - (c) explain that, by tendering the Shares at the lowest price in the Price Range or pursuant to a Purchase Price Tender, a Shareholder can reasonably expect that Shares so tendered will be purchased at the Clearance Price, subject to pro ration as described above;
  - (d) disclose the facts supporting the Filer's reliance on the Presumption of Liquid Market Exemptions as updated to the date of the announcement of the Offer; and
  - (e) contains the disclosure prescribed by Legislation for issuer bids, except to the extent exemptive relief is granted by this decision.

**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 Shares deposited under the Offer and not withdrawn are taken up and paid for, or returned to shareholders, in the manner described herein.

"Douglas Connolly", C.G.A.  
Director of Securities  
Securities Commission of Newfoundland and Labrador

**2.1.7 Molson Coors Canada Inc. - MRRS Decision**

**Headnote**

Mutual Reliance Review System for Exemptive Relief Applications - Exchangeable share issuer granted relief under previous MRRS decision document from continuous disclosure requirements where such issuer technically unable to rely on statutory exemption. Relief granted to exchangeable share issuer from audit committee requirement subject to issuer complying with conditions of continuous disclosure relief. In addition, relief granted to exchangeable share issuer from restricted share rule requirements in connection with prospectus offerings.

**Applicable Ontario Statutory Provisions**

MI 52-110, OSC Rule 56-501.

December 17, 2004

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

**AND**

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

**AND**

**MOLSON COORS CANADA INC. (EXCHANGE CO OR  
THE FILER),**

**MRRS DECISION DOCUMENT**

**Background**

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

**Audit Committee Relief**

1. In Alberta, Saskatchewan, Manitoba, Ontario, New Brunswick, Nova Scotia, Newfoundland and Labrador, Yukon, the Northwest Territories and Nunavut, the requirements of the Legislation with respect to audit committees shall not apply to Exchangeco (the "Audit Committee Relief").

**Restricted Share Rules Relief**

2. In Ontario, Exchangeco is exempt from the requirements of Section 3.1 of Rule 56-501 in

connection with any future distribution of Exchangeable Shares (the “**Restricted Share Rules 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.

“**Arrangement**” means the plan of arrangement, under the Canada Business Corporations Act, pursuant to which the Transaction will be effected;

“**Callco**” means Molson Coors Callco ULC;

“**Class A Exchangeable Shares**” means the Class A exchangeable shares to be issued by Exchangeco;

“**Class B Exchangeable Shares**” means the Class B exchangeable shares to be issued by Exchangeco;

“**Continuous Disclosure Relief**” means the Continuous Disclosure Relief as defined in the November 2004 MRRS Decision Document;

“**Coors**” means Adolph Coors Company;

“**Exchangeable Shares**” means, collectively, the Class A Exchangeable Shares and the Class B Exchangeable Shares;

“**MJDS**” means The Multijurisdictional Disclosure System pursuant to National Instrument 71-101;

“**Molson**” means Molson Inc.;

“**Molson Coors**” means Molson Coors Brewing Company, the entity resulting from the Arrangement;

“**Molson Coors Class A Common Stock**” means Molson Coors’ Class A common stock (voting);

“**Molson Coors Class B Common Stock**” means Molson Coors’ Class B common stock (non-voting);

“**Molson Coors Common Stock**” means, collectively, Molson Coors Class A Common Stock and Molson Coors Class B Common Stock;

“**MRRS**” means the Mutual Reliance Review System for Exemptive Relief Applications pursuant to National Policy 12-201;

“**November 2004 MRRS Decision Document**” means the decision described in paragraph 2 of the Representations;

“**Rule 56-501**” means OSC Rule 56-501 Restricted Shares; and

“**Transaction**” means the proposed combination of Coors and Molson pursuant to the combination agreement dated as of July 21, 2004 among Coors, Exchangeco and Molson, as amended.

#### Representations

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

1. On October 15, 2004, an application for exemptive relief pursuant to the MRRS was filed on behalf of Coors, Exchangeco, Callco and Molson in respect of certain distributions and trades contemplated by the Arrangement and other matters under the Transaction.
2. In accordance with the MRRS, a decision evidencing the decision of the Decision Makers with respect to the application was issued on November 29, 2004 (the “**November 2004 MRRS Decision Document**”).
3. The Filer reaffirms all of the representations made in the November 2004 MRRS Decision Document with the same effect as if they were made in this decision document.
4. In addition to the representations in the November 2004 MRRS Decision Document, the Filer represents that:
  - (a) Exchangeco cannot rely on the exemption in subsection 1.2(f) of Multilateral Instrument 52-110 Audit Committees because Exchangeco does not qualify for the relief in section 13.3 of National Instrument 51-102 Continuous Disclosure;
  - (b) Each of the Molson Coors Class A Common Stock and Molson Coors Class B Common Stock qualifies as a class of “restricted shares” for purposes of Rule 56-501;
  - (c) A distribution by Exchangeco of Exchangeable Shares under a prospectus would be subject to the restrictions contained in Section 3.1 of Rule 56-501 due to the underlying shares (the Molson Coors Common Stock) being “restricted shares” for purposes of Rule 56-501; and
  - (d) A stock distribution in Canada of Molson Coors Common Stock made in

accordance with the MJDS would be exempt from Section 3.1 of Rule 56-501 pursuant to Section 1.2(3) of Rule 56-501.

#### 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.

#### Audit Committee Relief

1. The decision of the Decision Makers in Alberta, Saskatchewan, Manitoba, Ontario, New Brunswick, Nova Scotia, Newfoundland and Labrador, Yukon, the Northwest Territories and Nunavut is that the Audit Committee Relief is granted, provided that the conditions of the Continuous Disclosure Relief are complied with.

#### Restricted Shares Relief

2. The further decision of the Decision Maker in Ontario is that the Restricted Share Rules Relief is granted provided that at the time of distribution of any Exchangeable Shares, Molson Coors is eligible to use the MJDS to offer Molson Coors Common Stock to residents in Canada.

"Iva Vranic"  
Manager, Corporate Finance  
Ontario Securities Commission

#### 2.1.8 Goldcorp Inc. - MRRS Decision

##### Headnote

Mutual Reliance Review System for Exemptive Relief Applications – Issuer requiring shareholder approval of significant probable acquisition to be made by way of formal take-over bid – Relief from disclosure in issuer's information circular of certain financial information in respect of significant acquisition previously made by issuer's significant probable acquisition.

##### Applicable Instruments

National Instrument 44-101 Short Form Prospectus Distributions.  
National Instrument 51-102 Continuous Disclosure Obligations.  
National Instrument 54-101 Communication with Beneficial Owners of Securities of a Reporting Issuer.

January 7, 2004

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

**(THE JURISDICTIONS)**

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

**AND**

**IN THE MATTER OF  
GOLDCORP INC.**

#### **MRRS DECISION DOCUMENT**

##### Background

The local securities regulatory authority or regulator (the Decision Maker) in each of the Jurisdictions has received an application from Goldcorp Inc. (the Filer) for a decision under the securities legislation of the Jurisdictions (the Legislation) for relief from the requirement (the Financial Information Inclusion Requirement) in item 14.2 of Form 51-102F5 of National Instrument 51-102 - *Continuous Disclosure Obligations* (NI 51-102) to include the following financial information in the Information Circular (as hereinafter defined):

- (a) the audited historical financial statements of Minera Alumbreira Limited (MAL) for the financial years of MAL ending December 31, 2001, 2002 and 2003; and

- (b) the requirement to include in the pro forma income statement of the Filer, for the financial year ended December 31, 2003, the operating results of MAL for the period commencing January 1, 2003 and ending June 23, 2003.

The Filer has also applied for a decision under the Legislation for relief from the requirement (the Delivery Requirement) in section 2.12 of National Instrument 54-101 - *Communications with Beneficial Owners of Securities of a Reporting Issuer* (NI 54-101) that the Information Circular and other required materials (the Meeting Materials) be sent to proximate intermediaries (as that term is defined in NI 54-101) at least four business days before the twenty-first day before the date fixed for the meeting of shareholders of the Filer.

Under the Mutual Reliance Review System for Exemptive Relief Applications (the System):

- (a) the Ontario Securities Commission (OSC) is the principal regulator of 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 Filer:

1. The Filer is a corporation existing under the *Business Corporations Act* (Ontario) (the OBCA), with its registered and principal office located in Toronto, Ontario.
2. The common shares of the Filer are listed on the Toronto Stock Exchange (the TSX) and the New York Stock Exchange.
3. The Filer is a reporting issuer in each province and territory of Canada.
4. To its knowledge, the Filer is not in default of any of the requirements of the Legislation.
5. The Filer is eligible to file a short form prospectus pursuant to National Instrument 44-101 - *Short Form Prospectus Distributions* (NI 44-101).
6. As at December 23, 2004, Goldcorp had a market capitalization of approximately Cdn\$3.6 billion.
7. Wheaton River Minerals Ltd. (Wheaton River) is a corporation existing under the OBCA, with its registered and principal office located in Vancouver, British Columbia.

8. The common shares of Wheaton River are listed on the TSX and the American Stock Exchange.
9. Wheaton River is eligible to file a short form prospectus pursuant to NI 44-101.
10. As at December 23, 2004, Wheaton River had a market capitalization of approximately Cdn\$2.2 billion.
11. On December 5, 2004, the Filer issued a press release announcing its intention to make a share exchange take-over bid for all of the outstanding common shares of Wheaton River (the Transaction).
12. The Transaction is not a reverse-take over.
13. On December 23, 2004, the Filer and Wheaton River entered into a definitive agreement in respect of the Transaction (the Acquisition Agreement). Pursuant to the Acquisition Agreement, the Transaction must be approved by a majority of the shareholders of the Filer.
14. It is anticipated that an information circular (the Information Circular) detailing the Transaction will be mailed to shareholders of the Filer on or about January 7, 2005 for a special meeting of shareholders of the Filer to be held on or about January 31, 2005. The Information Circular will incorporate by reference the public disclosure record of the Filer and will include prospectus-level disclosure (including the appropriate financial statement disclosure) for each of the Filer and Wheaton River, save and except for the relief requested hereunder.
15. As the Filer needs to obtain relief from the Financial Information Inclusion Requirement, the Filer will not be able to complete the Information Circular by January 4, 2004, the date required pursuant to section 2.12 of 54-101.
16. The Filer will file the Information Circular on the System for Electronic Document Analysis and Retrieval (SEDAR).
17. Pursuant to item 14.2 of Form 51-102F5 of NI 51-102, and, by incorporation, section 1.2 of 44-101, the Transaction will be a significant probable acquisition for the Filer. The level of significance for the Transaction for the Filer will be at the 50% or greater level applying one or more of the three significance tests (asset, management or income) set out in NI 44-101.
18. Wheaton River has previously filed disclosure documents on SEDAR that include information relating to the acquisition of a 37.5% interest in MAL. Such disclosure documents include (i) the material change reports of Wheaton River dated January 15, 2003, March 26, 2003, April 16, 2003

and July 4, 2003, and (ii) the renewal annual information form of Wheaton River dated May 13, 2003.

19. The short form prospectus of Wheaton River dated October 6, 2003 includes extensive business acquisition and *pro forma* financial disclosure relating to the acquisition by Wheaton River of the 37.5% interest in MAL. Wheaton River accounted for that investment as a jointly controlled investee and applied proportionate consolidation. Absent such joint control, Wheaton River would have been subject to the less onerous acquisition disclosure required for an acquisition accounted for by the equity method. The short form prospectus incorporated by reference the historical audited financial statements of MAL, which Wheaton River had filed on SEDAR pursuant to the acquisition disclosure requirements.

Delivery Requirement requested herein, provided that the Meeting Materials are sent to the proximate intermediaries on or before,

January 7, 2005.

“John Hughes”  
Manager, Corporate Finance  
Ontario Securities Commission

**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 Filer shall be relieved from the Financial Information Inclusion Requirement requested herein, provided that the Information Circular contains or incorporates by reference the following financial information:

- (a) audited financial statements of Wheaton River for each of the three most recently completed financial years ending December 31, 2001, 2002 and 2003;
- (b) unaudited comparative interim financial statements of Wheaton River for the three and nine months ended September 30, 2004 and 2003;
- (c) a *pro forma* balance sheet for the Filer as at September 30, 2004 giving effect to the Transaction; and
- (d) *pro forma* income statements (including on a per share basis):
  - (i) for the financial year ended December 31, 2003, and
  - (ii) for the nine months ended September 30, 2004,

each as if the Proposed Acquisition had taken place January 1, 2003.

The further decision of the Decision Makers under the Legislation is that the Filer shall be relieved from the

**2.1.9 Knightsbridge London Limited Partnership  
1993 - s. 83 of the Act**

**Headnote**

Issuer deemed to have ceased to be reporting issuer under the Act.

**Applicable Ontario Statutory Provisions**

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 1(1), 6(3) and 83.

January 13, 2005

Knightsbridge London Limited Partnership 1993  
67 Yonge Street  
Suite 1203  
Toronto, Ontario  
M5E 1J8

Dear Mr. Morrow:

**Re: Knightsbridge London Limited Partnership  
1993 (the Applicant) - Application to cease to  
be a reporting issuer under section 83 of the  
Securities Act (Ontario) (the Act)**

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

As the Applicant has represented to the Decision Maker that:

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

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

"Charlie MacCready"  
Assistant Manager, Corporate Finance

**2.1.10 TD Asset Management Inc. - MRRS Decision**

**Headnote**

**TD Asset Management Inc.**

An MRRS decision which revokes and restates a previous order (June 12, 2002) to include affiliates of the portfolio manager exempted from the dealer registration requirements in the Legislation in respect of trades in shares or units of mutual funds managed by portfolio manager, made by portfolio manager through its officers and employees acting on its behalf, to managed accounts, subject to terms and conditions.

**Statutes Cited**

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

**Rules Cited**

National Instrument 81-102 Mutual Funds.  
Ontario Securities Commission Rule 31-506 - SRO Membership - Mutual Fund Dealers.  
Ontario Securities Commission Rule 45-501 Exempt Distributions.

**October 28, 2004**

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

**AND**

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

**AND**

**IN THE MATTER OF  
TD ASSET MANAGEMENT INC.**

**MRRS DECISION DOCUMENT**

**Background**

On June 12, 2002 the local securities regulatory authority or regulator (individually, a "Decision Maker", and collectively, the "Decision Makers") in each of the provinces and territories of British Columbia, Alberta, Saskatchewan, Ontario, Nova Scotia, New Brunswick, Prince Edward Island, Newfoundland and Labrador, Yukon, Northwest Territories and Nunavut (the "Jurisdictions") made a decision (the "Original Decision") on an application by TD Asset Management Inc. ("TDAM" or the "Filer") that the requirement (the "Dealer Registration Requirement") in the



legislation (the "Legislation") that prohibits a person or company from trading in a security unless the person or company is registered in the appropriate category of registration under the Legislation should not apply in respect of any trades, in shares or units of a mutual fund (a "TDAM Fund") that is managed by TDAM, made by TDAM to a client account of TDAM that is a Managed Account (as defined below).

TDAM wishes to vary the Original Decision to permit affiliates of TDAM (a "TDAM Affiliate") to distribute securities of TDAM Funds to a client account of the TDAM Affiliate that is a Managed Account exempt from the Dealer Registration Requirement.

In order to vary the Original Decision, TDAM, on its behalf and on behalf of TDAM Affiliates, has made an application (the "Application") for an order revoking the Original Decision and restating it to provide that the Dealer Registration Requirement in the Legislation shall not apply to trades in shares or units of TDAM Funds made by TDAM or TDAM Affiliates, through their respective officers and employees acting on their behalf (each, a "Representative") to Managed Accounts of TDAM or TDAM Affiliates, subject to the conditions set forth below (the "Requested Relief").

Under the Mutual Reliance Review System for Exemptive Relief Applications (the "System"):

- (a) the Ontario Securities Commission is the principal regulator for this Application;
- (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 Filer:

1. TDAM is a corporation incorporated under the Business Corporations Act (Ontario) (the "OBCA") and is a wholly owned subsidiary of The Toronto-Dominion Bank ("TD Bank"), a bank listed in Schedule I to the *Bank Act* (Canada).
2. TDAM conducts an investment management business offering passive, quantitative, enhanced and active portfolio management services to a large and diversified client base. TDAM currently has assets under management of approximately \$100 billion. TDAM is registered as an investment counsel and portfolio manager or their equivalent in all provinces and territories in Canada, as a limited market dealer under the *Securities Act* (Ontario) and the *Securities Act* (Newfoundland and Labrador), as a mutual fund dealer under the

*Securities Act* (Quebec), and as a commodity trading manager under the *Commodity Futures Act* (Ontario).

3. The Original Decision was originally sought as a result of new rules applicable to mutual fund dealers that were introduced in conjunction with the establishment of the Mutual Fund Dealers Association of Canada ("MFDA"). Prior to the establishment of the MFDA, TDAM had, in addition to its registration as portfolio manager, been also registered as a mutual fund dealer or its equivalent in each Jurisdiction. In this capacity, TDAM acted as principal distributor for the securities of the TDAM Funds. Upon the promulgation of OSC Rule 31-506 *Mutual Fund Dealers* and the equivalent rule in other Jurisdictions, TDAM would have been required to become a member of the MFDA but MFDA membership would have been problematic for TDAM because MFDA members are precluded by Sections 2.3.1 and 2.3.4 of the MFDA Rules from exercising discretion over client accounts ("Managed Accounts"). As a portfolio manager, TDAM regularly exercises discretion over Managed Accounts. Accordingly, in 2002 TDAM decided, like many industry participants, to separate its portfolio management business from its mutual fund distribution business and transferred its mutual fund distribution business to a new affiliate, TD Investment Services Inc. ("TDIS"), which became a mutual fund dealer and joined the MFDA.
4. As part of its portfolio management business, TDAM operates a division known as Private Investment Counsel ("PIC"). PIC utilizes TDAM Funds to provide customized investment management strategies to clients having \$300,000 or more of investible assets who grant PIC the authority to manage their assets on a discretionary basis. The Managed Accounts are charged an annual fee based on a percentage of assets under management.
5. Once TDAM transferred its mutual fund distribution business to TDIS, TDAM surrendered its mutual fund dealer license in each of the Jurisdictions. Upon surrender, TDAM was, in the absence of the Original Decision, precluded from distributing securities of the TDAM Funds to its Managed Accounts. Accordingly, TDAM sought relief from the dealer registration requirement to permit the distribution of securities of TDAM Funds to its Managed Accounts. The applicable Canadian securities administrators granted such relief in the form of the TDAM Decision.
6. As part of the overall re-branding strategy for TD Bank's wealth management businesses, TDAM proposes to transfer (the "TDAM Restructuring") its PIC division to TD Waterhouse Private Investment Counsel Inc. ("TDWPIC"). The TDAM

Restructuring is the first step of a re-branding strategy that is intended to bring all of the wealth management businesses of TD Bank under the TD Waterhouse banner. The assets to be transferred will consist primarily of employee accounts and Managed Accounts. The TDAM Funds in which the transferred Managed Accounts are invested will continue to be managed by TDAM.

7. TDWPIC is a corporation incorporated under the *Canada Business Corporations Act* on August 13, 2004 and is a wholly-owned subsidiary of TDAM. TDWPIC is in the process of applying to the Canadian securities regulatory authorities to become registered as an investment counsel and portfolio manager or their equivalent in all provinces and territories of Canada and as a limited market dealer in Ontario and Newfoundland and Labrador.
8. Upon completion of the TDAM Restructuring, PIC will become a division of TDWPIC. As a result of this restructuring, the Original Decision will no longer accommodate the distribution of securities of the TDAM Funds to clients of PIC exempt from the dealer registration requirements because PIC will be part of TDWPIC. For this reason, TDAM would like to vary the TDAM Decision to permit the distribution of securities of the TDAM Funds exempt from the dealer registration requirement to accounts fully managed by any affiliate of TDAM, including TDWPIC, provided such affiliate is registered in the applicable Jurisdiction as a portfolio manager and registered in Ontario and Newfoundland as a limited market dealer.

**Decision**

Each of the Decision Makers is satisfied that the tests 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:

- (1) the Original Decision is revoked; and
- (2) the Requested Relief is granted provided that:
  - (A) TDAM or the TDAM Affiliate, as applicable, is at the time of the trade, registered under the Legislation as an adviser in the category of "portfolio manager" (or the equivalent);
  - (B) if the trade is made in a Jurisdiction other than Ontario or Newfoundland, it is made by or at the direction of a Representative who is, at the time of the trade, registered under the Legislation to act on behalf of TDAM or the TDAM Affiliate, as

applicable, as an adviser in the category of "portfolio manager" (or the equivalent);

- (C) if the trade is made in the Jurisdiction of Ontario or Newfoundland, TDAM or the TDAM Affiliate is, at the time of the trade, registered under the Legislation of the Jurisdiction as a dealer in such Jurisdictions in the category of "limited market dealer", and the trade is made on behalf of TDAM or the TDAM Affiliates, as applicable, by a Representative who is, at the time of the trade, either (i) registered under the Legislation to act on behalf of TDAM or the TDAM Affiliate, as applicable, as an adviser in the category of "portfolio manager" (or the equivalent), or (ii) acting under the direction of such a person and is himself or herself registered under the Legislation to trade on behalf of TDAM or the TDAM Affiliate, as applicable, pursuant to its limited market dealer registration; and

- (D) for each Jurisdiction, this Decision shall terminate one year after the coming into force, subsequent to the date of this Decision, of a rule or other regulation under the Legislation of the Jurisdiction that relates, in whole or part, to any trading by persons or companies that are registered under the Legislation 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 Decision Maker for the Jurisdiction as not applicable for these purposes.

"Robert L. Shirriff"

"Paul M. Moore"

**2.1.11 TD Investment Management Inc. and TD Asset Management Inc. - MRRS Decision**

**Headnote**

**TD Investment Management Inc. and TD Asset Management Inc.**

An MRRS decision which revokes and restates a previous order (October 27, 2000) to include affiliates of the adviser which is resident in the Jurisdictions but not registered in the Jurisdictions and whose business is restricted to advising U.S. clients and is properly registered as an adviser under U.S. securities laws. Advice to the U.S. clients is provided by the adviser and by employees of affiliates of the adviser.

**Statutes Cited**

Securities Act, R.S.O. 1990, c. S.5, as amended s. 34, 74(1).

**October 28, 2004**

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

**AND**

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

**AND**

**IN THE MATTER OF  
TD INVESTMENT MANAGEMENT INC.  
AND TD ASSET MANAGEMENT INC.**

**MRRS DECISION DOCUMENT**

**Background**

On October 27, 2000 the local securities regulatory authority or regulator (the "Decision maker") in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Nova Scotia, Newfoundland, New Brunswick, Prince Edward Island, Northwest Territories, and Yukon Territory (the "Original Jurisdictions") made a decision (the "Original Decision") pursuant to the securities legislation of the Original Jurisdictions (the "Legislation") that TD Investment Management Inc. (named at the time of the Original Decision as CT Investment Counsel (U.S.) Inc. and herein referred to as "TDIM") and TD Asset Management Inc. ("TDAM") and certain individuals who engage in securities-related advisory activities on behalf TDIM are not subject to the following requirement (the "Applicable Requirement") contained in the Legislation:

no person or company shall act as an advisor unless the person or company is registered as an advisor, or is registered as a partner or officer of a registered advisor and is acting on behalf of the advisor, and the registration has been made in accordance with the Legislation and the person or company has received written notice of such registration and, where the registration is subject to terms and conditions, the person or company complies with such terms and conditions;

TDIM and TDAM (sometimes referred to as the "Filers") wish to vary the Original Decision to permit TDIM and certain individuals who engage in securities related advisory activities on behalf of TDIM to be exempt from the Applicable Requirement.

In order to vary the Original Decision TDIM and TDAM have made an application (the "Application") for an order revoking the Original Decision and restating it to provide that the Applicable Requirement does not apply to TDIM or the Registered Counsellors (as defined below) acting on its behalf in respect of advising U.S. clients (as defined below), subject to the conditions set forth below (the "Requested Relief").

TDIM and TDAM wish to make this Application in the Original Jurisdictions and Nunavut (collectively, the "Jurisdictions").

Under the Mutual Reliance Review System for Exemptive Relief Applications (the "System"):

- (a) the Ontario Securities Commission is the principal regulator for this Application;
- (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. TDIM is a corporation duly incorporated under the laws of Canada. It is a wholly-owned subsidiary of The Toronto-Dominion Bank ("TD Bank").
2. TDIM conducts an investment management business offering its services to residents of the United States. TDIM currently has assets under management of approximately U.S. \$300 million. TDIM is registered as an investment adviser under the U.S. Investment Advisers Act of 1940. TDIM is not registered under the securities legislation of any Jurisdiction.

3. TDAM is a corporation incorporated under the *Business Corporations Act* (Ontario) and is a wholly-owned subsidiary of TD Bank, a bank listed in Schedule I to the *Bank Act* (Canada).
4. TDAM conducts an investment management business offering passive, quantitative, enhanced and active portfolio management services to a large and diversified client base. TDAM currently has assets under management of approximately \$100 billion. TDAM is registered as an investment counsel and portfolio manager or their equivalent in all provinces and territories in Canada, as a limited market dealer under the *Securities Act* (Ontario) and the *Securities Act* (Newfoundland and Labrador), as a mutual fund dealer under the *Securities Act* (Quebec), and as a commodity trading manager under the *Commodity Futures Act* (Ontario).
5. As a U.S. registered investment adviser, TDIM regularly advises U.S. residents ("U.S. Clients") but conducts such advice from the Jurisdictions and consequently may be construed as carrying on business as an adviser in the Jurisdictions. However, because TDIM does not provide advice to Canadian residents it did not want to become registered as an adviser in the Jurisdictions. Accordingly, TDIM sought relief from the adviser registration requirement in the Jurisdictions on the basis that:
  - (a) investment counselors employed by TDAM, who are registered in the appropriate advisor category under the Legislation of each relevant Jurisdiction (the "TDAM Registrants"), act on behalf of TDIM from time to time out of the offices of either TDIM or TDAM that are located in the relevant Jurisdictions, in respect of advising U.S. Clients;
  - (b) the U.S. Clients of TDIM include clients of TDAM and its affiliates who have left Canada and are currently U.S. residents. They also include U.S. residents who are neither former Canadian residents nor former clients of TDAM or its affiliates;
  - (c) each potential U.S. Client of TDIM is identified from a review of the TDAM records and is asked to enter into a new advisory agreement with TDIM. Written disclosure is provided indicating that the U.S. Client is no longer under the responsibility of TDAM. The U.S. Client also receives the Form ADV, a form mandated under applicable U.S. securities laws, which explains the relationship between TDIM and TDAM. TDAM Registrants who are acting or will act in an advisory capacity on behalf of TDIM has business cards and letterhead which will identify them to the U.S. Clients as working on behalf of TDIM;
  - (d) the investment counsellors who act on behalf of TDIM are the TDAM Registrants. Such registrants may, at the same time, carry on advisory activities on behalf of TDAM and its affiliates, in respect of clients who are resident in the relevant Jurisdictions;
  - (e) neither TDIM nor any individual acting on its behalf who is not registered under the legislation of each relevant Jurisdiction will at any time advise clients resident in such Jurisdiction. U.S. Clients are advised at the time they enter into an advisory agreement with TDIM (and periodically thereafter) that, if they return to Canada, their accounts must be transferred to TDAM or any other adviser registered under the legislation of each relevant Jurisdiction;
  - (f) all TDAM Registrants acting on behalf of TDIM comply with the registration and other requirements of applicable U.S. securities laws when advising U.S. Clients.
6. The applicable Canadian securities administrators granted such relief in the form of the Original Decision.
7. In particular, the Original Decision provided TDIM and registered investment counsellors of TDAM ("TDAM Advising Personnel") acting on TDIM's behalf relief from the adviser registration requirement in a Jurisdiction provided:
  - (a) TDIM and the TDAM Advising Personnel acting on its behalf comply with the applicable registration and other requirements of U.S. securities laws; and
  - (b) neither TDIM nor any individual acting on its behalf who is not registered under the relevant legislation of each relevant Jurisdiction will at any time engage in securities related advisory activities in respect of clients resident in such Jurisdiction.
8. As part of the overall re-branding strategy for TD Bank's wealth management businesses, TDAM proposes to transfer (the "TDAM Restructuring") its PIC division to TD Waterhouse Private Investment Counsel Inc. ("TDWPIC"). The TDAM Restructuring is the first step of a re-branding strategy that is intended to bring all of the wealth management businesses of TD Bank under the TD Waterhouse banner.

9. TDWPIC is a corporation incorporated under the *Canada Business Corporations Act* on August 13, 2004 and is a wholly-owned subsidiary of TDAM. TDWPIC is in the process of applying to the Canadian securities regulatory authorities to become registered as an investment counsel and portfolio manager or their equivalent in all provinces and territories of Canada, and as limited market dealer in Ontario and Newfoundland and Labrador.
10. Upon completion of the TDAM Restructuring, some registered investment counsellors of TDAM will become registered investment counsellors of TDWPIC. Some of these investment counsellors provide advice to U.S. Clients on behalf of TDIM pursuant to the Original Decision. For this reason TDIM and TDAM would like to vary the Original Decision to permit TDIM and any registered investment counsellors employed by an affiliate of TDIM including TDWPIC and acting on behalf of TDIM (a "Registered Counsellor") to provide advice to U.S. residents exempt from the Applicable Requirement.

#### 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.

It is the decision of the Decision Makers pursuant to the Legislation that:

- (1) the Original Decision is revoked; and
- (2) the Applicable Requirement does not apply to TDIM or the Registered Counsellors acting on its behalf in respect of advising U.S. Clients, provided that:
  - (a) TDIM and the Registered Counsellors acting on its behalf comply with the applicable registration and other requirements of U.S. Securities Laws; and
  - (b) neither TDIM nor any individual acting on its behalf who is not registered under the legislation of each relevant Jurisdiction will at any time engage in securities related advising activities in respect of clients resident in such Jurisdiction.

"Robert L. Shirriff"

"Paul M. Moore"

#### 2.1.12 CML Global Capital Ltd. - s. 83 of the Act

##### Headnote

Issuer deemed to have ceased to be reporting issuer under the Act.

##### Applicable Ontario Statutory Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 1(1), 6(3) and 83.

January 14, 2004

Christopher M. Wolfenberg  
CML Global Capital Ltd.  
C/O Macleod Dixon LLP  
3700 Canterra Tower  
400 Third Avenue SW  
Calgary, AB T2P 4H2

Dear Mr. Wolfenberg:

**Re: CML Global Capital Ltd. (the "Applicant") - Application to Cease to be a Reporting Issuer under Section 83 of the Securities Act (Ontario) (the "Act")**

The Applicant has applied to the Ontario Securities Commission (the "Commission") for an order under section 83 of the Act to be deemed to have ceased to be a reporting issuer.

As the Applicant has represented to the Commission that:

1. The outstanding securities of the Applicant, including debt securities, are beneficially owned, directly or indirectly, by less than 15 security holders in Ontario and less than 51 securityholders in Canada;
2. No securities of the Applicant are traded on a marketplace as defined in National Instrument 21-101;
3. The Applicant is not in default of any of its obligations under the Legislation as a reporting issuer; and
4. The Applicant will not be a reporting issuer or the equivalent in any jurisdiction in Canada immediately following the Director granting the relief requested.

The Decision Maker is satisfied that it would not be prejudicial to the public interest to grant the requested relief and orders that the Applicant is deemed to have ceased to be a reporting issuer.

"Charlie MacCready"  
Assistant Manager, Corporate Finance

**2.1.13 DC Evans and Company, LLC. - ss. 6.1(1) of MI 31-102 and s. 6.1 of OSC Rule 13-502**

**Headnote**

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

**Rules Cited**

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

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

**AND**

**IN THE MATTER OF  
DC EVANS AND COMPANY, LLC.**

**DECISION**

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

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

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

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

1. The Applicant is incorporated under the laws of the State of New Jersey in the United States. The Applicant is not a reporting issuer. The Applicant is registered as a broker-dealer with the U.S. Securities and Exchange Commission and is a member of the U.S. National Association of Securities Dealers. The Applicant is seeking registration under the Act as a limited market dealer. The head office of the Applicant is in Hillsdale, New Jersey.

2. MI 31-102 requires that all registrants in Canada enrol with CDS Inc. (**CDS**) and use the national registration database (**NRD**) to complete certain registration filings. As part of the enrolment process, registrants are required to open an account with a member of the Canadian Payments Association from which fees may be paid with respect to NRD by electronic pre-authorized debit (**electronic funds transfer** or the **EFT Requirement**).
3. The Applicant has encountered difficulties in setting up its own Canadian based bank account for purposes of fulfilling the EFT Requirement.
4. The Applicant confirms that it is not registered in another category to which the EFT Requirement applies and that Ontario is the only Canadian jurisdiction in which it has applied for registration.
5. Staff of the Canadian Securities Administrators has indicated that, with respect to applications from international dealers and international advisers (or applicants in equivalent categories of registration) for relief from the EFT Requirement, it is prepared to recommend waiving the fee normally required to accompany applications for discretionary relief (the **Application Fee**).
6. For Ontario registrants, the requirement for payment of the Application Fee is set out in section 4.1 of Rule 13-502.

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

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

- A. makes acceptable alternative arrangements with CDS for the payment of NRD fees;
- B. pays its participation fee under the Act to the Commission by cheque, draft, money order or other acceptable means at the time of filing its application for annual renewal, which shall be no later than the first day of December in each year;
- C. pays any applicable activity fees, or other fees that the Act requires it to pay to the Commission, by cheque, draft, money order or other acceptable means at the appropriate time; and
- D. is not registered in any Jurisdiction in another category to which the EFT Requirement applies;

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

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

January 14, 2005.

“David M. Gilkes”

## 2.1.14 Linedata Services S.A. - MRRS Decision

### Headnote

Mutual Reliance Review System for Exemptive Relief Applications – relief granted from the requirement to include interim financial statements and MD&A for the offeror’s third quarter in a securities exchange takeover bid circular – in accordance with French law, offeror does not prepare third quarter financial statements for dissemination – relief also granted from prospectus requirements with respect to generally accepted accounting principles, generally accepted auditing standards and foreign auditors’ reports – financial statements included in the circular will comply with NI 52-107 – relief also granted from prospectus qualification requirements with respect to first trades of shares of offeror distributed under securities exchange take-over bid.

### Applicable Statutory Provision

Securities Act, R.S.O. 1990, c. S.5, as amended, s. 53, 74(1), 104(2)(c).

### Applicable Rules

National Instrument 52-107 - Acceptable Accounting Principles, Auditing Standards and Reporting Currency.  
Ontario Securities Commission Rule 41-501 – General Prospectus Requirements.

December 22, 2004

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

**AND**

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

**AND**

**IN THE MATTER OF  
LINEDATA SERVICES S.A. (THE FILER)**

### **MRRS DECISION DOCUMENT**

### Background

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

- (i) an exemption from the requirement to include unaudited interim financial statements and

management's discussion and analysis for the Filer's third quarter of 2004; and

- (ii) an exemption from the requirements relating to generally accepted accounting principles, generally accepted auditing standards and foreign auditors' reports set out under the required form of prospectus, in connection with the filing of a circular (the Circular) relating to a securities exchange take-over bid (the Bid) (collectively, the Financial Information Relief).

The Decision Maker in each of Alberta, Ontario and New Brunswick (the First Trade Jurisdictions) has received an application from the Filer for a decision under the Legislation of the First Trade Jurisdictions for an exemption from the prospectus and registration requirements as they relate to the first trade of shares in the capital of the Filer (the Linedata Shares) distributed pursuant to the Bid (the First Trade 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) the MRRS decision document evidences the decision of each applicable 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 Filer:

1. The Filer was formed on December 22, 1997 and is governed by French law. Its registered and executive head office is located at 19 rue d'Orléans – 92200 Neuilly-sur-Seine, France. The Filer is a major international provider of financial information technology solutions that specializes in asset management, credit finance and employee savings and insurance.
2. The Filer's share capital is comprised of 11,720,411 Linedata Shares of one euro each, fully paid-up and of a single class.
3. The Linedata Shares are traded on the Nouveau Marché of the Paris Bourse.
4. The Filer is not currently a reporting issuer in any of the Jurisdictions.
5. The Filer intends to distribute the Circular to all of the shareholders of Financial Models Company Inc. (FMC), which Circular describes an offer to

purchase all of the issued and outstanding common shares and class C shares (the FMC Shares).

6. FMC is incorporated under the Business Corporations Act (Ontario), and its registered and executive head office is located in Mississauga, Ontario. FMC is a reporting issuer in each of the Jurisdictions, and its common shares are listed for trading on the Toronto Stock Exchange.
7. The offer to purchase provides that as consideration for the FMC Shares deposited under the Bid, each holder of FMC Shares (the FMC Shareholders) will be entitled to receive \$13.00 in cash for 70% of the FMC Shares deposited by such FMC Shareholder and one Linedata Share for every 1.97 FMC Shares with respect to the remaining 30% of the FMC Shares deposited by such FMC Shareholder.
8. The Filer will file the Circular on the System for Electronic Document Analysis and Retrieval (SEDAR).
9. Pursuant to the form requirements for a take-over bid circular in the Jurisdictions, the Filer is obligated to include in the Circular disclosure about the Filer prescribed by the form of prospectus appropriate for the Filer.
10. In connection with the prescribed prospectus form requirements, the Filer must include in the Circular, among other financial information, historical audited and unaudited financial statements of the Filer prepared in accordance with French generally accepted accounting principles (French GAAP) but reconciled to Canadian generally accepted accounting principles (Canadian GAAP) and accompanied by a foreign auditors' report (which includes unaudited interim financial statements for the third quarter of 2004) and file a foreign auditors' proficiency letter (the Financial Information Requirements).
11. Under applicable French laws, the Filer's most recently prepared interim financial statements are for the Filer's six-month period ended June 30, 2004 and they have been prepared pursuant to applicable French laws. Third quarter financial statements are not required in France. Therefore, the Filer has not prepared third quarter financial statements for dissemination to the public (except that it does release revenue figures on a quarterly basis) and is not in a position to include interim financial statements and management's discussion and analysis for the Filer's third quarter in the Circular.
12. The Circular will contain the following financial statements:



- (a) the Filer's audited financial statements for the years ended December 31, 2003, 2002 and 2001 and the Filer's unaudited financial statements for the six-month period ended June 30, 2004, all prepared in accordance with French GAAP and, if applicable, audited in accordance with French auditing standards; and
- (b) unaudited pro forma financial statements for the year ended December 31, 2003 and the six-month period ended June 30, 2004, all prepared in accordance with Canadian GAAP.
13. A reconciliation of the Filer's financial information to Canadian GAAP for the periods contained in the pro forma financial statements will be included in the Circular.
14. Pursuant to National Instrument 52-107 – Acceptable Accounting Principles, Auditing Standards and Reporting Currency (NI 52-107) a proficiency letter from the Filer's French auditors is not required and the Filer may prepare its financial statements in accordance with French GAAP and audited in accordance with French auditing standards.
15. If this decision is not granted, the Circular will not comply with the Financial Information Requirements.
16. After the filing of the Circular, the Filer will become a reporting issuer in Quebec, Newfoundland and Labrador, Nova Scotia and Saskatchewan and, if the Filer takes up and pays for the FMC Shares, the Filer will become a reporting issuer in British Columbia (collectively, the Reporting Issuer Jurisdictions).
17. The distribution of the Linedata Shares pursuant to the Bid will be exempt from the registration and prospectus requirements in all Jurisdictions pursuant to statutory exemptions.
18. Following completion of the Bid, the annual reports, financial statements, proxy materials and other materials currently distributed to the holders of the Linedata Shares pursuant to the securities laws of France will be provided, as applicable, to the holders of the Linedata Shares resident in Canada unless the Filer, at such time or times, is not a "designated foreign issuer" under National Instrument 71-102 – Continuous Disclosure and Other Exemptions Relating to Foreign Issuers, in which case the Filer will be obligated to comply with National Instrument 51-102 – Continuous Disclosure Obligations instead.
19. Pursuant to Section 2.6 of Multilateral Instrument 45-102 – Resale of Securities (MI 45-102), the first trade in securities acquired pursuant to a securities exchange take-over bid is deemed to be a distribution, unless certain conditions are met. Where the issuer was not a "reporting issuer" on the date that the FMC Shares are first taken up under the Bid, security holders are generally subject to a four-month seasoning or hold period.
20. Because there is no market for the Linedata Shares in Canada and none is expected to develop, it is expected that any resale of the Linedata Shares by Canadian residents will be effected through the facilities of the Nouveau Marché of the Paris Bourse in accordance with its rules and regulations.
21. While Section 2.11 of MI 45-102 provides first trade relief in respect of a security acquired in a securities exchange take-over bid, such relief is subject to the condition that the offeror was a reporting issuer in the local jurisdiction on the date the securities of the offeree issuer are first taken up pursuant to the take-over bid. An issuer that has filed a securities exchange take-over bid circular or that has taken up and paid for the shares of an offeree issuer will become a reporting issuer in each of the Canadian jurisdictions which recognizes the concept of a reporting issuer, other than Alberta, Ontario and New Brunswick. Accordingly, the relief provided by Section 2.11 of MI 45-102 is unavailable in the First Trade Jurisdictions.
22. If this decision is not granted, FMC Shareholders in the Reporting Issuer Jurisdictions who pursuant to the Bid acquire Linedata Shares will, pursuant to MI 45-102, be free to trade such securities over the Nouveau Marché of the Paris Bourse immediately after the Bid is completed whereas FMC Shareholders in the First Trade Jurisdictions will be subject to a seasoning or hold period of four months.

#### 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 Financial Information Relief is granted provided that the Circular:

- (i) contains the following financial information:
- (a) the Filer's audited financial statements for the years ended December 31, 2003, 2002 and 2001 and the Filer's unaudited financial statements for the six-month period ended June 30, 2004, all prepared in accordance with French GAAP and, if applicable, audited in accordance with French auditing standards;

- (b) unaudited pro forma financial statements for the year ended December 31, 2003 and the six-month period ended June 30, 2004, all prepared in accordance with Canadian GAAP; and
  - (c) a reconciliation of the Filer's financial information to Canadian GAAP for the periods contained in the pro forma financial statements; and
- (ii) complies with NI 52-107 with respect to the exemption from the requirements relating to generally accepted accounting principles, generally accepted auditing standards and foreign auditors' reports set out under the required form of prospectus.

The decision of the Decision Makers in Alberta, Ontario and New Brunswick under the Legislation in such Jurisdictions is that the First Trade Relief is granted provided that trades of Linedata Shares are made through an exchange, or a market, outside of Canada and that such trades are not control distributions as defined in the Legislation.

"Paul M. Moore"  
Vice-Chair  
Ontario Securities Commission

"David L. Knight, FCA"  
Commissioner  
Ontario Securities Commission

**2.1.15 Great Lakes Commercial & Holding Corporation Limited - s. 83 of the Act**

**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.

January 18, 2005

Great Lakes Commercial & Holding Corporation Limited  
157 Golfdale Road,  
Toronto, Ontario  
M4N 2C1

Attention: William N. Allan, President

Dear Sirs:

**Re: Great Lakes Commercial & Holding Corporation Limited ( the " Applicant" )  
Application to Cease to be a Reporting Issuer  
under Section 83 of the Securities Act  
(Ontario) (the "Act")**

The Applicant has applied to the Ontario Securities Commission for an order under section 83 of the Act to be deemed to have ceased to be a reporting issuer.

As the Applicant has represented to the Commission that:

- The outstanding securities of the Applicant, including debt securities, are beneficially owned, directly or indirectly, by less than 15 security holders in Ontario and less than 51 security holders in Canada;
- No securities of the Applicant are traded on a marketplace as defined in National Instrument 21-101 *Marketplace Operation*;
- The Applicant is not in default of any of its obligations under the Act as a reporting issuer;
- The Applicant will not be a reporting issuer or the equivalent in any jurisdiction in Canada immediately following the Director granting the relief requested.

The Director is satisfied that it would not be prejudicial to the public interest to grant the requested relief and orders that the Applicant is deemed to have ceased to be a reporting issuer.

"Cameron McInnis"  
Manager, Corporate Finance

## 2.2 Orders

### 2.2.1 Calyon Financial Inc. - s. 74(1)

#### Headnote

Application for relief from the registration and prospectus requirements of the *Securities Act* (Ontario) in connection with certain trades by the Filer to counterparties, and by counterparties to the Filer, in over-the-counter (OTC) derivative securities – Filer is registered as a broker-dealer with the United States Securities and Exchange Commission under the *Securities Exchange Act of 1934* and as a futures commission merchant with the United States Commodity Futures Trading Commission under the *Commodities Exchange Act* – registration and prospectus relief sought on the basis that proposed OSC Rule 91-504 *Over-The-Counter Derivatives* would have provided similar relief for certain trades in OTC derivative transactions to “qualified parties” (as defined in the proposed rule) – relief granted to the Filer subject to three-year sunset provision – order redrafted to make reference to definition of “accredited investor” in OSC Rule 45-501 *Exempt Distributions*, with certain exceptions – definition of “accredited investor” similar to the definition of “qualified party” – going forward, staff no longer prepared to recommend relief on the basis of proposed rule – existing exemptions available for such trades.

#### Ontario Statutes

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

#### Ontario Rules

OSC Rule 45-501 Exempt Distributions.  
Proposed OSC Rule 91-504 Over-The-Counter Derivatives.

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

**AND**

**IN THE MATTER OF  
CALYON FINANCIAL INC.**

**ORDER  
(Section 74(1))**

#### Background

The Ontario Securities Commission (the Commission) has received an application from Calyon Financial Inc. (Calyon) for an order under section 74(1) of the *Securities Act* (Ontario) (the Act) that

- (i) the requirements in the Act to be registered to trade in a security (the Registration Requirement), and

- (ii) the requirements in the Act to file and obtain a receipt for a preliminary prospectus and a prospectus in respect of such security (the Prospectus Requirement)

shall not apply to certain trades in over-the-counter (OTC) derivatives entered into between Calyon and certain counterparties, subject to certain terms and conditions.

#### 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 Order,

“Qualified Party” means

- (a) an “accredited investor”, as defined in OSC Rule 45-501 *Exempt Distributions* (OSC Rule 45-501), other than a person or company described in clauses (n), (o), (p), (q) or (r) of that definition (the excluded categories) and clause (aa) of that definition to the extent that the owners of interests, direct or indirect, legal or beneficial, of the person or company described in clause (aa) includes a person or company in an excluded category; and
- (b) a person or company registered under the *Commodity Futures Act* (Ontario) as a dealer in the category of futures commission merchant or as an advisor or in an equivalent capacity elsewhere in Canada.

#### Representations

This Order is based upon the following representations by Calyon:

1. Calyon is a corporation incorporated under the laws of Delaware and is an indirect, wholly-owned subsidiary of Credit Agricole S.A., a bank domiciled in France. The head office of Calyon is located in Chicago, Illinois.
2. Calyon is registered as a broker-dealer with the United States Securities and Exchange Commission of the United States under the *Securities Exchange Act of 1934* and is a member of the National Association of Securities Dealers of the United States and is registered as a futures commission merchant with the Commodity Futures Trading Commission pursuant to the United States *Commodities Exchange Act* and is a member of the National Futures Association.
3. Calyon is not registered as a dealer or adviser under the securities legislation of any province or territory of Canada. Calyon is also not a reporting issuer in any province or territory of Canada.

4. Calyon has recently submitted an application with the Ontario Securities Commission for registration as a dealer in the registration category of international dealer. However, this category of registration does not permit Calyon to effect the trades in over-the-counter (OTC) derivatives in Ontario as contemplated by this application.
5. Calyon proposes to market and trade a full range of OTC derivative products with certain counterparties in Ontario.
6. The OTC derivatives will consist of one or more of an option, a forward contract, a swap, a repurchase agreement or a contract for differences of a type commonly considered to be a derivative, in which:
  - (a) the agreement relating to, and the material economic terms of the option, forward contract, swap, foreign exchange contract, repurchase agreement or contract for differences have been customized to the purposes of the parties to the agreement and the agreement is not part of a fungible class of agreements that are standardized as to their material economic terms;
  - (b) the creditworthiness of a party having an obligation under the agreement would be a material consideration in entering into or determining the terms of the agreement; and
  - (c) the agreement is not entered into or traded on or through an organized market, stock exchange or futures exchange and is not cleared by a clearing corporation.
7. The underlying interest of the OTC derivatives transacted between Calyon and the counterparties will consist entirely of a commodity, an interest rate, a foreign exchange rate, a security, an index, a benchmark or other variable, another OTC derivative, or some relationship between, or combination of, one or more of any of them.
8. The counterparties to such transactions will consist exclusively of parties that meet the following criteria:
  - (a) they are Qualified Parties;
  - (b) they have a high level of business and financial sophistication;
  - (c) they have access to their own independent advisors who can assist in the determination of the suitability of the transaction and the creditworthiness of Calyon; and
- (d) they enter into OTC derivative trades as part of the ordinary course of their businesses or investing activity in order to hedge or otherwise manage specific risks associated with their businesses or investments or for speculative purposes.
9. Calyon will maintain books and records in respect of the trades contemplated by this Order that contain substantially the same information as would have been collected and filed as if such trades had been made in reliance on the "accredited investor" exemption in s. 2.3 of OSC Rule 45-501, or any successor instrument thereto.

**Order**

Upon the recommendation of the staff of the Commission it is ordered pursuant to Section 74(1) that

1. Calyon and Calyon's counterparties who are Qualified Parties shall each be exempt from the Registration Requirement and the Prospectus Requirement in respect of trades in OTC derivatives provided that the representations contained in paragraphs 5, 6, 7, 8 and 9 remain true as at the time of the trade; and
2. this Order will expire on the third anniversary of the date of this Order.

December 21, 2004.

"Paul M. Moore"

"Wendell S. Wigle"

**2.2.2 CI Mutual Funds Inc. et al. - ss. 147**

**Headnote**

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

**Statutes Cited**

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

**Regulations Cited**

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

**Rules Cited**

National Instrument 13-101 – System for Electronic Document Analysis and Retrieval (SEDAR), s. 2.1(1)1.

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

**AND**

**IN THE MATTER OF  
CI MUTUAL FUNDS INC.**

**AND**

**THE FUNDS LISTED ON SCHEDULE A  
(THE "EXISTING FUNDS")**

**ORDER  
(Subsection 147 of the Act)**

**UPON** the application (the "Application") of CI Mutual Funds Inc. ("CI"), the manager of the Existing Funds and any similar limited partnership or pooled fund established and managed by CI from time to time (collectively, the "Funds"), to the Ontario Securities Commission (the "Commission") for an order pursuant to subsection 147 of the Act exempting the Funds from filing with the Commission the interim and annual financial statements prescribed by subsections 77(2) and 78(1), respectively, of the Act;

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

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

1. CI is a corporation existing under the laws of Ontario with its head office in Toronto, Ontario. CI is the investment advisor of the Existing Funds and CI or an affiliate of CI will be the manager or investment advisor of any future Fund. CI is

registered under the Act as an adviser in the categories of investment counsel and portfolio manager.

2. The Funds are, or will be, mutual fund trusts or limited partnerships that are redeemable on demand, established under the laws of Ontario. The Funds will not be reporting issuers in any province or territory of Canada. Units of the Funds are, or will be, distributed in each of the provinces and territories of Canada without a prospectus pursuant to exemptions from the prospectus delivery requirements of applicable securities legislation.

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

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

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

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

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

6. Subsection 2.1(1)1 of National Instrument 13-101 - System for Electronic Document Analysis and Retrieval (SEDAR) requires that every issuer required to file a document under securities legislation make its filing through SEDAR. The

Financial Statements filed with the Commission thus become publicly available.

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

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

- (a) In the absence of other regulatory relief, the Funds will prepare and deliver to the Unitholders of the Funds the Permitted Financial Statements, in the form and for the periods required under the Act and the Regulation;
- (b) The Funds will retain the Financial Statements indefinitely;
- (c) The Funds will provide the Financial Statements to the Commission or any member, employee or agent of the Commission immediately upon request of the Commission or any member, employee or agent of the Commission;
- (d) CI will provide a list of the Funds relying on this Order to the Investment Funds Branch of the Commission on an annual basis;
- (e) Unitholders of the Funds will be notified that the Funds are exempted from the requirements in subsections 77(2) and 78(1) of the Act to file the Financial Statements with the Commission;
- (f) In all other aspects, the Funds will comply with the requirements in Ontario securities law for financial statements; and
- (g) This decision, as it relates to the Commission, will terminate after the coming into force of any legislation or rule of the Commission dealing with the matters regulated by subsections 77(2) and 78(1) of the Act.

December 3, 2004.

“Paul Moore”

“Robert Davis”

**SCHEDULE A**

**FUNDS**

Altrinsic Opportunities Fund  
BPI American Opportunities Fund  
BPI American Opportunities RSP Fund  
BPI Global Opportunities III Fund  
BPI Global Opportunities III RSP Fund  
CI Multi-Manager Opportunities Fund  
Landmark Global Opportunities Fund  
Landmark Global Opportunities RSP Fund  
Trident Global Opportunities Fund  
Trident Global Opportunities RSP Fund  
Trilogy Global Opportunities Fund  
Trilogy Global Opportunities RSP Fund

2.2.3 AGF Funds Inc. - s. 127

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

**AND**

**AGF FUNDS INC.**

**ORDER  
(Section 127)**

**WHEREAS** on December 12, 2004, the Commission issued a Notice of Hearing (the "Notice of Hearing") pursuant to section 127 of the *Securities Act* (the "Act") in respect of AGF Funds Inc. (the "Respondent");

**AND WHEREAS** the Respondent entered into a settlement agreement with Staff of the Commission (the "Settlement Agreement"), in which the Respondent agreed to a proposed settlement of the proceeding commenced by the Notice of Hearing, subject to the approval of the Commission;

**AND UPON** reviewing the Settlement Agreement and the Notice of Hearing and Statement of Allegations of Staff of the Commission, and upon hearing submissions from counsel for the Respondent and for Staff of the Commission;

**AND WHEREAS** the Commission is of the opinion that it is in the public interest to make this Order;

**IT IS HEREBY ORDERED THAT** the Settlement Agreement dated December 10, 2004, attached hereto, is approved.

December 16, 2004.

"Paul M. Moore"

"Susan Wolburgh Jenah"

"Robert W. Davis"

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

**AND**

**AGF FUNDS INC.**

**SETTLEMENT AGREEMENT**

**I. INTRODUCTION**

1. By Notice of Hearing dated December 12, 2004, the Ontario Securities Commission (the "Commission") announced that it proposed to hold a hearing to consider whether, pursuant to section 127 of the *Securities Act* (the "Act"), it is in the public interest for the Commission to make an order approving the settlement agreement entered into between Staff of the Commission and the respondent, AGF Funds Inc. ("AGF").

**II. JOINT SETTLEMENT RECOMMENDATION**

2. Staff of the Commission ("Staff") recommends settlement with AGF (also referred to hereafter as the "Respondent") in accordance with the terms and conditions set out below. The Respondent agrees to the settlement on the basis of the facts set out in Part IV herein and consents to the making of an Order in the form attached as Schedule "B" on the basis of the facts set out in Part IV herein.

3. The terms of this settlement agreement, including the attached Schedule "A" and "B" (collectively, the "Settlement Agreement") will be released to the public only if and when the Settlement Agreement is approved by the Commission.

**III. ACKNOWLEDGEMENT**

4. Staff and the Respondent agree with the facts set out in Part IV herein for the purposes of this Settlement Agreement only and further agree that this agreement of facts is without prejudice to the Respondent or Staff in any other proceeding of any kind including, but without limiting the generality of the foregoing, any proceedings brought by the Commission under the Act (subject to paragraph 29) or any civil or other proceedings which may be brought by any other person or agency. No other person or agency may raise or rely upon the terms of this Settlement Agreement or any agreement to the facts stated herein whether or not this Settlement Agreement is approved by the Commission.

**IV. AGREED FACTS**

**a) The Respondent**

5. AGF is registered in Ontario as a mutual fund dealer, investment counsel and portfolio manager, and is responsible for the management of approximately 50 mutual funds ("AGF Funds") with mutual fund assets under management of approximately \$24 billion (as of June 30, 2004).

**b) The Fund Manager's Duty**

6. A mutual fund manager is required by Ontario securities law to exercise the powers and discharge the duties of its office honestly and in good faith and in the best interests of the mutual fund and, in connection therewith, to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances. Compliance with this duty requires that a mutual fund manager have regard to the potential for harm to a fund from an investor seeking to employ a frequent trading market timing strategy and take reasonable steps to protect a mutual fund from such harm to the extent that a reasonably prudent person would have done in the circumstances.

**c) Background**

7. In November 2003, the Commission, in co-operation with the Investment Dealers' Association of Canada and the Mutual Fund Dealers Association of Canada, began an inquiry into potential late trading and market timing in the Canadian mutual fund industry. The inquiry involved 105 Canadian mutual fund companies, and has been carried out in three phases. The inquiry is in its third and final phase, is expected to continue over the next several weeks and involves a number of mutual fund managers. AGF has cooperated fully in the Commission's inquiry.

8. In its review of AGF, Staff found no evidence of late trading occurring in AGF Funds. Staff has not found any evidence of market timing by any insiders of AGF or any evidence of ongoing market timing activity in AGF Funds. The following facts relate exclusively to market timing by certain third party investors in AGF Funds.

**d) Market Timing: Cause and Effect**

9. Market timing involves short-term trading of mutual fund securities to take advantage of short-term discrepancies between the "stale" values of securities within a mutual fund's portfolio and the current market value of those securities. Stale values can occur in mutual fund portfolios comprised, in whole or in part, of non-North American foreign equities (e.g. European, Asian and International and Global funds, also referred

to herein as "foreign funds"). Stale values of those securities may result in stale values of the units of a mutual fund as a result of the way in which the net asset value ("NAV") of most mutual funds is calculated for the purpose of determining the price at which an investor may purchase or redeem (buy or sell) a unit of the fund.

10. The price of a mutual fund, in accordance with industry practice and as prescribed in the mutual fund's Annual Information Form, is calculated at the close of each trading day (4:00 p.m. ET) by adding together the value of the assets of the fund (based on the most recent closing market price of securities in the fund's portfolio), less any liabilities, and dividing that amount (the NAV) by the number of units held by investors in the fund on that day. Any order to purchase or sell a unit of the fund received by the order receipt office of the fund in good order prior to 4:00 p.m. ET will be executed at the NAV per unit calculated as of 4:00 p.m. that day. Any order to purchase or sell a unit of the fund received by the order receipt office of the fund in good order after 4:00 p.m. ET will be executed at the NAV per unit determined at 4:00 p.m. ET the following day.

11. The securities in a fund's portfolio are each valued on the basis of their most recent closing market price as of 4:00 p.m. ET (the time at which North American markets close) on the day for which the NAV is being calculated. The closing market price of a foreign equity trading on an Asian market (which closed at 1:30 a.m. ET, for example) will have been determined 14.5 hours prior to the calculation of the foreign fund's NAV. Similarly, the closing market price of a foreign equity trading on a European market (which closed at 12 noon ET, for example) will have been determined 4 hours prior to the calculation of the foreign fund's NAV. Due to this lapse of time, the closing market price of the foreign equity used for the purpose of calculating the NAV of the fund may be "stale" and therefore the NAV of the foreign fund (and the unit price of the fund) calculated on the basis of that closing market price may also be "stale."

12. There is a strong correlation between price movements of equities on North American markets (as reflected in movements in the S&P 500 index, for example) on one day and price movements of equities on foreign markets on the following trading day. Due to the time at which the foreign markets close, the price of foreign equities held in the portfolio of a foreign fund, and therefore the price of the foreign fund, will not reflect this pricing correlation until the following trading day.

13. A market timer will attempt to take advantage of the difference between the "stale" value and an expected price movement of the foreign fund the following day by trading in anticipation of those



price movements. Portfolios that are known to have a material component of foreign equities that are traded outside of North American time zones and that trade with a strong correlation with broad trends in price movements of equities on North American markets on the preceding day, afford the greatest "leverage" to investors using a market timing strategy.

**e) The Harm Caused by Market Timing of Mutual Funds**

14. When certain investors engage in frequent trading market timing in foreign funds, and when those investors are not required to pay a proportionate fee to the fund, the economic interest of long-term unitholders of these foreign funds is adversely affected. Significant harm may be incurred by a fund in which frequent trading market timing occurs. Any such harm would be borne by all investors in the fund. In addition to dilution<sup>1</sup>, market timing in a fund also may result in certain inefficiencies in that fund. Those inefficiencies, which will vary depending upon the particular fund, may involve increased transaction costs and disruption of a fund's portfolio management strategy (including the maintenance of cash or cash equivalents and/or monetization of investments to meet redemption requirements) and may impair a fund's long-term performance.

**f) The Disclosure of AGF Simplified Prospectus and AIF**

15. Specific statements contained in the Prospectuses and AIFs filed by AGF for the years 2000 to 2003 (although not identical from year to year) disclosed that AGF could require the payment of a short-term trading fee of up to 2% in circumstances where an investor seeks to either switch between AGF Funds or redeem units of an AGF Fund within 90 days of having purchased the units.

**g) Market Timing in AGF Funds**

16. Six institutional investors holding accounts in AGF Funds have been identified as having profited as a result of frequent trading market timing strategies that were pursued in certain of the AGF Funds (the "Relevant Funds") in the period from August 2000 to June 2003 (the "Market Timing Traders"). The Market Timing Traders traded in the AGF Funds through one or more Canadian investment dealers.

17. AGF entered into agreements with three of the Market Timing Traders that contained the following basic terms:

- specific funds in which the three Market Timing Traders could invest were identified (typically, AGF funds with greater than \$200 million in assets). Trading was, however, permitted by AGF in funds which were not within these parameters;
- a limit on the size of the investment that could be made as a percentage of total assets of each fund (typically, 2% for funds other than money market funds), was imposed;
- a maximum of 10 switches (a transfer of an investment from one fund) per specified Relevant Fund per month, were typically permitted; and
- a fee of 2% on switches involving trades exceeding 2% of the fund's NAV, was typically provided for, but never charged.

There was no public disclosure of these agreements.

18. AGF advised the Market Timing Traders that they would be charged standard fees for switching, beginning in July 2003. The Market Timing Traders redeemed their positions in July 2003.

19. In the period August 2000 to June 2003:

- the total profit realized in AGF Funds by the Market Timing Traders was approximately \$47.9 million (not all of the profit realized by the Market Timing Traders was from frequent trading market timing transactions, and the profit realized by the Market Timing Traders does not equate to harm to other investors in the AGF Funds);
- the Market Timing Traders achieved a return on their overall investment in the Relevant Funds that was significantly higher than the return that long-term investors would have achieved on their investments in the Relevant Funds in the same period;
- in connection with the trading by the Market Timing Traders, AGF charged management fees to the Relevant Funds of approximately \$2.1 million (net of trailer fees paid to Canadian investment dealers and other expenses, AGF earned approximately \$700,000 on those management fees); and

---

<sup>1</sup> Dilution of a fund's value caused by market timing may be calculated by taking the percentage difference between the fund's stale price and current market value multiplied by the amount invested.

- no fees were charged by AGF to the Market Timing Traders.

20. In entering into the agreements referred to in paragraph 17 that permitted certain Market Timing Traders to engage in frequent trading market timing, AGF recognized some of the costs that could be incurred by the Relevant Funds as a result of the trading by the Market Timing Traders and implemented measures to protect the Relevant Funds against those costs. However, those measures adopted by AGF reduced, but did not negate, the harm resulting from the market timing activities. At the same time, AGF failed to recognize all of the costs (and, in particular, dilution) resulting from the frequent trading market timing activities of the Market Timing Traders and did not implement appropriate measures to protect the funds against the associated harm.

**V. THE RESPONDENT'S POSITION**

21. By press release dated July 2, 2003, AGF announced the adoption of additional practices and procedures to prevent and detect market timing that could reasonably be expected to be harmful to the AGF Funds and unitholders of AGF Funds.

22. AGF's current monitoring of trades in AGF Funds indicates that the policies and procedures that have been implemented have served to eliminate any potential adverse impact of frequent trading market timing.

**VI. CONDUCT CONTRARY TO THE PUBLIC INTEREST**

23. The agreements described in paragraph 17 protected the Relevant Funds from some, but not all, of the costs to those funds of the trading by the Market Timing Traders. Accordingly, the conduct of AGF in failing to protect fully the best interests of the Relevant Funds in respect of the frequent trading market timing was contrary to the public interest.

**VII. TERMS OF SETTLEMENT**

24. AGF agrees that, as a term of settlement, it will make a payment in the amount of \$29.2 million to Affected Investors (as defined in Schedule "A" to this agreement) through the distribution mechanism referred to in Schedule "A" to this agreement, and in accordance with the terms and conditions specified in Schedule "A" to this agreement.

**VIII. STAFF COMMITMENT**

25. If this Settlement Agreement is approved by the Commission, Staff will not initiate any proceeding under Ontario securities law in respect of any

conduct or alleged conduct of AGF or its affiliates in relation to the facts set out in Part IV of this Settlement Agreement, subject to the provisions of paragraph 29 below.

**IX. PROCEDURE FOR APPROVAL OF SETTLEMENT**

26. Approval of this Settlement Agreement shall be sought at a hearing of the Commission on a date agreed to by counsel for Staff and AGF.

27. Staff and AGF may refer to any part, or all, of the Settlement Agreement at the Settlement Hearing. Staff and AGF also agree that if this Settlement Agreement is approved by the Commission, it will constitute the entirety of the evidence to be submitted respecting AGF in this matter, and AGF agrees to waive its rights to a full hearing, judicial review or appeal of the matter under the Act.

28. Staff and AGF agree that if this Settlement Agreement is approved by the Commission, neither Staff nor AGF will make any public statement inconsistent with this Settlement Agreement. Nothing in this section is intended to restrict AGF from making full answer and defence to any civil proceedings against it.

29. If this Settlement Agreement is approved by the Commission and, at any subsequent time, AGF fails to honour any of the Terms of Settlement set out in Part VII herein, Staff reserve the right to bring proceedings under Ontario securities law against AGF based on, but not limited to, the facts set out in Part IV of the Settlement Agreement, as well as the breach of the Settlement Agreement.

30. If, for any reason whatsoever, this Settlement Agreement is not approved by the Commission or an Order in the form attached as Schedule "B" is not made by the Commission, each of Staff and AGF will be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing of the allegations in the Notice of Hearing and Statement of Allegations, unaffected by this Settlement Agreement or the settlement negotiations.

31. Whether or not this Settlement Agreement is approved by the Commission, AGF agrees that it will not, in any proceeding, refer to or rely upon this Settlement Agreement or the negotiation or process of approval of this Settlement Agreement as the basis for any allegation against the Commission of lack of jurisdiction, bias, appearance of bias, unfairness, or any other remedy or challenge that may otherwise be available.

**X. DISCLOSURE OF AGREEMENT**

32. The terms of this Settlement Agreement will be treated as confidential by all parties hereto until approved by the Commission, and forever if, for any reason whatsoever, this Settlement Agreement is not approved by the Commission, except with the written consent of both AGF and Staff or as may be required by law.

33. Any obligations of confidentiality shall terminate upon approval of this Settlement Agreement by the Commission.

**XI. EXECUTION OF SETTLEMENT AGREEMENT**

34. This Settlement Agreement may be signed in one or more counterparts which together shall constitute a binding agreement.

35. A facsimile copy of any signature shall be effective as an original signature.

December 10, 2004.

“AGF FUNDS INC.”  
AGF FUNDS INC.

“AGF FUNDS INC.”  
AGF FUNDS INC.

“Michael Watson”  
Staff of the Ontario Securities Commission  
Per: “Michael Watson”

**SCHEDULE A**

**PLAN OF DISTRIBUTION**

**The following terms pertain to the payment made pursuant to paragraph 24 of the Settlement Agreement. Terms defined in the Settlement Agreement and used in this Schedule have the meanings ascribed thereto in the Settlement Agreement:**

1. Respondent shall make a payment in the amount of \$29.2 million (the "Funds"), plus interest accruing from the date of approval of the settlement agreement to the date of the final approval referred to in subparagraph (ix), at the rate of 5% per annum, to the unitholders (including former unitholders) of the Respondent Funds that suffered harm from the market timing activities described in the Settlement Agreement (the "Affected Investors"), on the following terms:

- (i) Respondent shall, prior to the commencement of the hearing contemplated in paragraph 1 of the Settlement Agreement, pay the Funds to the Commission, to be held by the Commission pending approval and implementation of the distribution to Affected Investors in accordance with subparagraphs (ix) and (xi) below;
- (ii) Respondent shall prepare a plan for distributing the Funds (the "Plan of Distribution"), the objectives of which are to accomplish a fair allocation of the Funds among the Affected Investors in a timely manner and in a manner the costs of which are reasonable in the circumstances;
- (iii) In connection with the preparation of the Plan of Distribution, Respondent shall retain, at its expense and subject to prior Staff approval, an independent consultant (the "Consultant"), to oversee the preparation of the Plan of Distribution;
- (iv) Respondent shall be responsible for all costs of preparing and implementing the Plan of Distribution and distributing the Funds. The Funds shall not be applied toward any expenses of Respondent in connection with this settlement or its implementation;
- (v) Respondent shall cooperate fully with the Consultant and shall provide the Consultant with access to its files, books and personnel as requested for purposes of the Plan of Distribution;

- (vi) the Plan of Distribution shall include provisions which deal reasonably with circumstances in which the registered unitholders are not the beneficial owners of the units in question;
  - (vii) the Plan of Distribution shall not result in any payment to unitholders described in paragraph 16 of the Settlement Agreement;
  - (viii) Respondent shall, by September 30, 2005, deliver the Plan of Distribution to Staff for approval, together with a report of the Consultant that confirms that the Plan of Distribution was prepared in accordance with the objectives contained in paragraphs (ii) and (vi). Such date may be extended by the prior joint agreement of Staff and Respondent to allow for the obtaining of any rulings or completion of any discussions with Canada Revenue Agency in connection with the tax treatment of the receipt of compensation by Affected Investors considered necessary or advisable;
  - (ix) the Plan of Distribution shall be implemented in accordance with paragraph (xi) if approved by separate approval of (i) Staff, and (ii) the Chair and a Vice-Chair of the Commission;
  - (x) each of Staff and the Chair and Vice-Chair of the Commission reviewing the Plan of Distribution in accordance with paragraph (ix) shall approve the Plan, if, in their opinion acting reasonably, the Plan of Distribution was prepared in accordance with the objectives contained in paragraph (ii) and (vi);
  - (xi) Respondent shall implement the Plan of Distribution within 3 months after the receipt of the last approval contemplated in paragraph (ix);
  - (xii) Respondent shall retain, at its expense and subject to Staff's approval, an independent consultant to monitor the implementation of the Plan of Distribution; and
  - (xiii) Within 2 months of the completion of the implementation of the Plan of Distribution referred to in subparagraph (xi), the Respondent shall deliver to Staff:
    - (A) A report of the consultant retained under paragraph (xii) in a form acceptable to Staff confirming that the distribution has been completed in accordance with the Plan of Distribution as approved under paragraph (ix); and
    - (B) A certificate of the Chief Executive Officer of the Respondent confirming that the distribution has been completed in accordance with the Plan of Distribution as approved under paragraph (ix).
2. If either of the terms set out in subparagraph (viii) or (xi) is not satisfied by the applicable date, the matter may be brought back before the Commission, for an order revoking or varying its decision pursuant to s. 144(1) of the Act.

**SCHEDULE "B"**

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

**AND**

**AGF FUNDS INC.**

**ORDER  
(Section 127)**

**WHEREAS** on December 12, 2004, the Commission issued a Notice of Hearing (the "Notice of Hearing") pursuant to section 127 of the *Securities Act* (the "Act") in respect of AGF Funds Inc. (the "Respondent");

**AND WHEREAS** the Respondent entered into a settlement agreement with Staff of the Commission (the "Settlement Agreement"), in which the Respondent agreed to a proposed settlement of the proceeding commenced by the Notice of Hearing, subject to the approval of the Commission;

**AND UPON** reviewing the Settlement Agreement and the Notice of Hearing and Statement of Allegations of Staff of the Commission, and upon hearing submissions from counsel for the Respondent and for Staff of the Commission;

**AND WHEREAS** the Commission is of the opinion that it is in the public interest to make this Order;

**IT IS HEREBY ORDERED THAT** the Settlement Agreement dated December 10, 2004, attached hereto, is approved.

December 16, 2004.

**2.2.4 AIC Limited - s. 127**

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

**AND**

**AIC LIMITED**

**ORDER  
(Section 127)**

**WHEREAS** on December 14, 2004, the Commission issued a Notice of Hearing (the "Notice of Hearing") pursuant to section 127 of the *Securities Act* (the "Act") in respect of AIC Limited (the "Respondent");

**AND WHEREAS** the Respondent entered into a settlement agreement with Staff of the Commission (the "Settlement Agreement"), in which the Respondent agreed to a proposed settlement of the proceeding commenced by the Notice of Hearing, subject to the approval of the Commission;

**AND UPON** reviewing the Settlement Agreement and the Notice of Hearing and Statement of Allegations of Staff of the Commission, and upon hearing submissions from counsel for the Respondent and for Staff of the Commission;

**AND WHEREAS** the Commission is of the opinion that it is in the public interest to make this Order;

**IT IS HEREBY ORDERED THAT** the Settlement Agreement dated December 14, 2004, attached hereto, is approved.

December 16, 2004.

"Paul M. Moore"

"Susan Wolburgh Jenah"

"Robert W. Davis"

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

**AND**

**AIC LIMITED**

**SETTLEMENT AGREEMENT**

**I. INTRODUCTION**

1. By Notice of Hearing dated December 14, 2004, the Ontario Securities Commission (the "Commission") announced that it proposed to hold a hearing to consider whether, pursuant to section 127 of the *Securities Act* (the "Act"), it is in the public interest for the Commission to make an order approving the settlement agreement entered into between Staff of the Commission and the respondent, AIC Limited ("AIC").

**II. JOINT SETTLEMENT RECOMMENDATION**

2. Staff of the Commission ("Staff") recommends settlement with AIC (also referred to hereafter as the "Respondent") in accordance with the terms and conditions set out below. The Respondent agrees to the settlement on the basis of the facts set out in Part IV herein and consents to the making of an Order in the form attached as Schedule "B" on the basis of the facts set out in Part IV herein.
3. The terms of this settlement agreement, including the attached Schedule "A" and "B" (collectively, the "Settlement Agreement") will be released to the public only if and when the Settlement Agreement is approved by the Commission.

**III. ACKNOWLEDGEMENT**

4. Staff and the Respondent agree with the facts set out in Part IV herein for the purposes of this Settlement Agreement only and further agree that this agreement of facts is without prejudice to the Respondent or Staff in any other proceeding of any kind including, but without limiting the generality of the foregoing, any proceedings brought by the Commission under the Act (subject to paragraph 29) or any civil or other proceedings which may be brought by any other person or agency. No other person or agency may raise or rely upon the terms of this Settlement Agreement or any agreement to the facts stated herein whether or not this Settlement Agreement is approved by the Commission.

**IV. AGREED FACTS**

**a) The Respondent**

5. AIC is a fund manager responsible for the management of approximately 47 mutual funds ("AIC Funds") with assets under management of approximately \$12 billion (as of June 30, 2004).

**b) The Fund Manager's Duty**

6. A mutual fund manager is required by Ontario securities law to exercise the powers and discharge the duties of its office honestly and in good faith and in the best interests of the mutual fund and, in connection therewith, to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances. Compliance with this duty requires that a mutual fund manager have regard to the potential for harm to a fund from an investor seeking to employ a frequent trading market timing strategy and take reasonable steps to protect a mutual fund from such harm to the extent that a reasonably prudent person would have done in the circumstances.

**c) Background**

7. In November 2003, the Commission, in co-operation with the Investment Dealers' Association of Canada and the Mutual Fund Dealers Association of Canada, began an inquiry into potential late trading and market timing in the Canadian mutual fund industry. The inquiry involved 105 Canadian mutual fund companies, and has been carried out in three phases. The inquiry is in its third and final phase, is expected to continue over the next several weeks and involves a number of mutual fund managers. AIC has cooperated fully in the Commission's inquiry.

8. In its review of AIC, Staff found no evidence of late trading occurring in AIC Funds. Staff has not found any evidence of market timing by any insiders of AIC or any evidence of ongoing market timing activity in AIC Funds. The following facts relate exclusively to market timing by certain third party investors in AIC Funds.

**d) Market Timing: Cause and Effect**

9. Market timing involves short-term trading of mutual fund securities to take advantage of short-term discrepancies between the "stale" values of securities within a mutual fund's portfolio and the current market value of those securities. Stale values can occur in mutual fund portfolios comprised, in whole or in part, of non-North American foreign equities (e.g. European, Asian and International and Global funds, also referred to herein as "foreign funds"). Stale values of those securities may result in stale values of the units of

a mutual fund as a result of the way in which the net asset value (“NAV”) of most mutual funds is calculated for the purpose of determining the price at which an investor may purchase or redeem (buy or sell) a unit of the fund.

10. The price of a mutual fund, in accordance with industry practice and as prescribed in the mutual fund’s Annual Information Form, is calculated at the close of each trading day (4:00 p.m. ET) by adding together the value of the assets of the fund (based on the most recent closing market price of securities in the fund’s portfolio), less any liabilities, and dividing that amount (the NAV) by the number of units held by investors in the fund on that day. Any order to purchase or sell a unit of the fund received by the order receipt office of the fund in good order prior to 4:00 p.m. ET will be executed at the NAV per unit calculated as of 4:00 p.m. that day. Any order to purchase or sell a unit of the fund received by the order receipt office of the fund in good order after 4:00 p.m. ET will be executed at the NAV per unit determined at 4:00 p.m. ET the following day.
11. The securities in a fund’s portfolio are each valued on the basis of their most recent closing market price as of 4:00 p.m. ET (the time at which North American markets close) on the day for which the NAV is being calculated. The closing market price of a foreign equity trading on an Asian market (which closed at 1:30 a.m. ET, for example) will have been determined 14.5 hours prior to the calculation of the foreign fund’s NAV. Similarly, the closing market price of a foreign equity trading on a European market (which closed at 12 noon ET, for example) will have been determined 4 hours prior to the calculation of the foreign fund’s NAV. Due to this lapse of time, the closing market price of the foreign equity used for the purpose of calculating the NAV of the fund may be “stale” and therefore the NAV of the foreign fund (and the unit price of the fund) calculated on the basis of that closing market price may also be “stale.”
12. There is a strong correlation between price movements of equities on North American markets (as reflected in movements in the S&P 500 index, for example) on one day and price movements of equities on foreign markets on the following trading day. Due to the time at which the foreign markets close, the price of foreign equities held in the portfolio of a foreign fund, and therefore the price of the foreign fund, will not reflect this pricing correlation until the following trading day.
13. A market timer will attempt to take advantage of the difference between the “stale” value and an expected price movement of the foreign fund the following day by trading in anticipation of those price movements. Portfolios that are known to have a material component of foreign equities that

are traded outside of North American time zones and that trade with a strong correlation with broad trends in price movements of equities on North American markets on the preceding day, afford the greatest “leverage” to investors using a market timing strategy.

**e) The Harm Caused by Market Timing of Mutual Funds**

14. When certain investors engage in frequent trading market timing in foreign funds, and when those investors are not required to pay a proportionate fee to the fund, the economic interest of long-term unitholders of these foreign funds is adversely affected. Significant harm may be incurred by a fund in which frequent trading market timing occurs. Any such harm would be borne by all investors in the fund. In addition to dilution<sup>1</sup>, market timing in a fund also may result in certain inefficiencies in that fund. Those inefficiencies, which will vary depending upon the particular fund, may involve increased transaction costs and disruption of a fund’s portfolio management strategy (including the maintenance of cash or cash equivalents and/or monetization of investments to meet redemption requirements) and may impair a fund’s long-term performance.

**f) The Disclosure of AIC Simplified Prospectus and AIF**

15. Specific statements contained in the Prospectuses filed by AIC for the years 1999 to 2003 (although not identical from year to year) disclosed that AIC could require the payment of a short-term trading fee of up to 2% in circumstances where an investor seeks to either switch between AIC Funds or redeem units of an AIC Fund within 90 days of having purchased the units.

**g) Market Timing in AIC Funds**

16. Three institutional investors holding accounts in AIC Funds have been identified as having profited as a result of frequent trading market timing strategies that were pursued in certain of the AIC Funds (the “Relevant Funds”) in the period from January 1999 to September 2003 (the “Market Timing Traders”). The Market Timing Traders traded in AIC Funds through one or more Canadian investment dealers.
17. AIC entered into agreements with three Market Timing Traders that contained the following basic terms:

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<sup>1</sup> Dilution of a fund’s value caused by market timing may be calculated by taking the percentage difference between the fund’s stale price and current market value multiplied by the amount invested.

- specific funds in which the three Market Timing Traders could invest were identified (ranging from 2 AIC Funds to 7 AIC Funds);
- a limit on the aggregate size of the investment that could be made (between \$20 and \$50 million) or a limit on the size of the investment that could be made, as a percentage of total assets of each fund (4%), was imposed;
- between 4 and 8 switches (a transfer of an investment from one fund to another fund) per fund per month were permitted;
- a fee of 2 basis points (0.02%) on all switches within the specified funds (based on the value of units being switched) was imposed. No fee was payable on switches into AIC money market funds. The fees were payable to the specified funds;
- where redemptions (as distinct from switches) occurred, a fee of up to 2% of the net asset value of the units being redeemed could typically be imposed, where redemptions exceeded maximum monthly limits. That fee would be paid to the fund;
- a termination clause permitting AIC to terminate the agreements on 3 days' or 10 days' notice; and
- a confidentiality provision.

There was no public disclosure of these agreements.

18. In August 2003, AIC advised the Market Timing Traders that they would be charged a 2% fee for switching. The Market Timing Traders ceased all frequent trading market timing trading in September 2003.
19. In the period January 1999 to September 2003:
- the total profit realized in AIC Funds by the Market Timing Traders (after deduction of the fees described in the last point below) was approximately \$127 million (not all of the profit realized by the Market Timing Traders was from frequent trading market timing transactions, and the profit realized by the Market Timing Traders does not equate to harm to other investors in AIC Funds);
  - the Market Timing Traders achieved a return on their overall investment in the Relevant Funds that was significantly

higher than the return that long-term investors would have achieved on their investments in the Relevant Funds in the same period;

- in connection with the trading by the Market Timing Traders, AIC charged management fees to the Relevant Funds of approximately \$3.1 million (net of trailer fees paid to Canadian investment dealers and other expenses, AIC earned \$0.9 million on those management fees); and
- fees of approximately \$0.5 million were charged by AIC to the Market Timing Traders and paid to the Relevant Funds.

20. In entering into the agreements referred to in paragraph 17 that permitted certain Market Timing Traders to engage in frequent trading market timing, AIC recognized some of the costs that could be incurred by the Relevant Funds as a result of the trading by the Market Timing Traders and implemented measures to protect the Relevant Funds against those costs. However, those measures (including the fees paid by certain Market Timing Traders to the Relevant Funds) adopted by AIC reduced, but did not negate, the harm resulting from the market timing activities. At the same time, AIC failed to recognize all of the costs (and, in particular, dilution) resulting from the frequent trading market timing activities of the Market Timing Traders and did not implement appropriate measures to protect the funds against the associated harm.

**V. THE RESPONDENT'S POSITION**

21. Effective August 2003, AIC adopted additional practices and procedures to prevent and detect market timing that could reasonably be expected to be harmful to AIC Funds and unitholders of AIC Funds.
22. AIC's current monitoring of trades in AIC Funds indicates that the policies and procedures that have been implemented have served to eliminate any potential adverse impact of frequent trading market timing.

**VI. CONDUCT CONTRARY TO THE PUBLIC INTEREST**

23. The agreements described in paragraph 17 protected the Relevant Funds from some, but not all, of the costs to those funds of the trading by the Market Timing Traders. Accordingly, the conduct of AIC in failing to protect fully the best interests of the Relevant Funds in respect of the frequent trading market timing was contrary to the public interest.



**VII. TERMS OF SETTLEMENT**

24. AIC agrees, as a term of settlement, that it will make a payment in the amount of \$58.8 million to Affected Investors (as defined in Schedule "A" to this agreement) through the distribution mechanism referred to in Schedule "A" to this agreement, and in accordance with the terms and conditions specified in Schedule "A" to this agreement.

**VIII. STAFF COMMITMENT**

25. If this Settlement Agreement is approved by the Commission, Staff will not initiate any proceeding under Ontario securities law in respect of any conduct or alleged conduct of AIC or its affiliates in relation to the facts set out in Part IV of this Settlement Agreement, subject to the provisions of paragraph 29 below.

**IX. PROCEDURE FOR APPROVAL OF SETTLEMENT**

26. Approval of this Settlement Agreement shall be sought at a hearing of the Commission on a date agreed to by counsel for Staff and AIC.

27. Staff and AIC may refer to any part, or all, of the Settlement Agreement at the Settlement Hearing. Staff and AIC also agree that if this Settlement Agreement is approved by the Commission, it will constitute the entirety of the evidence to be submitted respecting AIC in this matter, and AIC agrees to waive its rights to a full hearing, judicial review or appeal of the matter under the Act.

28. Staff and AIC agree that if this Settlement Agreement is approved by the Commission, neither Staff nor AIC will make any public statement inconsistent with this Settlement Agreement. Nothing in this section is intended to restrict AIC from making full answer and defence to any civil proceedings against it.

29. If this Settlement Agreement is approved by the Commission and, at any subsequent time, AIC fails to honour any of the Terms of Settlement set out in Part VII herein, Staff reserve the right to bring proceedings under Ontario securities law against AIC based on, but not limited to, the facts set out in Part IV of the Settlement Agreement, as well as the breach of the Settlement Agreement.

30. If, for any reason whatsoever, this Settlement Agreement is not approved by the Commission or an Order in the form attached as Schedule "B" is not made by the Commission, each of Staff and AIC will be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing of the allegations in the Notice of Hearing and Statement of Allegations, unaffected

by this Settlement Agreement or the settlement negotiations.

31. Whether or not this Settlement Agreement is approved by the Commission, AIC agrees that it will not, in any proceeding, refer to or rely upon this Settlement Agreement or the negotiation or process of approval of this Settlement Agreement as the basis for any allegation against the Commission of lack of jurisdiction, bias, appearance of bias, unfairness, or any other remedy or challenge that may otherwise be available.

**X. DISCLOSURE OF AGREEMENT**

32. The terms of this Settlement Agreement will be treated as confidential by all parties hereto until approved by the Commission, and forever if, for any reason whatsoever, this Settlement Agreement is not approved by the Commission, except with the written consent of both AIC and Staff or as may be required by law.

33. Any obligations of confidentiality shall terminate upon approval of this Settlement Agreement by the Commission.

**XI. EXECUTION OF SETTLEMENT AGREEMENT**

34. This Settlement Agreement may be signed in one or more counterparts which together shall constitute a binding agreement.

35. A facsimile copy of any signature shall be effective as an original signature.

December 14, 2004.

"AIC LIMITED"  
AIC LIMITED

"Michael Watson"  
Staff of the Ontario Securities Commission  
Per: "Michael Watson"

**SCHEDULE A**

**PLAN OF DISTRIBUTION**

**The following terms pertain to the payment made pursuant to paragraph 24 of the Settlement Agreement. Terms defined in the Settlement Agreement and used in this Schedule have the meanings ascribed thereto in the Settlement Agreement:**

1. Respondent shall make a payment in the amount of \$58.8 million (the "Funds"), plus interest accruing from the date of approval of the settlement agreement to the date of the final approval referred to in subparagraph (ix), at the rate of 5% per annum, to the unitholders (including former unitholders) of the Respondent Funds that suffered harm from the market timing activities described in the Settlement Agreement (the "Affected Investors"), on the following terms:

- (i) Respondent shall,
  - (A) prior to the commencement of the hearing contemplated in paragraph 1 of the Settlement Agreement, pay \$15 million of the Funds to the Commission,
  - (B) on or before February 25, 2005, pay \$15 million of the Funds to the Commission, and
  - (C) on or before March 31, 2005, pay \$28.8 million of the Funds to the Commission.

The Funds shall be held by the Commission pending approval and implementation of the distribution to Affected Investors in accordance with subparagraphs (ix) and (xi) below;

- (ii) Respondent shall prepare a plan for distributing the Funds (the "Plan of Distribution"), the objectives of which are to accomplish a fair allocation of the Funds among the Affected Investors in a timely manner and in a manner the costs of which are reasonable in the circumstances;
- (iii) In connection with the preparation of the Plan of Distribution, Respondent shall retain, at its expense and subject to prior Staff approval, an independent consultant (the "Consultant"), to oversee the preparation of the Plan of Distribution;
- (iv) Respondent shall be responsible for all costs of preparing and implementing the Plan of Distribution and distributing the

Funds. The Funds shall not be applied toward any expenses of Respondent in connection with this settlement or its implementation;

- (v) Respondent shall cooperate fully with the Consultant and shall provide the Consultant with access to its files, books and personnel as requested for purposes of the Plan of Distribution;
- (vi) the Plan of Distribution shall include provisions which deal reasonably with circumstances in which the registered unitholders are not the beneficial owners of the units in question;
- (vii) the Plan of Distribution shall not result in any payment to unitholders described in paragraph 16 of the Settlement Agreement;
- (viii) Respondent shall, by September 30, 2005, deliver the Plan of Distribution to Staff for approval, together with a report of the Consultant that confirms that the Plan of Distribution was prepared in accordance with the principles contained in subparagraphs (ii) and (vi). Such date may be extended by the prior joint agreement of Staff and Respondent to allow for the obtaining of any rulings or completion of any discussions with Canada Revenue Agency in connection with the tax treatment of the receipt of compensation by Affected Investors considered necessary or advisable;
- (ix) the Plan of Distribution shall be implemented in accordance with subparagraph (xi) if approved by separate approval of (i) Staff, and (ii) the Chair and a Vice-Chair of the Commission;
- (x) each of Staff and the Chair and Vice-Chair of the Commission reviewing the Plan of Distribution in accordance with subparagraph (ix) shall approve the Plan, if, in their opinion acting reasonably, the Plan of Distribution was prepared in accordance with the principles contained in subparagraph (ii) and (vi);
- (xi) Respondent shall implement the Plan of Distribution within 3 months after the receipt of the last approval contemplated in subparagraph (ix);
- (xii) Respondent shall retain, at its expense and subject to Staff's approval, an independent consultant to monitor the

implementation of the Plan of Distribution; and

(xiii) Within 2 months of the completion of the implementation of the Plan of Distribution referred to in subparagraph (xi), the Respondent shall deliver to Staff:

(A) A report of the consultant retained under subparagraph (xii) in a form acceptable to Staff confirming that the distribution has been completed in accordance with the Plan of Distribution as approved under subparagraph (ix); and

(B) A certificate of the Chief Executive Officer of the Respondent confirming that the distribution has been completed in accordance with the Plan of Distribution as approved under subparagraph (ix).

2. If any of the terms set out in paragraph 1(i), (viii) or (xi) is not satisfied by the applicable date, the matter may be brought back before the Commission, for an order revoking or varying its decision pursuant to s. 144(1) of the Act.

3. If any of the payments set out in paragraph 1(i)(A), (B) or (C) are not made in full by the Respondent on or before the applicable date,

(i) in any enforcement proceeding that may be commenced following an order made pursuant to paragraph 2 revoking the Commission's decision, Staff shall be entitled to rely upon any admissions made by the Respondent in Part IV of the Settlement Agreement, but Staff shall not be restricted to the facts set out in Part IV of the Settlement Agreement;

(ii) Staff shall be entitled, at its option, to bring a civil proceeding to enforce the payment set out in the Settlement Agreement;

(iii) the Commission shall continue to hold such payments as were made by the Respondent pursuant to paragraph 1(i)(A), (B) or (C) pending final disposition of the earlier of any enforcement proceeding or any civil proceeding referred to in paragraph 3(i) or (ii) above. The final order in any enforcement or civil proceeding shall address the proper disposition of the funds so held by the Commission and the Respondent hereby agrees to comply with such disposition.

**SCHEDULE "B"**

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

**AND**

**AIC LIMITED**

**ORDER  
(Section 127)**

**WHEREAS** on December 14, 2004, the Commission issued a Notice of Hearing (the "Notice of Hearing") pursuant to section 127 of the *Securities Act* (the "Act") in respect of AIC Limited (the "Respondent");

**AND WHEREAS** the Respondent entered into a settlement agreement with Staff of the Commission (the "Settlement Agreement"), in which the Respondent agreed to a proposed settlement of the proceeding commenced by the Notice of Hearing, subject to the approval of the Commission;

**AND UPON** reviewing the Settlement Agreement and the Notice of Hearing and Statement of Allegations of Staff of the Commission, and upon hearing submissions from counsel for the Respondent and for Staff of the Commission;

**AND WHEREAS** the Commission is of the opinion that it is in the public interest to make this Order;

**IT IS HEREBY ORDERED THAT** the Settlement Agreement dated December 14, 2004, attached hereto, is approved.

December 16, 2004.

2.2.5 CI Mutual Funds Inc. - s. 127

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

**AND**

**CI MUTUAL FUNDS INC.**

**ORDER  
(Section 127)**

**WHEREAS** on December 12, 2004, the Commission issued a Notice of Hearing (the "Notice of Hearing") pursuant to section 127 of the *Securities Act* (the "Act") in respect of CI Mutual Funds Inc. (the "Respondent");

**AND WHEREAS** the Respondent entered into a settlement agreement with Staff of the Commission (the "Settlement Agreement"), in which the Respondent agreed to a proposed settlement of the proceeding commenced by the Notice of Hearing, subject to the approval of the Commission;

**AND UPON** reviewing the Settlement Agreement and the Notice of Hearing and Statement of Allegations of Staff of the Commission, and upon hearing submissions from counsel for the Respondent and for Staff of the Commission;

**AND WHEREAS** the Commission is of the opinion that it is in the public interest to make this Order;

**IT IS HEREBY ORDERED THAT** the Settlement Agreement dated December 10, 2004, attached hereto, is approved.

December 16, 2004.

"Paul M. Moore"

"Susan Wolburgh Jenah"

"Robert W. Davis"

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

**AND**

**CI MUTUAL FUNDS INC.**

**SETTLEMENT AGREEMENT**

**I. INTRODUCTION**

1. By Notice of Hearing dated December 12, 2004, the Ontario Securities Commission (the "Commission") announced that it proposed to hold a hearing to consider whether, pursuant to section 127 of the *Securities Act* (the "Act"), it is in the public interest for the Commission to make an order approving the settlement agreement entered into between Staff of the Commission and the respondent, CI Mutual Funds Inc. ("CI").

**II. JOINT SETTLEMENT RECOMMENDATION**

2. Staff of the Commission ("Staff") recommends settlement with CI (also referred to hereafter as the "Respondent") in accordance with the terms and conditions set out below. The Respondent agrees to the settlement on the basis of the facts set out in Part IV herein and consents to the making of an Order in the form attached as Schedule "B" on the basis of the facts set out in Part IV herein.
3. The terms of this settlement agreement, including the attached Schedule "A" and "B" (collectively, the "Settlement Agreement") will be released to the public only if and when the Settlement Agreement is approved by the Commission.

**III. ACKNOWLEDGEMENT**

4. Staff and the Respondent agree with the facts set out in Part IV herein for the purposes of this Settlement Agreement only and further agree that this agreement of facts is without prejudice to the Respondent or Staff in any other proceeding of any kind including, but without limiting the generality of the foregoing, any proceedings brought by the Commission under the Act (subject to paragraph 28) or any civil or other proceedings which may be brought by any other person or agency. No other person or agency may raise or rely upon the terms of this Settlement Agreement or any agreement to the facts stated herein whether or not this Settlement Agreement is approved by the Commission.

**IV. AGREED FACTS**

**a) The Respondent**

5. CI is registered in Ontario as an investment counsel and portfolio manager, and is the fund manager for in excess of 100 mutual funds (“CI Funds”) with mutual fund assets under management of approximately \$35 billion as of November 30, 2004.

**b) The Fund Manager’s Duty**

6. A mutual fund manager is required by Ontario securities law to exercise the powers and discharge the duties of its office honestly and in good faith and in the best interests of the mutual fund and, in connection therewith, to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances. Compliance with this duty requires that a mutual fund manager have regard to the potential for harm to a fund from an investor seeking to employ a frequent trading market timing strategy and take reasonable steps to protect a mutual fund from such harm to the extent that a reasonably prudent person would have done in the circumstances.

**c) Background**

7. In November 2003, the Commission, in co-operation with the Investment Dealers’ Association of Canada and the Mutual Fund Dealers Association of Canada, began an inquiry into potential late trading and market timing in the Canadian mutual fund industry. The inquiry involved 105 Canadian mutual fund companies, and has been carried out in three phases. The inquiry is in its third and final phase, is expected to continue over the next several weeks and involves a number of mutual fund managers. CI has cooperated fully in the Commission’s inquiry.
8. In its review of CI, Staff found no evidence of late trading occurring in CI Funds. Staff has not found any evidence of market timing by any insiders of CI or any evidence of ongoing market timing activity in CI Funds. The following facts relate exclusively to market timing by certain third party investors in CI Funds.

**d) Market Timing: Cause and Effect**

9. Market timing involves short-term trading of mutual fund securities to take advantage of short-term discrepancies between the “stale” values of securities within a mutual fund’s portfolio and the current market value of those securities. Stale values can occur in mutual fund portfolios comprised, in whole or in part, of non-North American foreign equities (e.g. European, Asian and International and Global funds, also referred

to herein as “foreign funds”). Stale values of those securities may result in stale values of the units of a mutual fund as a result of the way in which the net asset value (“NAV”) of most mutual funds is calculated for the purpose of determining the price at which an investor may purchase or redeem (buy or sell) a unit of the fund.

10. The price of a mutual fund, in accordance with industry practice and as prescribed in the mutual fund’s Annual Information Form, is calculated at the close of each trading day (4:00 p.m. ET) by adding together the value of the assets of the fund (based on the most recent closing market price of securities in the fund’s portfolio), less any liabilities, and dividing that amount (the NAV) by the number of units held by investors in the fund on that day. Any order to purchase or sell a unit of the fund received by the order receipt office of the fund in good order prior to 4:00 p.m. ET will be executed at the NAV per unit calculated as of 4:00 p.m. that day. Any order to purchase or sell a unit of the fund received by the order receipt office of the fund in good order after 4:00 p.m. ET will be executed at the NAV per unit determined at 4:00 p.m. ET the following day.
11. The securities in a fund’s portfolio are each valued on the basis of their most recent closing market price as of 4:00 p.m. ET (the time at which North American markets close) on the day for which the NAV is being calculated. The closing market price of a foreign equity trading on an Asian market (which closed at 1:30 a.m. ET, for example) will have been determined 14.5 hours prior to the calculation of the foreign fund’s NAV. Similarly, the closing market price of a foreign equity trading on a European market (which closed at 12 noon ET, for example) will have been determined 4 hours prior to the calculation of the foreign fund’s NAV. Due to this lapse of time, the closing market price of the foreign equity used for the purpose of calculating the NAV of the fund may be “stale” and therefore the NAV of the foreign fund (and the unit price of the fund) calculated on the basis of that closing market price may also be “stale.”
12. There is a strong correlation between price movements of equities on North American markets (as reflected in movements in the S&P 500 index, for example) on one day and price movements of equities on foreign markets on the following trading day. Due to the time at which the foreign markets close, the price of foreign equities held in the portfolio of a foreign fund, and therefore the price of the foreign fund, will not reflect this pricing correlation until the following trading day.
13. A market timer will attempt to take advantage of the difference between the “stale” value and an expected price movement of the foreign fund the following day by trading in anticipation of those

price movements. Portfolios that are known to have a material component of foreign equities that are traded outside of North American time zones and that trade with a strong correlation with broad trends in price movements of equities on North American markets on the preceding day, afford the greatest "leverage" to investors using a market timing strategy.

**e) The Harm Caused by Market Timing of Mutual Funds**

14. When certain investors engage in frequent trading market timing in foreign funds, and when those investors are not required to pay a proportionate fee to the fund, the economic interest of long-term unitholders of these foreign funds is adversely affected. Significant harm may be incurred by a fund in which frequent trading market timing occurs. Any such harm would be borne by all investors in the fund. In addition to dilution<sup>1</sup>, market timing in a fund also may result in certain inefficiencies in that fund. Those inefficiencies, which will vary depending upon the particular fund, may involve increased transaction costs and disruption of a fund's portfolio management strategy (including the maintenance of cash or cash equivalents and/or monetization of investments to meet redemption requirements) and may impair a fund's long-term performance.

**f) The Disclosure of CI Funds' Simplified Prospectus and AIF**

15. Specific statements contained in the Prospectuses and AIFs filed by CI for the CI Funds for the years 1999 to 2003 (although not identical from year to year) disclosed that CI could take certain steps, including the imposition of a fee of up to 2%, payable to the fund, in circumstances where "frequent trading" would have a detrimental effect on the fund's performance.

**g) Market Timing in CI Funds**

16. Five institutional investors holding accounts in CI Funds have been identified as having profited as a result of frequent trading market timing strategies that were pursued in certain of the CI Funds (the "Relevant Funds") in the period from September 1998 to September 2003 (the "Market Timing Traders"). The Market Timing Traders traded in CI Funds through one or more Canadian investment dealers.

17. CI entered into agreements with three of the Market Timing Traders that contained the following basic terms:

- specific funds in which the three Market Timing Traders could invest were identified (ranging from 8 CI funds to all CI funds);
- a limit on the size of the investment that could be made by the three Market Timing Traders, either in the form of an aggregate value (between \$40 and \$150 million) or as a percentage of total assets of each fund (between 0.75% and 1.25%), was imposed;
- no more than 5 switches (each switch being one transfer from a specified Relevant Fund to another specified Relevant Fund or one transfer from a CI money market fund to a specified Relevant Fund) per fund per month were permitted;
- a fee of 3 or 4 basis points (0.03% or 0.04%) on all switches within the specified funds (based on the value of units being switched) was imposed. No fee was payable on switches into CI money market funds. The fees were payable to the specified funds;
- where redemptions (as distinct from switches) occurred, a fee of up to 2% of the net asset value of the units being redeemed could be imposed. That fee would be paid to the fund;
- a termination clause permitting CI to terminate the agreements on 10 days' notice, if CI deemed it necessary to do so to protect the best interests of the unitholders of the applicable fund; and
- a confidentiality provision.

There was no public disclosure of these agreements.

18. In the period September 1998 to September 2003:

- the total profit realized in CI Funds by the Market Timing Traders (after deduction of the fees described in the last point below) was approximately \$90.2 million (not all of the profit realized by the Market Timing Traders was from frequent trading market timing transactions, and the profit realized by the Market Timing Traders does not equate to harm to other investors in CI Funds);
- the Market Timing Traders achieved a return on their overall investment in the Relevant Funds that was significantly higher than the return that long-term

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<sup>1</sup> Dilution of a fund's value caused by market timing can be calculated by taking the percentage difference between the fund's stale price and current market value multiplied by the amount invested.

investors would have achieved on their investments in the Relevant Funds in the same period;

- in connection with the trading by the Market Timing Traders, CI charged management fees to the Relevant Funds of approximately \$7.9 million (net of trailer fees paid to Canadian investment dealers and other expenses, CI earned \$2.2 million on those management fees); and
- fees of approximately \$9.4 million were charged by CI to the three Market Timing Traders and paid to the CI Funds.

19. In entering into the agreements referred to in paragraph 17 that permitted certain Market Timing Traders to engage in frequent trading market timing, CI recognized some of the costs that could be incurred by the Relevant Funds as a result of the trading by the Market Timing Traders and implemented measures to protect the Relevant Funds against those costs. However, those measures (including the fees paid by certain Market Timing Traders to the Relevant Funds) adopted by CI reduced, but did not negate, the harm resulting from the market timing activities. At the same time, CI failed to recognize all of the costs (and, in particular, dilution) resulting from the frequent trading market timing activities of the Market Timing Traders and did not implement appropriate measures to protect the funds against the associated harm.

#### **V. THE RESPONDENT'S POSITION**

20. Beginning in late 2003, CI adopted additional practices and procedures to prevent and detect market timing that could reasonably be expected to be harmful to the CI Funds and unitholders of CI Funds.
21. CI's current monitoring of trades in CI Funds indicates that the policies and procedures that have been implemented have served to eliminate any potential adverse impact of frequent trading market timing.

#### **VI. CONDUCT CONTRARY TO THE PUBLIC INTEREST**

22. The agreements described in paragraph 17 protected the Relevant Funds from some, but not all, of the costs to those funds of the trading by the Market Timing Traders. Accordingly, the conduct of CI in failing to protect fully the best interests of the Relevant Funds in respect of the frequent trading market timing was contrary to the public interest.

#### **VII. TERMS OF SETTLEMENT**

23. CI agrees that, as a term of settlement, it will make a payment in the amount of \$49.3 million to be distributed to Affected Investors (as defined in Schedule "A" to this agreement) through the distribution mechanism referred to in Schedule "A" to this agreement, and in accordance with the terms and conditions specified in Schedule "A" to this agreement.

#### **VIII. STAFF COMMITMENT**

24. If this Settlement Agreement is approved by the Commission, Staff will not initiate any proceeding under Ontario securities law in respect of any conduct or alleged conduct of CI or its affiliates in relation to the facts set out in Part IV of this Settlement Agreement, subject to the provisions of paragraph 28 below.

#### **IX. PROCEDURE FOR APPROVAL OF SETTLEMENT**

25. Approval of this Settlement Agreement shall be sought at a hearing of the Commission on a date agreed to by counsel for Staff and CI.

26. Staff and CI may refer to any part, or all, of the Settlement Agreement at the Settlement Hearing. Staff and CI also agree that if this Settlement Agreement is approved by the Commission, it will constitute the entirety of the evidence to be submitted respecting CI in this matter, and CI agrees to waive its rights to a full hearing, judicial review or appeal of the matter under the Act.

27. Staff and CI agree that if this Settlement Agreement is approved by the Commission, neither Staff nor CI will make any public statement inconsistent with this Settlement Agreement. Nothing in this section is intended to restrict CI from making full answer and defence to any civil proceedings against it.

28. If this Settlement Agreement is approved by the Commission and, at any subsequent time, CI fails to honour any of the Terms of Settlement set out in Part VII herein, Staff reserve the right to bring proceedings under Ontario securities law against CI based on, but not limited to, the facts set out in Part IV of the Settlement Agreement, as well as the breach of the Settlement Agreement.

29. If, for any reason whatsoever, this Settlement Agreement is not approved by the Commission or an Order in the form attached as Schedule "B" is not made by the Commission, each of Staff and CI will be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing of the allegations in the Notice of Hearing and Statement of Allegations, unaffected

by this Settlement Agreement or the settlement negotiations.

30. Whether or not this Settlement Agreement is approved by the Commission, CI agrees that it will not, in any proceeding, refer to or rely upon this Settlement Agreement or the negotiation or process of approval of this Settlement Agreement as the basis for any allegation against the Commission of lack of jurisdiction, bias, appearance of bias, unfairness, or any other remedy or challenge that may otherwise be available.

**X. DISCLOSURE OF AGREEMENT**

31. The terms of this Settlement Agreement will be treated as confidential by all parties hereto until approved by the Commission, and forever if, for any reason whatsoever, this Settlement Agreement is not approved by the Commission, except with the written consent of both CI and Staff or as may be required by law.
32. Any obligations of confidentiality shall terminate upon approval of this Settlement Agreement by the Commission.

**XI. EXECUTION OF SETTLEMENT AGREEMENT**

33. This Settlement Agreement may be signed in one or more counterparts which together shall constitute a binding agreement.
34. A facsimile copy of any signature shall be effective as an original signature.

December 10, 2004.

“CI MUTUAL FUNDS INC.”  
CI MUTUAL FUNDS INC.

“Michael Watson”  
Staff of the Ontario Securities Commission  
Per: “Michael Watson”

**SCHEDULE A**

**PLAN OF DISTRIBUTION**

**The following terms pertain to the payment made pursuant to paragraph 23 of the Settlement Agreement. Terms defined in the Settlement Agreement and used in this Schedule have the meanings ascribed thereto in the Settlement Agreement:**

1. Respondent shall make a payment in the amount of \$49.3 million (the "Funds"), plus interest accruing from the date of approval of the settlement agreement to the date of the final approval referred to in subparagraph (ix) at the rate of 5% per annum, to the unitholders (including former unitholders) of the Respondent Funds that suffered harm from the market timing activities described in the Settlement Agreement (the "Affected Investors"), on the following terms:
  - (i) Respondent shall, prior to the commencement of the hearing contemplated in paragraph 1 of the Settlement Agreement, pay the Funds to the Commission, to be held by the Commission pending approval and implementation of the distribution to Affected Investors in accordance with subparagraphs (ix) and (xi) below;
  - (ii) Respondent shall prepare a plan for distributing the Funds (the "Plan of Distribution"), the objectives of which are to accomplish a fair allocation of the Funds among the Affected Investors in a timely manner and in a manner the costs of which are reasonable in the circumstances;
  - (iii) In connection with the preparation of the Plan of Distribution, Respondent shall retain, at its expense and subject to prior Staff approval, an independent consultant (the "Consultant"), to oversee the preparation of the Plan of Distribution;
  - (iv) Respondent shall be responsible for all costs of preparing and implementing the Plan of Distribution and distributing the Funds. The Funds shall not be applied toward any expenses of Respondent in connection with this settlement or its implementation;
  - (v) Respondent shall cooperate fully with the Consultant and shall provide the Consultant with access to its files, books and personnel as requested for purposes of the Plan of Distribution;



- (vi) the Plan of Distribution shall include provisions which deal reasonably with circumstances in which the registered unitholders are not the beneficial owners of the units in question;
  - (vii) the Plan of Distribution shall not result in any payment to unitholders described in paragraph 16 of the Settlement Agreement;
  - (viii) Respondent shall, by September 30, 2005, deliver the Plan of Distribution to Staff for approval, together with a report of the Consultant that confirms that the Plan of Distribution was prepared in accordance with the principles contained in paragraphs (ii) and (vi). Such date may be extended by the prior joint agreement of Staff and Respondent to allow for the obtaining of any rulings or completion of any discussions with Canada Revenue Agency in connection with the tax treatment of the receipt of compensation by Affected Investors considered necessary or advisable;
  - (ix) the Plan of Distribution shall be implemented in accordance with paragraph (xi) if approved by separate approval of (i) Staff, and (ii) the Chair and a Vice-Chair of the Commission;
  - (x) each of Staff and the Chair and Vice-Chair of the Commission reviewing the Plan of Distribution in accordance with paragraph (ix) shall approve the Plan, if, in their opinion acting reasonably, the Plan of Distribution was prepared in accordance with the principles contained in paragraph (ii) and (vi);
  - (xi) Respondent shall implement the Plan of Distribution within 3 months after the receipt of the last approval contemplated in paragraph (ix);
  - (xii) Respondent shall retain, at its expense and subject to Staff's approval, an independent consultant to monitor the implementation of the Plan of Distribution; and
  - (xiii) Within 2 months of the completion of the implementation of the Plan of Distribution referred to in subparagraph (xi), the Respondent shall deliver to Staff:
    - (A) A report of the consultant retained under paragraph (xii) in a form acceptable to Staff confirming that the distribution has been completed in accordance with the Plan of Distribution as approved under paragraph (ix); and
    - (B) A certificate of the Chief Executive Officer of the Respondent confirming that the distribution has been completed in accordance with the Plan of Distribution as approved under paragraph (ix).
2. If either of the terms set out in subparagraph (viii) or (xi) is not satisfied by the applicable date, the matter may be brought back before the Commission, for an order revoking or varying its decision pursuant to s. 144(1) of the Act.

**SCHEDULE "B"**

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

**AND**

**CI MUTUAL FUNDS INC.**

**ORDER  
(Section 127)**

**WHEREAS** on December 12, 2004, the Commission issued a Notice of Hearing (the "Notice of Hearing") pursuant to section 127 of the *Securities Act* (the "Act") in respect of CI Mutual Funds Inc. (the "Respondent");

**AND WHEREAS** the Respondent entered into a settlement agreement with Staff of the Commission (the "Settlement Agreement"), in which the Respondent agreed to a proposed settlement of the proceeding commenced by the Notice of Hearing, subject to the approval of the Commission;

**AND UPON** reviewing the Settlement Agreement and the Notice of Hearing and Statement of Allegations of Staff of the Commission, and upon hearing submissions from counsel for the Respondent and for Staff of the Commission;

**AND WHEREAS** the Commission is of the opinion that it is in the public interest to make this Order;

**IT IS HEREBY ORDERED THAT** the Settlement Agreement dated December 10, 2004, attached hereto, is approved.

December 16, 2004.

2.2.6 I.G. Investment Management, Ltd. - s. 127

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

**AND**

**I.G. INVESTMENT MANAGEMENT, LTD.**

**ORDER  
(Section 127)**

**WHEREAS** on December 12, 2004, the Commission issued a Notice of Hearing (the "Notice of Hearing") pursuant to section 127 of the *Securities Act* (the "Act") in respect of I.G. Investment Management, Ltd. (the "Respondent");

**AND WHEREAS** the Respondent entered into a settlement agreement with Staff of the Commission (the "Settlement Agreement"), in which the Respondent agreed to a proposed settlement of the proceeding commenced by the Notice of Hearing, subject to the approval of the Commission;

**AND UPON** reviewing the Settlement Agreement and the Notice of Hearing and Statement of Allegations of Staff of the Commission, and upon hearing submissions from counsel for the Respondent and for Staff of the Commission;

**AND WHEREAS** the Commission is of the opinion that it is in the public interest to make this Order;

**IT IS HEREBY ORDERED THAT** the Settlement Agreement dated December 10, 2004, attached hereto, is approved.

December 16, 2004.

"Paul M. Moore"

"Susan Wolburgh Jenah"

"Robert W. Davis"

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

**AND**

**IN THE MATTER OF  
THE SECURITIES ACT  
R.S.M. 1988, C. S50, AS AMENDED**

**AND**

**I.G. INVESTMENT MANAGEMENT, LTD.**

**SETTLEMENT AGREEMENT**

**I. INTRODUCTION**

1. By Notice of Hearing dated December 12, 2004, the Ontario Securities Commission (the "OSC") and The Manitoba Securities Commission (the "MSC" and together with the OSC, the "Commissions") announced that the Commissions proposed to hold a joint hearing to consider whether, pursuant to section 127 of the *Securities Act* (Ontario) (the "Ontario Act") and section 8 of *The Securities Act* (Manitoba) (the "Manitoba Act"), it is in the public interest for each of the Commissions to make an order approving the settlement agreement entered into between Staff of the Commissions and the respondent, I.G. Investment Management, Ltd ("IG").

**II. JOINT SETTLEMENT RECOMMENDATION**

2. Staff of the Commissions ("Staff") recommends settlement with IG (also referred to hereafter as the "Respondent") in accordance with the terms and conditions set out below. The Respondent agrees to the settlement on the basis of the facts set out in Part IV herein and consents to the making of an Order in the form attached as Schedule "B" on the basis of the facts set out in Part IV herein.
3. The terms of this settlement agreement, including the attached Schedule "A" and "B" (collectively, the "Settlement Agreement") will be released to the public only if and when the Settlement Agreement is approved by the Commissions.

**III. ACKNOWLEDGEMENT**

4. Staff and the Respondent agree with the facts set out in Part IV herein for the purposes of this Settlement Agreement only and further agree that this agreement of facts is without prejudice to the Respondent or Staff in any other proceeding of any kind including, but without limiting the generality of the foregoing, any proceedings brought by the Commissions under the Ontario Act or Manitoba Act (subject to paragraph 29) or any civil or other proceedings which may be brought by any other person or agency. No other person or agency may raise or rely upon the terms of this Settlement Agreement or any agreement to the facts stated herein whether or not this Settlement Agreement is approved by the Commissions.

**IV. AGREED FACTS**

**a) The Respondent**

5. IG is registered in Ontario and Manitoba as an investment counsel and portfolio manager and is responsible for the management of in excess of 140 mutual funds ("IG Funds") with assets under management of approximately \$42.5 billion (as of June 30, 2004). The distributor of IG Funds is Investor Group Financial Services Inc., except in Quebec where the distributor is Les Services Investeurs Limitée, (collectively, the "Distributor"). IG and the Distributor are affiliated through their common ownership by Investors Group Inc., which is a wholly-owned subsidiary of IGM Financial Inc. ("IGMFI"). The shares of IGMFI are listed on the Toronto Stock Exchange under the symbol "IGI". The companies comprising Investors Group have an integrated management structure and many of the sales, compliance, and operational staff provide services to both IG and the Distributor. In this Settlement Agreement, "Investors Group" means, collectively, IGMFI, IG and the Distributor.

**b) The Fund Manager's Duty**

6. A mutual fund manager is required by securities legislation to exercise the powers and discharge the duties of its office honestly and in good faith and in the best interests of the mutual fund and, in connection therewith, to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances. Compliance with this duty requires that a mutual fund manager have regard to the potential for harm to a fund from an investor seeking to employ a frequent trading market timing strategy and take reasonable steps to protect a mutual fund from such harm to the extent that a reasonably prudent person would have done in the circumstances.

**c) Background**

7. In November 2003, the OSC, in co-operation with the Investment Dealers' Association of Canada and the Mutual Fund Dealers Association of Canada, began an inquiry into potential late trading and market timing in the Canadian mutual fund industry. The inquiry involved 105 Canadian mutual fund companies, and has been carried out in three phases. The inquiry is in its third and final phase, is expected to continue over the next several weeks and involves a number of mutual fund managers. Investors Group has cooperated fully in the Commission's inquiry.
8. In its review of IG, Staff found no evidence of late trading occurring in IG Funds. Staff has not found any evidence of market timing by any insiders of IG or any evidence of ongoing market timing activity in IG Funds. The following facts relate exclusively to market timing by one third party investor in IG Funds.

**d) Market Timing: Cause and Effect**

9. Market timing involves short-term trading of mutual fund securities to take advantage of short-term discrepancies between the "stale" values of securities within a mutual fund's portfolio and the current market value of those securities. Stale values can occur in mutual fund portfolios comprised, in whole or in part, of non-North American foreign equities (e.g. European, Asian and International and Global funds, also referred to herein as "foreign funds"). Stale values of those securities may result in stale values of the units of a mutual fund as a result of the way in which the net asset value ("NAV") of most mutual funds is calculated for the purpose of determining the price at which an investor may purchase or redeem (buy or sell) a unit of the fund.
10. The price of a mutual fund, in accordance with industry practice and as prescribed in the mutual fund's Annual Information Form, is calculated at the close of each trading day (4:00 p.m. ET) by adding together the value of the assets of the fund (based on the most recent closing market price of securities in the fund's portfolio), less any liabilities, and dividing that amount (the NAV) by the number of units held by investors in the fund on that day. Any order to purchase or sell a unit of the fund received by the order receipt office of the fund in good order prior to 4:00 p.m. ET will be executed at the NAV per unit calculated as of 4:00 p.m. that day. Any order to purchase or sell a unit of the fund received by the order receipt office of the fund in good order after 4:00 p.m. ET will be executed at the NAV per unit determined at 4:00 p.m. ET the following day.
11. The securities in a fund's portfolio are each valued on the basis of their most recent closing market price as of 4:00 p.m. ET (the time at which North American markets close) on the day for which the NAV is being calculated. The closing market price of a foreign equity trading on an Asian market (which closed at 1:30 a.m. ET, for example) will have been determined 14.5 hours prior to the calculation of the foreign fund's NAV. Similarly, the closing market price of a foreign equity trading on a European market (which closed at 12 noon ET, for example) will have been determined 4 hours prior to the calculation of the foreign fund's NAV. Due to this lapse of time, the closing market price of the foreign equity used for the purpose of calculating the NAV of the fund may be "stale" and therefore the NAV of the foreign fund (and the unit price of the fund) calculated on the basis of that closing market price may also be "stale."
12. There is a strong correlation between price movements of equities on North American markets (as reflected in movements in the S&P 500 index, for example) on one day and price movements of equities on foreign markets on the following trading day. Due to the time at which the foreign markets close, the price of foreign equities held in the portfolio of a foreign fund, and therefore the price of the foreign fund, will not reflect this pricing correlation until the following trading day.
13. A market timer will attempt to take advantage of the difference between the "stale" value and an expected price movement of the foreign fund the following day by trading in anticipation of those price movements. Portfolios that are known to have a material component of foreign equities that are traded outside of North American time zones and that trade with a strong correlation with broad trends in price movements of equities on North American markets on the preceding day, afford the greatest "leverage" to investors using a market timing strategy.

**e) The Harm Caused by Market Timing of Mutual Funds**

14. When certain investors engage in frequent trading market timing in foreign funds, and when those investors are not required to pay a proportionate fee to the fund, the economic interest of long-term unitholders of these foreign funds is adversely affected. Significant harm may be incurred by a fund in which frequent trading market timing occurs. Any such harm would be borne by all investors in the fund. In addition to dilution<sup>1</sup>, market timing in a fund also may result in certain inefficiencies in that fund. Those inefficiencies, which will vary depending upon the particular fund, may involve increased transaction costs and disruption of a fund's portfolio management strategy (including the maintenance of cash or cash equivalents and/or monetization of investments to meet redemption requirements) and may impair a fund's long-term performance.

**f) The Disclosure of IG Simplified Prospectus and AIF**

15. Specific statements contained in the Prospectuses and AIFs filed by IG for the years 2000 to 2002 (although not identical from year to year) disclosed that IG (directly, and through its affiliated Distributor) could take certain steps, including imposing a fee of up to 3%, or prohibiting the purchase of further IG Funds, in circumstances where it was determined by the Distributor that "excessive" switching by an investor between IG Funds would have a detrimental effect on the IG Funds.

**g) Market Timing in IG Funds**

16. One institutional client holding accounts in IG Funds has been identified as having profited as a result of frequent trading market timing strategies that were pursued in certain of the IG Funds (the "Relevant Funds") in the period from October 2000 to November 2002 (the "Market Timing Client"). The Market Timing Client traded in the IG Funds through the Distributor.

17. Investors Group entered into an agreement with the Market Timing Client that contained the following basic terms:

- specific funds in which the Market Timing Client could invest were identified (12 IG funds);
- a limit on the size of the investment that could be made by the Market Timing Client in the form of a minimum and maximum range for each specified Relevant Fund (aggregating a total value between \$15 and \$70 million for all the specified Relevant Funds) with Investors Group maintaining full discretion to change these ranges or limit the size invested (as was the case, for example, with two Asian Funds in which the maximum investment was reduced and the excess funds were permitted to be moved into an IG Global and European fund);
- between 3 and 4 "round turns" (a "round turn" being a switch of an investment from one IG Fund to another IG Fund and then back to the first IG Fund) per specified Relevant Fund per month were permitted;
- no fees were payable for switches;
- redemption fees ranged from 3% of the NAV if redemptions were made within one year from the date of purchase, to no fees payable for redemptions made four years after purchase. The fee schedule generally applicable in all IG Funds was such that redemptions were subject to a sliding fee scale ranging from 3% of the NAV if redeemed within two years after purchase, to 1% of the NAV if redeemed during the sixth year of purchase, with no fee payable for redemptions made six years after the date of purchase;
- management fees were charged as if the Market Timing Client's funds were invested 100% of the time in equity funds; and
- a termination clause permitting either party to terminate the agreement on 10 days' notice, which if exercised by Investors Group would be effected without redemption fees.

There was no public disclosure of this agreement.

18. Investors Group terminated the agreement with the Market Timing Client in November 2002.

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<sup>1</sup> Dilution of a fund's value caused by market timing may be calculated by taking the percentage difference between the fund's stale price and current market value multiplied by the amount invested.

19. In the period October 2000 to November 2002:
- the total profit realized in IG Funds by the Market Timing Client was approximately \$36 million (not all of the profit realized by the Market Timing Client was from frequent trading market timing transactions, and the profit realized by the Market Timing Client does not equate to harm to other investors in IG Funds);
  - the Market Timing Client achieved a return on its overall investment in the Relevant Funds that was significantly higher than the return that long-term investors would have achieved on their investments in the Relevant Funds in the same period;
  - Investors Group received revenues in connection with trading by the Market Timing Client of approximately \$4.2 million (net of distribution and other expenses, IG earned approximately \$500,000 before taxes); and
  - no fees were charged by IG.
20. In entering into the agreement referred to in paragraph 17 that permitted the Market Timing Client to engage in frequent trading market timing, Investors Group recognized some of the costs that could be incurred by the Relevant Funds as a result of the trading by the Market Timing Client and implemented measures to protect the Relevant Funds against those costs. However, those measures adopted by Investors Group reduced, but did not negate, the harm resulting from the market timing activities. At the same time, Investors Group failed to recognize all of the costs (and, in particular, dilution) resulting from the frequent trading market timing activities of the Market Timing Client and did not implement appropriate measures to protect the funds against the associated harm.

**V. THE RESPONDENT'S POSITION**

21. During the period between May 2003 and July 2004, Investors Group adopted additional practices and procedures to prevent and detect market timing that could reasonably be expected to be harmful to the IG Funds and unitholders of IG Funds.
22. Investors Group's current monitoring of trades in IG Funds indicates that the policies and procedures that have been implemented have served to eliminate any potential adverse impact of frequent trading market timing.

**VI. CONDUCT CONTRARY TO THE PUBLIC INTEREST**

23. The agreement described in paragraph 17 protected the Relevant Funds from some, but not all, of the costs to those funds of the trading by the Market Timing Client. Accordingly, the conduct of IG in failing to protect fully the best interests of the Relevant Funds in respect of the frequent trading market timing was contrary to the public interest.

**VII. TERMS OF SETTLEMENT**

24. IG agrees that, as a term of settlement, it will make a payment in the amount of \$19.2 million to be distributed to Affected Investors (as defined in Schedule "A" to this agreement) through the distribution mechanism referred to in Schedule "A" to this agreement, and in accordance with the terms and conditions specified in Schedule "A" to this agreement.

**VIII. STAFF COMMITMENT**

25. If this Settlement Agreement is approved by the Commissions, Staff will not initiate any proceeding under securities legislation in respect of any conduct or alleged conduct of IG or its affiliates in relation to the facts set out in Part IV of this Settlement Agreement, subject to the provisions of paragraph 29 below.

**IX. PROCEDURE FOR APPROVAL OF SETTLEMENT**

26. Approval of this Settlement Agreement shall be sought at a joint hearing of the Commissions on a date agreed to by counsel for Staff and IG.
27. Staff and IG may refer to any part, or all, of the Settlement Agreement at the Settlement Hearing. Staff and IG also agree that if this Settlement Agreement is approved by the Commissions, it will constitute the entirety of the evidence to be submitted respecting IG in this matter, and IG agrees to waive its rights to a full hearing, judicial review or appeal of the matter under the Ontario Act and the Manitoba Act.

28. Staff and IG agree that if this Settlement Agreement is approved by the Commissions, neither Staff nor IG will make any public statement inconsistent with this Settlement Agreement. Nothing in this section is intended to restrict IG from making full answer and defence to any civil proceedings against it.
29. If this Settlement Agreement is approved by the Commissions and, at any subsequent time, IG fails to honour any of the Terms of Settlement set out in Part VII herein, Staff reserve the right to bring proceedings under securities legislation against IG based on, but not limited to, the facts set out in Part IV of the Settlement Agreement, as well as the breach of the Settlement Agreement.
30. If, for any reason whatsoever, this Settlement Agreement is not approved by the Commissions or an Order in the form attached as Schedule "B" is not made by the Commissions, each of Staff and IG will be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing of the allegations in the Notice of Hearing and Statement of Allegations, unaffected by this Settlement Agreement or the settlement negotiations.
31. Whether or not this Settlement Agreement is approved by the Commissions, IG agrees that it will not, in any proceeding, refer to or rely upon this Settlement Agreement or the negotiation or process of approval of this Settlement Agreement as the basis for any allegation against the Commissions of lack of jurisdiction, bias, appearance of bias, unfairness, or any other remedy or challenge that may otherwise be available.

**X. DISCLOSURE OF AGREEMENT**

32. The terms of this Settlement Agreement will be treated as confidential by all parties hereto until approved by the Commissions, and forever if, for any reason whatsoever, this Settlement Agreement is not approved by the Commissions, except with the written consent of both IG and Staff or as may be required by law.
33. Any obligations of confidentiality shall terminate upon approval of this Settlement Agreement by the Commissions.

**XI. EXECUTION OF SETTLEMENT AGREEMENT**

34. This Settlement Agreement may be signed in one or more counterparts which together shall constitute a binding agreement.
35. A facsimile copy of any signature shall be effective as an original signature.

December 10, 2004.

"I.G. INVESTMENT MANAGEMENT, LTD."  
I.G. INVESTMENT MANAGEMENT, LTD.

"Michael Watson"  
Staff of the Ontario Securities Commission  
Per: "Michael Watson"

"Douglas R. Brown"  
Director Legal and Enforcement  
The Manitoba Securities Commission



**SCHEDULE A**

**PLAN OF DISTRIBUTION**

**The following terms pertain to the payment made pursuant to paragraph 24 of the Settlement Agreement. Terms defined in the Settlement Agreement and used in this Schedule have the meanings ascribed thereto in the Settlement Agreement:**

1. Respondent shall make a payment in the amount of \$19.2 million (the "Funds"), plus interest accruing from the date of approval of the settlement agreement to the date of the final approval referred to in subparagraph (ix) at the rate of 5% per annum, to the unitholders (including former unitholders) of the Respondent Funds that suffered harm from the market timing activities described in the Settlement Agreement (the "Affected Investors"), on the following terms:
  - (i) Respondent shall, prior to the commencement of the hearing contemplated in paragraph 1 of the Settlement Agreement, pay the Funds to the OSC, to be held by the OSC pending approval and implementation of the distribution to Affected Investors in accordance with subparagraphs (ix) and (xi) below;
  - (ii) Respondent shall prepare a plan for distributing the Funds (the "Plan of Distribution"), the objectives of which are to accomplish a fair allocation of the Funds among the Affected Investors in a timely manner and in a manner the costs of which are reasonable in the circumstances;
  - (iii) In connection with the preparation of the Plan of Distribution, Respondent shall retain, at its expense and subject to prior approval by Staff of the Commissions, an independent consultant (the "Consultant"), to oversee the preparation of the Plan of Distribution;
  - (iv) Respondent shall be responsible for all costs of preparing and implementing the Plan of Distribution and distributing the Funds. The Funds shall not be applied toward any expenses of Respondent in connection with this settlement or its implementation;
  - (v) Respondent shall cooperate fully with the Consultant and shall provide the Consultant with access to its files, books and personnel as requested for purposes of the Plan of Distribution;
  - (vi) the Plan of Distribution shall include provisions which deal reasonably with circumstances in which the registered unitholders are not the beneficial owners of the units in question;
  - (vii) the Plan of Distribution shall not result in any payment to unitholders described in paragraph 16 of the Settlement Agreement;
  - (viii) Respondent shall, by September 30, 2005, deliver the Plan of Distribution to Staff of the Commissions for approval, together with a report of the Consultant that confirms that the Plan of Distribution was prepared in accordance with the objectives contained in paragraphs (ii) and (vi). Such date may be extended by the prior joint agreement of Staff of the Commissions and Respondent to allow for the obtaining of any rulings or completion of any discussions with Canada Revenue Agency in connection with the tax treatment of the receipt of compensation by Affected Investors considered necessary or advisable;
  - (ix) the Plan of Distribution shall be implemented in accordance with paragraph (xi) if approved by separate approval of (i) Staff of the Commissions, and (ii) the Chair and a Vice-Chair of the Commissions;
  - (x) each of Staff and the Chair and Vice-Chair of the Commissions reviewing the Plan of Distribution in accordance with paragraph (ix) shall approve the Plan, if, in their opinion acting reasonably, the Plan of Distribution was prepared in accordance with the objectives contained in paragraph (ii) and (vi);
  - (xi) Respondent shall implement the Plan of Distribution within 3 months after the receipt of the last approval contemplated in paragraph (ix);
  - (xii) Respondent shall retain, at its expense and subject to approval by Staff of the Commissions, an independent consultant to monitor the implementation of the Plan of Distribution; and
  - (xiii) Within 2 months of the completion of the implementation of the Plan of Distribution referred to in subparagraph (xi), the Respondent shall deliver to Staff of the Commissions:

**Decisions, Orders and Rulings**

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- (A) A report of the consultant retained under paragraph (xii) in a form acceptable to Staff of the Commissions confirming that the distribution has been completed in accordance with the Plan of Distribution as approved under paragraph (ix); and
  - (B) A certificate of the Chief Executive Officer of the Respondent confirming that the distribution has been completed in accordance with the Plan of Distribution as approved under paragraph (ix).
2. If either of the terms set out in subparagraph (viii) or (xi) is not satisfied by the applicable date, the matter may be brought back before the Commissions, for an order revoking or varying their decisions

**SCHEDULE "B"**

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

**AND**

**I.G. INVESTMENT MANAGEMENT, LTD.**

**ORDER  
(Section 127)**

**WHEREAS** on December 12, 2004, the Commission issued a Notice of Hearing (the "Notice of Hearing") pursuant to section 127 of the *Securities Act* (the "Act") in respect of I.G. Investment Management, Ltd. (the "Respondent");

**AND WHEREAS** the Respondent entered into a settlement agreement with Staff of the Commission (the "Settlement Agreement"), in which the Respondent agreed to a proposed settlement of the proceeding commenced by the Notice of Hearing, subject to the approval of the Commission;

**AND UPON** reviewing the Settlement Agreement and the Notice of Hearing and Statement of Allegations of Staff of the Commission, and upon hearing submissions from counsel for the Respondent and for Staff of the Commission;

**AND WHEREAS** the Commission is of the opinion that it is in the public interest to make this Order;

**IT IS HEREBY ORDERED THAT** the Settlement Agreement dated December 10, 2004, attached hereto, is approved.

December 16, 2004.

**Schedule "B"**

THE SECURITIES ACT	)	Order No.
	)	
Section 8(1)	)	December 16, 2004

**I.G. INVESTMENT MANAGEMENT, LTD.**

**WHEREAS:**

- (A) On December 14, 2004, The Manitoba Securities Commission ("Commission") issued a Notice of Hearing ("Notice of Hearing") giving notice of its intention to hold a hearing to consider, *inter alia*, whether or not it was in the public interest to grant an order pursuant to subsection 8(1) of The Securities Act ("Act") with respect to I.G. Investment Management, Ltd. ("IG");
- (B) Staff of the Commission and IG entered into a Settlement Agreement (a copy of which is attached as Schedule "A") dated December 10, 2004 ("Settlement Agreement"), which proposed settlement of the proceedings initiated by the Notice of Hearing, subject to the approval of the Commission;
- (C) IG has consented to the issuance of this Order and has waived its right to a full hearing;
- (D) On December 16, 2004 the Commission held a hearing ("Settlement Hearing") to consider whether or not to approve the Settlement Agreement;
- (E) At the Settlement Hearing the Commission approved the Settlement Agreement and is of the opinion that it is in the public interest to make this order.

**IT IS ORDERED:**

1. THAT the Settlement Agreement, Schedule "A", be and the same is hereby approved.

**BY ORDER OF THE COMMISSION**

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Director, Legal and Enforcement

## 2.3 Rulings

### 2.3.1 1 King West Inc. - ss. 74(1)

#### Headnote

Trades by applicant or licensed real estate agents in residential condominium units included in a rental pool program are not subject to section 25 or 53 provided that purchasers receive certain disclosure.

#### Statutes Cited

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

Condominium Act, 1998 S.O. 1998, c. 19.

Real Estate and Business Brokers Act, R.S.O. 1990, c. R.4., as am.

Securities Act, R.S.B.C. 1996, c. 418, as am.

#### Rules Cited

Ontario Securities Commission Rule 14-501 Definitions.

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

**AND**

**IN THE MATTER OF  
1 KING WEST INC.**

**RULING  
(Subsection 74(1))**

**UPON** the application of 1 King West Inc. (the Applicant) to the Ontario Securities Commission (the Commission) for a ruling pursuant to subsection 74(1) of the Act that the sale by the Applicant of residential condominium units (the Residential Units) within a certain condominium project being built by the Applicant on a site located at 1-5 King Street West, Toronto Ontario, will not be subject to section 25 and 53 of the Act;

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

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

1. The Applicant was established by articles of amalgamation under the *Business Corporations Act* (Ontario) on September 21, 2001. The Applicant's predecessor corporations, 1 King West Inc. and 5 King West Inc. were incorporated under the *Business Corporations Act* (Ontario) on May 10, 2000 and April 18, 1995 respectively.
2. The Applicant is in the business of developing a condominium and mixed-use real estate project

on the lands municipally known as 1-5 King Street West, Toronto, Ontario (the Lands).

3. The Applicant is not a reporting issuer under the Act nor under any other securities legislation in Canada and has no present intention of becoming a reporting issuer under the Act.
4. The Applicant has undertaken to develop the Lands by constructing a 51 story condominium building (the Project) which will consist of approximately 572 residential dwelling units (the Residential Units) and other various common areas and common facilities, including a business centre and recreational facilities, that will be available for use by residents and guests of the Residential Units.
5. Each Residential Unit will be sold either as an unfurnished or fully-furnished unit, at the purchaser's option. The Residential Units will consist of a wide variety of accommodation, ranging from small studio to large two-level units.
6. In addition, to his, her or its own Residential Unit, each owner of a Residential Unit will be entitled to a proportionate share of the common property and the common facilities and other assets of the residential condominium corporation (the Residential Condominium) that will be created pursuant to the *Condominium Act*, S.O. 1998, c. C 19 (the *Condominium Act*) and successor legislation.
7. Certain amenities of the Project, including a front desk service area, a dedicated service elevator, and offices for a general manager and assistant shall form the common property and common facilities of a separate Commercial Condominium (the Commercial Condominium) that will be created pursuant to the *Condominium Act*. Certain common areas of the Residential Condominium and the Commercial Condominium will be required to support the Rental Program described in paragraphs 11 to 14.
8. In accordance with the *Condominium Act*, each owner of a Residential Unit will be responsible for expenses, such as real property taxes, that are directly attributable to the Residential Unit and will also be responsible for his, her or its proportionate share of certain utilities and other expenses related to the common property of the Residential Condominium.
9. The Applicant will cause the Residential Condominium to enter into a property management agreement with Stinson Management Ltd. The property manager will manage and administer the Residential Condominium's common property and will be paid a management fee for its services. The property management agreement will be terminable on

sixty (60) days prior notice by the board of directors of the Residential Condominium. The board of directors of the Residential Condominium will be elected by the owners of the Residential Units.

10. The Applicant will cause the Residential Condominium to enter into a lease operating agreement with the Commercial Condominium, pursuant to which the Commercial Condominium is inter alia appointed the exclusive leasing agent for Residential Unit owners desirous of engaging in permitted short-term leasing of the owner's Residential Unit. The lease operating agreement shall be for a term of ten (10) years, and shall be terminable by the Residential Condominium, in addition to any other remedies, upon:
  - (a) A default by the Commercial Condominium which continues for at least 45 days following notice of default, unless the default is not capable of being cured within 45 days and the Commercial Condominium diligently and continuously attempts to cure such default; or
  - (b) The Rental Manager makes an assignment of its property for the benefits of its creditors.
11. Each owner of a Residential Unit will be entitled but not obligated, to enter into a rental management agreement (the Rental Management Agreement) with the Commercial Condominium or such other manager as may be appointed by the Condominium Corporation (in such capacity, the Rental Manager). By entering into a Rental Management Agreement, owners of Residential Units will become entitled to participate in a short-term rental management program (the Rental Program).
12. As currently proposed, the Rental Program is an arrangement where revenues derived from the short-term rental of an owner's Residential Unit by the Rental Manager are pooled with the revenues derived from the rental of all other Residential Units located in the Project and participating in the Rental Program. All such pooled revenues are allocated to the owners of Residential Units participating in the Rental Program on the basis of unit type and the number of days during the calculation period that the applicable unit is enrolled in the Rental Program. Each owner of a Residential Unit participating in the Rental Program is then paid his, her or its share of aggregate revenue, less expenses relating to the rental of the owner's Residential Unit, general operating expenses incurred by the Rental Manager to operate the Rental Program, and a fixed administration fee per participating unit representing compensation to the Rental Manager. Net revenues and applicable fees are calculated and paid on a monthly basis. It is also currently proposed that the Rental Manager also be entitled to a 5% bonus based on the difference between Gross Rental Revenue and Gross Operating Expense during the calculation period.
13. It is anticipated that most owners of Residential Units will participate in the Rental Program.
14. No owner of any Residential Unit will be entitled to rent his, her or its Residential Unit on a short-term basis other than through the Rental Program. However, owners of Residential Units will be free to rent their Residential Units directly to the general public for lease terms of one (1) year or greater. Also, owners enrolled in the Rental Program may terminate their Rental Management Agreement on four (4) months prior written notice to the Rental Manager.
15. Residential Units are being offered for sale in Ontario through Harry Stinson Realty Corp., an agent of the Applicant licensed under the *Real Estate and Business Brokers Act*, R.S.O. 1990, c.R.5. The Applicant, through its agent, has actively marketed and is continuing to actively market the Residential Units for sale, including by advertisements published in television, internet and print media.
16. To date, numerous Agreements of Purchase and Sale have been entered into by the Applicant with unit purchasers (the Existing Purchasers). No closings have been completed under any of those agreements. In addition, no Rental Management Agreements have been entered into between the Rental Manager and any of the Existing Purchasers.
17. The Applicant has caused a disclosure statement (the Disclosure Statement) to be delivered to each Existing Purchaser and will cause the Disclosure Statement to be delivered to each person who enters into an Agreement of Purchase and Sale. The Disclosure Statement complies with the requirements of the Condominium Act.
18. Pursuant to Section 52(3) of the Condominium Act, any initial purchaser who enters into an Agreement of Purchase and Sale with the Applicant (an Initial Purchaser), is entitled to rescind his, her or its Agreement of Purchase and Sale by notice to the Applicant given within ten (10) days after the Initial Purchaser receives a copy of the Disclosure Statement or any material amendment to the Disclosure Statement.
19. None of the advertisements or other marketing materials for the sale of the Residential Units currently make reference to the Rental Program save for:

- (a) the references made in the Disclosure Statement;
  - (b) information disclosing the existence of the Rental Program, and its benefits for the efficient operation of the Residential Condominium for owners, residents and guests.
20. Prospective purchasers of Residential Units will not be provided with any form of rental, cash flow or deficiency guarantees or any other form of financial commitment or projection by or on behalf of the Applicant respecting the Rental Program, other than:
- (a) examples of financial calculations solely for the purpose of better explaining to prospective purchasers how rental pooling proceeds are calculated, which sample calculations will be included in the Rental Management Disclosure Memorandum described in paragraphs 23 and 24 below; and
  - (b) the budget required to be delivered to an initial purchaser of a Residential Unit pursuant to the Condominium Act.

21. Notwithstanding the foregoing, the Applicant acknowledges that:
- (a) Trades to Existing Purchasers of Residential Units have been made in contravention of the prospectus and registration requirements of the Act, as there was no available exemption to such requirements and no discretionary relief from such requirements had been obtained pursuant to section 74(1) of the Act; and
  - (b) previous advertisements or other marketing materials for the sale of the Residential Units, including marketing materials delivered to Existing Purchasers, have made reference to the Rental Program and have made certain representations as to the expected economic benefits of the Rental Program.

In order to correct any prejudice which may thereby have been caused to Existing Purchasers the Applicant is proposing the remedy stated in paragraph 25.

22. The purchase prices for which the Corporation offers Residential Units for sale to Initial Purchasers will not change as a result of the Rental Program such that there will be no premium or discount to such sale prices for Initial Purchasers who participate in the Rental Program.

23. In addition to the delivery of the Disclosure Statement pursuant to the Condominium Act, the Applicant shall deliver:
- (a) to each Existing Purchaser, on or before the 60th day next following the date of this Ruling and, in any event, at least 10 days before the earliest to occur of: (i) the date a Rental Management Agreement is entered into with the Existing Purchaser; (ii) the date the Existing Purchaser takes possession of the Residential Unit; and (iii) the date the purchase transaction is completed; and
  - (b) to each prospective Initial Purchaser, prior to entering into an Agreement of Purchase and Sale with any such prospective purchaser subsequent to the date of this Ruling,
- a disclosure memorandum (the Rental Management Disclosure Memorandum) certified by the Applicant and the Rental Manager in the form of the certificate required pursuant to item 19 of Form 45-906F of the Securities Act, R.S.B.C. 1996, c. 418, as amended (Form 45-906F).

24. The Rental Management Disclosure Memorandum will include the following information relating to the Rental Program prepared substantially in accordance with the form and content requirements of the following sections of BC Form 45-906F:
- (a) items 1, 3(1), 5, 7, 9(1), (2), (3) and (4); 10(b) and 16 (including the reporting obligations of the Rental Manager to purchasers as more particularly described in paragraphs 2.26 below) of Form 45-906F, modified as necessary to reflect the operations of the Rental Program; and
  - (b) items 12(2), (3) and (4) of Form 45-906F with respect to the Applicant and the Rental Manager, as applicable, modified so that the period of disclosure runs from the date of the certificate attached to the Rental Management Disclosure Memorandum.

25. The Applicant undertakes that Existing Purchaser receiving the Rental Management Disclosure Memorandum pursuant to paragraph 24(a) shall be afforded the ten (10) day cooling off period under the Condominium Act described in paragraph 18 above.

26. Initial Purchasers of Residential Units and each subsequent purchaser of a Residential Unit will be provided with a contractual right of action as defined in Commission Rule 14-501 *Definitions*

with respect to the disclosure contained in Rental Management Disclosure Memorandum, save and except only that such right of action shall:

- (a) be for damages and not include a right of action for rescission;
  - (b) be exercisable on notice against the certifying entity not later than 180 days after the earlier of the date the purchaser closes his, her or its purchase transaction or takes possession of the Residential Unit.
27. The Rental Management Disclosure Memorandum will describe the contractual right of action, including any defences available to the certifying entity, the limitation periods applicable to the exercise of the contractual right of action, and will indicate that the contractual right of action is in addition to any other right or remedy available to the purchaser.
28. A Rental Management Agreement will impose an irrevocable obligation on the Rental Manager to send to each owner of a Residential Unit participating in the Rental Program:
- (a) audited annual financial statements for the Rental Program that have been prepared in accordance with generally accepted accounting principles and otherwise made up, certified and delivered in accordance with the applicable provisions of the Act as if the Rental Program was a reporting issuer for purposes of the Act; and
  - (b) interim unaudited financial statements for the Rental Program that have been prepared in accordance with generally accepted accounting principles and otherwise made up, certified and delivered in accordance with the applicable provisions of the Act as if the Rental Program was a reporting issuer for the purposes of the Act.
29. A Rental Management Agreement will impose an irrevocable obligation on the Rental Manager to deliver to a prospective subsequent purchaser, upon reasonable notice of an intended sale by the owner of a Residential Unit participating in the Rental Program, and before an agreement of purchase and sale is entered into:
- (a) the most recent audited annual financial statements (which include financial statements for the prior comparative year) and, if applicable, the then most recent interim unaudited financial statements for the Rental Program (the Financial Information); and
  - (b) the Rental Management Disclosure Memorandum certified by the Rental Manager in the form of the certificate required pursuant to item 19 of Form 45-906F.
30. A Rental Management Agreement will impose an irrevocable obligation on each owner of a Residential Unit participating in the Rental Program to provide:
- (a) the Rental Manager with reasonable notice of a proposed sale of the Residential Unit; and
  - (b) a subsequent prospective purchaser of a Residential Unit with notice of his, her or its right to obtain from the Rental Manager, the Financial Information and the Rental Management Disclosure Memorandum.
31. A Rental Management Agreement will not require an owner of a Residential Unit to give any person an assignment of any of his, her or its right to vote in accordance with the Condominium Act or condominium corporation by-laws, or to waive notice of meetings of the Residential Condominium.

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

**IT IS RULED**, pursuant to subsection 74(1) of the Act, that:

- (a) the distribution of a Residential Unit by the Applicant, Harry Stinson Realty Corp. or another Licensed Agent from the date of this Ruling is exempt from sections 25 and 53 of the Act, provided that:
  - (i) every Existing Purchaser receives:
    - (A) all of the documents and information referred to in paragraph 23 above, and a copy of the Ruling, within the time period set out in paragraph 23, and
    - (B) the ten (10) day "cooling off" for rescission set out in paragraph 25; and
  - (ii) every other Initial Purchaser receives all of the documents and information referred to in paragraph 23 above, and a copy



of this Ruling, prior to entering into a Purchase Agreement; and

- (b) any subsequent trade of a Residential Unit shall be a distribution, unless:
  - (i) notice is given by the seller to the Rental Manager of the seller's intent to sell his, her or its Residential Unit;
  - (ii) the prospective purchaser of the Residential Unit receives, prior to the completion of the transaction, all of the documents and information referred to in paragraphs 27 and 28 above; and
  - (iii) the seller, or an agent acting on the seller's behalf, does not advertise, market, promise or otherwise represent any projected economic benefits of the Rental Program to the prospective purchaser.

November 22, 2004.

"Paul K. Bates"

"Robert L. Shirriff", Q.C.

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## 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
KT Capital Corp.	13 Jan 05	25 Jan 05		
Veritas Energy Services Inc.	06 Jan 05	18 Jan 05	18 Jan 05	
Veritas DGC Inc.	06 Jan 05	18 Jan 05	18 Jan 05	
Algonquin Oil & Gas Limited	16 Dec 04	29 Dec 04	29 Dec 04	
Ampal-American Israel Corporation	15 Dec 04	24 Dec 04	24 Dec 04	
Bakbone Software Incorporated	08 Dec 04	20 Dec 04	20 Dec 04	
Doman Industries Limited	10 Dec 04	22 Dec 04	22 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
Straight Forward Marketing Corporation	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	21 May 04	01 Jun 04	01 Jun 04		
Hollinger Inc.	18 May 04	01 Jun 04	01 Jun 04		
Hollinger International Inc.	18 May 04	01 Jun 04	01 Jun 04		
Nortel Networks Corporation	17 May 04	31 May 04	31 May 04		
Nortel Networks Limited	17 May 04	31 May 04	31 May 04		

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## Chapter 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>
23-Dec-2004	Covington Strategic Capital Fund Inc.	1293551 Ontario Inc. - Debentures	480,000.00	480,000.00
24-Dec-2004	3 Purchasers	1293551 Ontario Inc. - Preferred Shares	743,449.00	503,424.00
24-Dec-2004	3 Purchasers	1293551 Ontario Inc. - Warrants	0.00	100,000.00
23-Dec-2004 to 29-Dec-2004	4 Purchasers	Abbey Vista Ridge Limited Partnership - Limited Partnership Units	268,583.94	6.00
24-Dec-2004	Canadian Medical Discoveries fund Inc.	ActivBiotics (Ontario) Inc. - Debentures	12,357,000.00	2.00
22-Dec-2004	Ken Forstinger	Acuity Pooled Balanced Fund - Trust Units	50,000.00	2,634.00
24-Dec-2004	Bruce Murray	Acuity Pooled Canadian Equity Fund - Trust Units	189,705.15	7,712.00
22-Dec-2004	Hilda Brownlee	Acuity Pooled Canadian Small Cap Fund - Trust Units	20,000.00	862.00
22-Dec-2004 to 23-Dec-2004	Linda Garshon Marisa Marafioti	Acuity Pooled Conservative Asset Allocation - Trust Units	170,596.17	10,471.00
22-Dec-2004	Liz Grogan	Acuity Pooled Fixed Income Fund - Trust Units	150,000.00	10,122.00
24-Dec-2004	Odette Poisson	Acuity Pooled Growth and Income Fund - Trust Units	50,000.00	4,223.00
22-Dec-2004 to 29-Dec-2004	29 Purchasers	Acuity Pooled High Income Fund - Trust Units	5,114,536.20	255,701.00
22-Dec-2004 to 23-Dec-2004	Ved Khanna Arnold Leslie	Acuity Pooled Income Trust Fund - Trust Units	220,000.00	11,842.00
30-Dec-2004	Canadian Medical Discoveries Fund Inc.	AdipoGenix (Canada) Inc. - Debentures	6,081,500.00	2.00
14-Dec-2004	Michelle Pollock	Aecon Corp - Convertible Debentures	100,000.00	100,000.00
31-Dec-2004	Dundee Securities Corporation	AIM PowerGen Corporation - Common Share Purchase Warrant	8,000.00	8,000.00

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17-Dec-2004	4 Purchasers	AIM PowerGen Corporation - Flow-Through Shares	1,050,000.00	57,500.00
31-Dec-2004	Blake A. Batson	AIM PowerGen Corporation - Flow-Through Shares	100,000.00	5,000.00
17-Dec-2004	Dundee Securities Corporation	AIM PowerGen Corporation - Warrants	92,000.00	9,000.00
31-Dec-2004	Barry Campbell	Alpern Absolute Return Fund, LLC - Limited Partnership Interest	240,720.00	2,000,000.00
31-Dec-2004	3 Purchasers	Alternum Capital - North American Value Hedge Fund - Limited Partnership Units	6,008.25	7.00
30-Dec-2004 to 04-Jan-2005	Bruce Mackenzie Rothney John B. Volcko	Altius Energy Corporation - Debentures	27,123.00	27,123.00
31-Dec-2004	37 Purchasers	ALX Limited Partnership - Units	5,904,360.00	5,467.00
23-Dec-2004	Rudolph Bratty and Gordon Arnold	ALX Limited Partnership - Units	17,351,280.00	16,066.00
30-Dec-2004	Canadian Medical Discoveries Inc.	Ambit Biosciences (Canada) Corporation - Debentures	6,081,500.00	1.00
23-Dec-2004	12 Purchasers	Anderson Energy Ltd. - Common Shares	5,853,990.00	1,228,163.00
23-Dec-2004	4 Purchasers	Anderson Energy Ltd. - Flow-Through Shares	752,100.00	19,000.00
29-Dec-2004	91 Purchasers	Andina Minerals Inc. - Subscription Receipts	6,304,450.66	52,537,089.00
31-Dec-2004	7 Purchasers	Apollo Gold Corporation - Flow-Through Shares	750,000.00	714,286.00
31-Dec-2004	EAM Inc Parkwood GP Inc.	Apollo Gold Corporation - Units	325,000.00	433,333.00
22-Jan-2004 to 30-Dec-2004	9 Purchasers	Arctos Petroleum Corp. - Units	1,176,500.00	3,269,684.00
23-Dec-2004	David Durnan	Arrow Energy Ltd. - Flow-Through Shares	8,075.00	8,500.00
01-Jan-2004 to 31-Dec-2004	SchoolHouse Investment Inc	Arrowstreet Global Opportunities Offshore Fund Ltd. - Shares	76,068,766.00	1,000,000.00
14-Dec-2004	3 Purchasers	Arsenal Energy Inc. - Units	133,750.50	178,334.00
23-Dec-2004 to 29-Dec-2004	4 Purchasers	AVR Debenture Corp - Debentures	268,583.94	6.00
22-Dec-2004	The VenGrowth Advanced Life Sciences Fund Inc.	Axela Biosensors Inc. - Debentures	5,725,000.00	2.00

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22-Dec-2004	3 Purchasers	Axela Biosensors Inc. - Preferred Shares	0.00	0.00
30-Dec-2004	4 Purchasers	Azeri Capital Inc. - Common Shares	147,600.00	24,600.00
22-Dec-2004	Royal Bank of Canada	bcIMC Realty Corporation - Notes	20,000,000.00	20,000,000.00
22-Dec-2004	13 Purchasers	bcIMC Realty Corporation - Notes	138,000,000.00	138,000,000.00
24-Dec-2004	6 Purchasers	Band-Ore Resources Ltd. - Units	999,999.30	3,333,331.00
10-Dec-2004	4 Purchasers	BDE Equities Inc. - Common Shares	151,000.00	1,006,665.00
23-Dec-2004	5 Purchasers	Birch Mountain Resources Ltd. - Flow-Through Shares	765,798.00	510,532.00
29-Dec-2004 to 31-Dec-2004	16 Purchasers	Black Pearl Minerals Consolidated Inc. - Units	167,024.00	1,113,499.00
29-Dec-2004 to 31-Dec-2004	16 Purchasers	Black Pearl Minerals Consolidated Inc. - Units	167,024.85	1,113,499.00
21-Dec-2004	29 Purchasers	Blizzard Energy Inc. - Common Shares	17,003,800.00	7,729,000.00
21-Dec-2004	4 Purchasers	Blizzard Energy Inc. - Flow-Through Shares	2,848,020.00	1,017,150.00
22-Dec-2004	8 Purchasers	Breaker Energy Ltd. - Shares	2,842,060.00	1,093,100.00
22-Dec-2004	28 Purchasers	Brick Group Income Fund, The - Units	60,551,662.50	4,749,150.00
23-Dec-2004	4 Purchasers	Business Propulsion Systems Inc. - Preferred Shares	3,163,242.00	3,163,242.00
23-Dec-2004	4 Purchasers	Business Propulsion Systems Inc. - Preferred Shares	3,163,242.00	3,163,242.00
31-Dec-2004	Augen Limited Partnership 2004-1	Callinan Mines Limited - Units	199,800.00	444,000.00
24-Dec-2004	Mark Wellings	Campbell Resources Inc. - Flow-Through Shares	100,016.00	150,400.00
24-Dec-2004	7 Purchasers	Campbell Resources Inc. - Units	157,687.50	30.00
29-Dec-2004	John Comi	Canadian Spirit Resources Inc. - Common Shares	6,250.00	1,000.00
30-Dec-2004	13 Purchasers	Canadian Superior Energy Inc. - Common Shares	510,000.00	204,000.00
16-Dec-2004	16 Purchasers	Capital Energy Resources Ltd. - Common Shares	3,780,000.00	3,780,000.00
21-Dec-2004	6 Purchasers	CareVest Blended Mortgage Investment Corporation - Preferred Shares	312,839.00	312,839.00



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21-Dec-2004	6 Purchasers	CareVest First Mortgage Investment Corporation - Preferred Shares	756,910.00	756,910.00
21-Dec-2004	David H. Cooke	CareVest Second Mortgage Investment Corporation - Preferred Shares	20,000.00	20,000.00
05-Jan-2005	3 Purchasers	Cascadero Copper Corporation - Stock Option	1.35	2,050,000.00
30-Dec-2004 to 31-Dec-2004	18 Purchasers Partnership - Units	Cascadia Fine Art No. 2 Limited	3,487,500.00	3,488.00
22-Dec-2004	18 Purchasers	Cash Minerals Ltd. - Units	345,301.13	2,092,734.00
16-Dec-2004	7 Purchasers	Castek Inc. - Common Shares	1,300,000.00	31,128,104.00
30-Dec-2004	35 Purchasers	CGO&V Balanced Fund - Trust Units	290,876.24	22,826.00
30-Dec-2004	10 Purchasers	CGO&V Cumberland Fund - Trust Units	92,038.59	6,767.00
30-Dec-2004	The Dunin Foundation	CGO&V Enhanced Yield Fund - Units	100,020.00	10,171.00
30-Dec-2004	The George and Bets Trust J.B. Dineen and/or Yvonne Dineen	CGO&V Hazelton Fund - Trust Units	200,822.38	15,367.00
30-Dec-2004	3 Purchasers	Champion Bear Resources Ltd. - Common Shares	500,000.00	625,000.00
04-Jan-2005	Sun Life Financial Corp	CI Fund Management Inc. - Common Shares	1,788,552,061.00	100,198,995.00
23-Dec-2004 to 31-Dec-2004	RBC Dominion Securities Inc.	CIL Business Trust Fund - Units	41,030,000.00	4,400,000.00
31-Dec-2004	8 Purchasers	Claude Resources Inc. - Units	900,048.00	600,032.00
31-Dec-2004	8 Purchasers	Claude Resources Inc. - Units	900,050.00	600,033.00
31-Dec-2004	5 Purchasers	Clear Energy Inc. - Common Shares	4,427,500.00	770,000.00
23-Dec-2004	RBC Global Services	Cloakware Corporation - Notes	1,500,000.00	1,500,000.00
17-Dec-2004	4 Purchasers	Conor Medsystems, Inc. - Shares	159,406.00	10,000.00
30-Dec-2004	3 Purchasers	Coventree Capital Group Inc. - Common Shares	2,150,002.42	589,163.00
30-Dec-2004	VentureLink Financial Services Innovation Fund Inc.	Coventree Capital Group Inc. - Debentures	7,000,000.00	7,000,000.00
31-Dec-2004	48 Purchasers	Creststreet Windpower Development LP - Limited Partnership Units	3,165,000.00	316,500.00

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14-Dec-2004	Mavrix Resources Fund 2004-II LP	Crosshair Exploration & Mining Corp. - Common Share Purchase Warrant	400,000.00	1,500,000.00
29-Dec-2004	4 Purchasers	Crowflight Minerals Inc. - Units	50,000.00	125,000.00
22-Dec-2004	3 Purchasers	Cypress Development Corp. - Flow-Through Shares	21,000.00	210,000.00
23-Dec-2004	18 Purchasers	Delphi Energy Corp. - Common Shares	4,349,972.00	1,175,600.00
23-Dec-2004	48 Purchasers	Delphi Energy Corp. - Subscription Receipts	16,205,807.00	5,493,494.00
21-Dec-2004	22 Purchasers	Delta Systems Inc. - Common Shares	1,986,050.00	1,805,500.00
30-Dec-2004	Redstone Resources Inc.	Denison Mines Inc. - Common Shares	2,516,906.25	320,625.00
22-Dec-2004 to 30-Dec-2004	19 Purchasers	Diadem Resources Ltd. - Units	672,000.00	4,480,003.00
23-Dec-2004	M Patricia Richardson and Erie Flooring & Wood Products	DynaMotive Energy Systems Corporation - Common Shares	196,499.00	322,000.00
31-Dec-2004	M. Patricia Richard	DynaMotive Energy Systems Corporation - Warrants	7,532.00	11,000.00
29-Dec-2004	Rob Mackie	Earthworks Industries Inc. - Units	10,000.00	10,000.00
30-Dec-2004	24 Purchasers	Eastmain Resources Inc. - Flow-Through Shares	2,170,700.00	3,101,000.00
30-Dec-2004	23 Purchasers	Eastmain Resources Inc. - Units	2,170,700.00	3,101,000.00
23-Dec-2004	EnergyFields 2004 Flow-Through Limited Partnership	Elkwater Resources Ltd. - Flow-Through Shares	398,300.00	995,750.00
26-Nov-2004	14 Purchasers	Empire and Fovere Residential Development Fund I, LP - Units	2,322,600.00	681.00
06-Dec-2004	10 Purchasers	Empire and Fovere Residential Development Fund I, LP - Units	1,540,000.00	210.00
17-Dec-2004	7 Purchasers	Empire and Fovere Residential Development Fund I, LP - Units	937,400.00	109.00
30-Dec-2004	Acker Finley Asset Management Inc.	Energold Mining Ltd. - Common Shares	100,000.00	125,000.00
30-Dec-2004	Venture Partners Equity Fund Inc.	Enerworks Inc. - Debentures	150,000.00	150,000.00
31-Dec-2004	M. Ross Orr	Enhanced Opportunity Corp. - Common Shares	10,000.00	40,000.00
31-Dec-2004	M. Ross Orr	Enhanced Opportunity Corp. - Common Shares	1,000.00	40,000.00

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30-Dec-2004	76 Purchasers	Equigenesis 2004 Preferred Investment LP - Limited Partnership Interest	27,145,776.00	1,569.00
29-Dec-2004	3 Purchasers	Exall Resources Limited - Flow-Through Shares	350,000.00	1,129,032.00
17-Dec-2004	Energy Fields 2004 FT LP J. Raymond Kearns	Expedition Energy Inc - Common Shares	479,050.00	737,000.00
01-Jun-2004 to 01-Nov-2004	20 Purchasers	FG Limited Partnership - Units	7,365,616.76	27,992.00
22-Dec-2004 to 31-Dec-2004	39 Purchasers	First Leaside Opportunities Limited Partnership - Limited Partnership Units	2,219,370.00	2,219,370.00
22-Dec-2004 to 31-Dec-2004	18 Purchasers	First Leaside Opportunities Limited Partnership - Notes	1,562,945.50	18.00
22-Dec-2004 to 31-Dec-2004	18 Purchasers	First Leaside Technologies Limited Partnership - Limited Partnership Units	1,279,000.00	1,279,000.00
22-Dec-2004 to 31-Dec-2004	Robert Richardson	First Leaside Wealth Management Inc. - Preferred Shares	200,000.00	200,000.00
20-Dec-2004	Ross & Yvonne Rahn	Fisgard Capital Corporation - Common Shares	15,000.00	15,000.00
23-Dec-2004	The Bisayne Group Inc Vincent Sebastino	Flying a Petroleum Ltd. - Units	16,074.90	35,722.00
29-Dec-2004	3 Purchasers	Freewest Resources Canada Inc. - Flow-Through Shares	85,700.00	408,095.00
17-Dec-2004 to 30-Dec-2004	24 Purchasers	FrontierAlt Investment Management Limited Partnership - Limited Partnership Units	870,000.00	174.00
22-Dec-2004 to 31-Dec-2004	27 Purchasers	F.L. Securities Inc. - Notes	2,379,350.00	27.00
22-Dec-2004 to 31-Dec-2004	Daniel R. Morris	F.L. Spring Valley Limited Partnership - Limited Partnership Units	48,692.14	22,876.00
21-Dec-2004	Toronto Dominion Bank	Gateway, Inc. - Notes	500,000.00	1.00
21-Dec-2004	Toronto Dominion Bank	Gateway, Inc. - Notes	500,000.00	500,000.00
17-Dec-2004	3 Purchasers	Gibraltar Exploration Ltd. - Common Shares	24.00	32,500.00
23-Dec-2004	8 Purchasers	Global Alumina Products Corporation - Common Shares	30,000,750.00	15,385,000.00

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30-Sep-2004	TD Asset Management Inc. and The Royal Bank of Canada	Global Crossing (UK) Finance Plc - Notes	7,634,835.00	7,750,000.00
30-Sep-2004	TD Asset Management Inc The Royal Bank of Canada	Global Crossing (UK) Finance Plc - Notes	7,634,835.00	7,750,000.00
20-Dec-2004	ITW Canada	GMO Developed World Equity Investment Fund PLC - Units	1,967,040.00	72,641.00
29-Dec-2004	R. Bruce Durham	Golden Valley Mines Ltd. - Common Shares	35,000.00	100,000.00
31-Dec-2004	4 Purchasers	Goldeye Explorations Limited - Units	360,200.10	2,401,334.00
30-Dec-2004	4 Purchasers	Grandcru Resources Corporation - Flow-Through Shares	87,300.08	311,786.00
30-Dec-2004	4 Purchasers	Grandcru Resources Corporation - Non-Flow-Through Shares	30,000.00	120,000.00
30-Dec-2004	14 Purchasers	Greentree Gas & Oil Ltd. - Flow-Through Shares	156,000.00	260,000.00
23-Dec-2004	ALX Limited Partnership and GB Therapeutics Ltd.	GTTS XV Limited Partnership - Units	13,839,280.00	1,330,713,307.00
31-Dec-2004	ALX Limited and NIR Diagnostics Inc.	GTTS XVI Limited Partnership - Units	9,794,720.00	9,418.00
24-Dec-2004	ALX Limited Partnership Osteopharm Inc.	GTTS XVII Limited Partnership - Units	10,354,240.00	9,956.00
23-Dec-2004	33 Purchasers	Halo Resources Ltd. - Flow-Through Shares	1,399,239.80	1,472,884.00
23-Dec-2004	11 Purchasers	Halo Resources Ltd. - Non-Flow-Through Shares	297,950.50	350,530.00
20-Dec-2004	Blair Franklin Management Inc.	Hexcel Corporation - Common Shares	14,000.00	1,000.00
20-Dec-2004	Blair Franklin Management Inc.	Hexcel Corporation - Common Shares	14,000.00	1,000.00
20-Dec-2004	AGF Precious Metals Fund and Mackenzie Financial Corporation	Highland Gold Mining Limited - Common Shares	7,507,379.00	1,650,000.00
16-Dec-2004	3 Purchasers	Highview Resources Ltd. - Common Shares	45,000.00	150,000.00
01-Jan-2004 to 01-Sep-2004	8 Purchasers	Hillery & Associates, L.P. - Units	979,934.00	532.00
30-Dec-2004	3 Purchasers	Hillsborough Resources Limited - Common Shares	2,389,999.00	2,655,999.00
30-Dec-2004	3 Purchasers	Hillsborough Resources Limited - Common Shares	2,389,999.50	2,655,555.00

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30-Dec-2004	7 Purchasers	Hillsborough Resources Limited - Flow-Through Shares	1,183,749.00	1,127,380.00
30-Dec-2004	7 Purchasers	Hillsborough Resources Limited - Flow-Through Shares	1,183,749.00	1,127,380.00
31-Dec-2004	3 Purchasers	Hinterland Metals Inc. - Units	15,600.00	120,000.00
31-Dec-2004	Gordon Ewart Jana Ewart	Huntington Exploration Inc - Units	60,000.00	400,000.00
04-Nov-2004	Newport Yield Fund	IMAX Corporation - Notes	250,000.00	250,000.00
29-Dec-2004	9 Purchasers	IMS Petroleum Inc. - Common Shares	340,003.20	2,833,360.00
22-Dec-2004	The Rider Group Inc.	Intelligent Mechatronic Systems Inc. - Common Shares	975,714.00	650,476.00
29-Dec-2004	4 Purchasers	International CHS Resource Corporation - Units	375,000.00	1,666,667.00
30-Dec-2004	6 Purchasers	International Club Network Limited - Units	225,008.00	224,000.00
20-Dec-2004	Andrew Popko	International Frontier Resources Corporation - Units	14,000.00	10,000.00
23-Dec-2004	Kings Road Investments Ltd.	InterOil Corporation - Convertible Debentures	1,343,414.06	750,000.00
23-Dec-2004	7 Purchasers	Jilbey Gold Exploration Ltd. - Units	294,699.60	491,166.00
31-Dec-2004	17 Purchasers	JML Resources Ltd. - Flow-Through Shares	268,393.00	1,633,672.00
24-Dec-2004	1422575 Ontario Inc.	KEWL Corporation - Common Shares	50,000.00	500,000.00
24-Dec-2004	4 Purchasers	KWG Resources Inc. - Units	999,999.64	5,263,156.00
24-Dec-2004	4 Purchasers	KWG Resources Inc. - Units	999,999.64	5,263,156.00
30-Dec-2004	The VenGrowth II Investment Fund Inc. and The VenGrowth Traditional Industries Fund Inc.	Lakeport Brewing Corporation - Warrants	2.00	2.00
30-Dec-2004	22 Purchasers	Lanesborough Real Estate Investment Trust - Units	147,447,500.00	29,489,500.00
23-Dec-2004	3 Purchasers	Lateegra Resources Corp. - Common Shares	13,500.00	135,000.00
30-Dec-2004	7 Purchasers	LAB International Inc. - Units	1,615,950.00	1,539,000.00
22-Dec-2004	7 Purchasers	Leader Energy Services Ltd. - Common Shares	2,106,250.00	1,685,000.00
04-Jan-2005	Inco Limited	Liberty Mineral Exploration Inc. - Common Shares	400,000.00	2,000,000.00

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31-Dec-2004	5 Purchasers	Liberty Mineral Exploration Inc. - Common Shares	72,000.00	360,000.00
31-Dec-2004	James M. Lockett	Liberty Mineral Exploration Inc. - Units	10,000.00	50,000.00
21-Dec-2004	Sprott Asset Management Inc.	Lincoln Gold Corporation - Units	625,821.00	1,700,000.00
14-Dec-2004 to 23-Dec-2004	11 Purchasers	Los Altares Resources Ltd. - Units	4,312,900.00	3,522,000.00
16-Dec-2004 to 21-Dec-2004	Goodman/Dynamic Funds AIC	Macquarie Infrastructure Investment Management Limited - Shares	6,212,194.00	6,212,194.00
10-Dec-2004	Victoria Ross	Magic Lantern Group, Inc - Notes	1,200,000.00	1,200,000.00
10-Dec-2004	Gretchen Ross	Magic Lantern Group, Inc - Units	500,000.00	2,000,000.00
24-Dec-2003 to 30-Sep-2004	Shell Canada John Deere Limited	Marvin & Palmer International Equity Fund - Units	805,065.55	114,308.00
10-Dec-2004	Marret Asset Management Inc.	MAAX Holdings, Inc. - Notes	592,716.78	592,717.00
22-Dec-2005	18 Purchasers	Medipattern Corporation, The - Convertible Debentures	1,265,000.00	12,650.00
30-Dec-2004	Donald M. Ross Jones Gable & Company	Mengold Resources Inc. - Units	51,000.00	51,000.00
27-Feb-2004 to 01-Dec-2004	5 Purchasers	MICEO 2002 Corporation - Common Shares	144,927.45	14,493.00
30-Dec-2004	3 Purchasers	Murgor Resources Inc. - Flow-Through Shares	487,500.00	3,250,000.00
30-Dec-2004	5 Purchasers	Murgor Resources Inc. - Flow-Through Shares	102,900.00	1,180,000.00
31-Dec-2004	27 Purchasers	Mustang Minerals Corp. - Flow-Through Shares	1,089,833.00	2,564,315.00
31-Dec-2004	6 Purchasers	Natural Convergence Inc. - Preferred Shares	3,328,125.00	19,349,563.00
31-Dec-2004	Wonnacott Farms Limited	New Solutions Financial (II) Corporation - Debentures	100,000.00	100,000.00
31-Dec-2004	Northwater Foundation	NewQuant Trust I - Trust Units	200,000.00	200,000.00
29-Dec-2004	Sam Pollock	Normabec Mining Resources Inc. - Flow-Through Shares	10,000.00	55,556.00
14-Dec-2004	Ontario Teachers' Pension Plan Board	North American Oil Sands Corporation - Notes	11,000,001.00	11,000,001.00
30-Dec-2004	10 Purchasers	Northern Hemisphere Development Corp. - Units	235,000.00	235,000.00

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31-Dec-2004	3 Purchasers	Nuinsco Resources Limited - Flow-Through Shares	503,226.00	2,012,904.00
31-Dec-2004	9 Purchasers	Nustar Resources Inc. - Common Shares	242,000.00	1,210,000.00
31-Dec-2004	13 Purchasers	Nustar Resources Inc. - Units	153,000.00	765,000.00
31-Dec-2004	Pro-Hedge Multi Manager Elite	O'Donnell Emerging Companies Fund - Units	100,000.00	11,565,507.00
27-Feb-2004 to 06-Dec-2004	56 Purchasers	Olympus United Univest RRSP Fund - Units	2,390,284.73	239,535.00
29-Oct-2004	Larry leonoff	Onefour Energy Ltd. - Common Shares	25,000.00	50,000.00
30-Dec-2004	3 Purchasers	Outback Exploration Ltd. - Units	90,100.00	286,000.00
21-Dec-2004	33 Purchasers	Palmarejo Acquisition Corporation - Subscription Receipts	4,029,000.00	4,029,000.00
21-Dec-2004	33 Purchasers	Palmarejo Acquisition Corporation - Subscription Receipts	4,029,000.00	4,029,000.00
29-Dec-2004	Larry Wolynetz	Paradym Ventures Inc. - Flow-Through Shares	18,000.00	100,000.00
29-Dec-2004	4 Purchasers	Partners in Planning Financial Group Ltd. - Common Shares	9,600.00	400.00
31-Dec-2004	4 Purchasers	Pele Mountain Resources Inc. - Units	51,570.00	191,000.00
21-Dec-2004	3 Purchasers	Petro Andina Resources Inc. - Shares	9,525,000.00	1,587,500.00
17-Dec-2004 to 30-Dec-2004	25 Purchasers	PGM Ventures Corporation - Flow-Through Shares	1,782,000.00	3,564,000.00
20-Dec-2004	18 Purchasers	PharmaGap Inc. - Units	331,991.09	1,164,881.00
30-Dec-2004	10 Purchasers	Phoenix Technology Income Fund - Trust Units	5,506,000.00	1,376,500.00
31-Dec-2004	Sheldon Inwentash	Piper Capital Inc. - Units	50,000.00	250,000.00
20-Dec-2004	Covington Strategic Capital Fund Inc.	Platespin Ltd. - Notes	80,000.00	80,000.00
30-Dec-2004	4 Purchasers	Polaris Geothermal Inc. - Units	1,398,760.00	1,271,600.00
31-Dec-2004	Augen Limited Partnership 2004-1	Radisson Mining Resources Inc. - Flow-Through Shares	175,000.00	546,875.00
04-Jan-2005	Mary Elizabeth Drake	Ramius Corporation - Convertible Debentures	250,000.00	1.00
22-Dec-2004	Mike Schlereth Jeffrey Dawson	Ravenwood Energy Corp. - Flow-Through Shares	40,000.00	20,000.00

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31-Dec-2004	Nursing Homes and Related Industries Pension Plan	Real Assets US Social Equity Index Fund - Units	9,223.37	1,313.00
30-Dec-2004	ABM Investments Limited Conli Holdings Inc.	Red Media Corp. - Units	245,000.00	544,444.00
15-Dec-2004	4 Purchasers	Redsky Energy Ltd. - Common Shares	1,035,000.00	690,000.00
15-Dec-2004	3 Purchasers	Redsky Energy Ltd. - Flow-Through Shares	370,800.00	206,000.00
14-Dec-2004	16 Purchasers	Rentcash Inc. - Common Shares	4,195,200.00	655,500.00
30-Dec-2004	10 Purchasers	Response Biomedical Corp. - Units	367,500.00	490,000.00
20-Dec-2004	3 Purchasers	Result Energy Inc. - Units	352,620.00	587,700.00
30-Nov-2004	Bay Simonson	Riverglass, Inc. - Stock Option	29,665.00	85,774.00
17-Dec-2004	69 Purchasers	Rose Retirement Properties LP - Limited Partnership Units	7,774,000.00	10,398.00
23-Dec-2004	Donald G. Paterson	Rosetta Exploration Inc. - Common Shares	18,750.00	25,000.00
17-Dec-2004	EdgeStone Capital Venture Fund;LP	RSS Solutions Inc. - Convertible Debentures	2,250,000.00	2,250,000.00
30-Dec-2004	5 Purchasers	Rubicon Minerals Corporation - Common Shares	549,977.40	392,841.00
31-Dec-2004	5 Purchasers	San Gold Resources Corporation - Units	512,800.00	1,025,600.00
31-Dec-2004	Limited Market Dealer Inc	San Gold Resources Corporation - Units	0.00	68,608.00
30-Dec-2004	4 Purchasers	Schneider Power Inc. - Flow-Through Shares	325,000.00	1,625,000.00
30-Dec-2004	2 Purchasers	Schneider Power Inc. - Warrants	40,800.00	204,000.00
09-Dec-2004	Bank of Montreal and Trimark Investment Management Inc.	Scientific Games Corporation - Notes	1,811,400.00	2.00
09-Dec-2004	Bank of Montreal Trimark Investment Management Inc.	Scientific Games Corporation - Notes	1,811,400.00	1,811,400.00
16-Dec-2004	8 Purchasers	Sebring Energy Inc. - Common Shares	309,750.00	413,000.00
29-Dec-2004	Graeme Hibberd	Sharon Energy Ltd. - Flow-Through Shares	200,000.00	1,000,000.00
23-Dec-2004	Lawrence Venture Fund LP	SiGe Semiconductor Inc. - Shares	613,099.75	799,488.00
23-Dec-2004	Lawrence Enterprise Fund Inc	SiGe Semiconductor Inc. - Shares	1,471,440.01	1,918,772.00



**Notice of Exempt Financings**

29-Dec-2004	Larry Leonoff	Sky Hunter Exploration Ltd. - Common Shares	25,000.00	25,000.00
31-Dec-2004	First Asset Renewable Power Flow-Through Limited Partnership	SkyPower Corp. - Common Shares	493,333.00	37.00
15-Dec-2004	Stonestreet LP	Sontra Medical Corporation - Shares	124,746.00	124,746.00
01-Jan-2005	Victor Jereb Jeffrey D. Stacy & Associates Ltd.	Stacey Investment Limited Partnership - Limited Partnership Units	350,806.95	11,105.00
31-Dec-2004	John B. O'Sullivan	Stacey RSP Fund - Trust Units	134,487.84	13,330.00
20-Dec-2004	TD Asset Management Inc.	Stanadyne Holdings, Inc. - Notes	872,175.00	1,500,000.00
20-Dec-2004	TD Asset Management Inc.	Stanadyne Holdings, Inc. - Notes	872,175.00	1,500,000.00
05-Jan-2005	4 Purchasers	Stealth Minerals Limited - Stock Option	0.60	550,000.00
23-Dec-2004	Silvana La Mantia Sheila Marshall	Stratabound Minerals Corp. - Flow-Through Shares	17,000.00	113,333.00
30-Dec-2004	Terrence Prowell Union Securities Augen Limited	Strateco Resources Inc. - Common Shares	205,800.00	1,470,000.00
10-Dec-2004	Mavrix A/C 214	Strathmore Minerals Corp. - Common Shares	1,000,350.00	513,000.00
22-Dec-2004	The Canada Trust Company	STarts (Canada) Trust 2004-2 - Notes	125,000,000.00	125,000,000.00
30-Dec-2004	3 Purchasers	Tamerlane Ventures Inc. - Units	475,000.20	1,583,334.00
31-Dec-2004	Archibald Brown	TD Harbour Capital Balanced Fund - Trust Units	4,255,671.40	39,277.00
30-Dec-2004	30 Purchasers	Terra Energy Corp. - Flow-Through Shares	2,786,824.00	2,070,089.00
06-Jan-2005	14 Purchasers	The Canadian Professionals Services Trust - Units	35,353.15	70,706.00
14-Dec-2004	11 Purchasers	The Pep Boys - Manny, Moe & Jack - Notes	553,000.00	11.00
14-Dec-2004	11 Purchasers	The Pep Boys - Manny, Moe & Jack - Notes	553,000.00	553,000.00
30-Dec-2004	William Tiffin	Timbercreek Real Estate Investment Trust - Trust Units	25,000.00	2,500.00
17-Dec-2004	5 Purchasers	Toxin Alert Inc. - Common Shares	81,000.15	147,273.00
24-Dec-2004	3 Purchasers	Transgaming Technologies Inc. - Convertible Debentures	338,000.00	338,000.00
30-Dec-2004	7 Purchasers	Uranium City Resources Inc. - Flow-Through Shares	156,195.00	240,300.00

**Notice of Exempt Financings**

30-Dec-2004	3 Purchasers	Uranium City Resources Inc, - Special Warrants	550,000.00	1,100,000.00
31-Dec-2004	Augen LP 2004-1 Augen Capital Corp	Uravan Minerals Inc. - Units	440,000.00	1,100,000.00
13-Dec-2004	14 Purchasers	UR- Energy Inc. - Flow-Through Shares	375,000.00	750,000.00
13-Dec-2004	23 Purchasers	UR- Energy Inc. - Units	590,000.00	1,180,000.00
31-Dec-2004	21 Purchasers	Vedron Gold Inc. - Flow-Through Shares	518,705.00	2,357,750.00
30-Dec-2004	Christopher Walker Robert J. Witter	Viva Source Corp. - Special Warrants	60,000.00	150,000.00
23-Dec-2004	15 Purchasers	Welton Energy Corporation - Units	582,248.70	3,881,658.00
23-Dec-2004 to 31-Dec-2004	Gerard Waslen and Augen Limited Partnership 2004-1	Western Warrior Resources Ltd. - Units	133,100.00	605,000.00
16-Dec-2004	7 Purchasers	Whitecastle Private Equity Partners Fund LP - Limited Partnership Units	20,000,000.00	20,000.00
31-Dec-2004	Harris Capital Management Inc.	William Doumani & Nancy Doumani - Units	50.00	200.00
22-Dec-2004 to 31-Dec-2004	3 Purchasers	Wimberly Apartments Limited Partnership - Limited Partnership Units	58,748.26	87,684.00
04-Jan-2005	Fred Leigh	Yankee Hat Industries Corp. - Common Shares	45,000.00	150,000.00
30-Dec-2004	Claude Petitclerc	Yankee Hat Industries Corp. - Flow-Through Shares	9,900.00	33,000.00
23-Dec-2004	4 Purchasers	Z-Tech (Canada) Inc. - Debentures	7,000,000.00	70,000,000.00
22-Dec-2004	The VenGrowth Advanced Life Sciences Fund Inc	Zelos Therapeutics Inc. - Convertible Debentures	4,000,000.00	4,000,000.00
22-Dec-2004	The VenGrowth Advanced Life Sciences Fund Inc.	Zelos Therapeutics Inc. - Convertible Debentures	4,000,000.00	1.00
31-Dec-2004	20 Purchasers	Zenda Capital Corp. - Flow-Through Shares	292,500.00	2,340,000.00

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## Chapter 11

# IPOs, New Issues and Secondary Financings

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**Issuer Name:**

ALAMOS GOLD INC  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Short Form Prospectus dated January 14, 2005  
Mutual Reliance Review System Receipt dated January 14, 2005

**Offering Price and Description:**

Cdn\$ 50,000,000.00 - 5.50% Convertible Unsecured  
Subordinated Debentures due 2010

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

BMO Nesbitt Burns Inc.  
RBC Dominion Securities Inc.  
GMP Securities Ltd.  
Haywood Securities Inc.  
McFarlane Gordon Inc.

**Promoter(s):**

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**Project #729530**

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**Issuer Name:**

Brascan Power Corporation  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Prospectus dated January 14, 2005  
Mutual Reliance Review System Receipt dated January 18, 2005

**Offering Price and Description:**

-

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

-

**Promoter(s):**

Brascan Power Inc.  
**Project #730054**

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**Issuer Name:**

Centurion Energy International Inc.  
Principal Regulator - Alberta

**Type and Date:**

Preliminary Short Form Prospectus dated January 13, 2005  
Mutual Reliance Review System Receipt dated January 13, 2005

**Offering Price and Description:**

\$33,125,000.00 - 2,500,000 Offered Shares Price: \$13.25  
per Common Share

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

GMP Securities Ltd.  
Orion Securities Inc.  
FirstEnergy Capital Corp.  
Jennings Capital Inc.  
Maison Placements Canada Inc.  
Octagon Capital Corporation

**Promoter(s):**

-

**Project #729250**

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**Issuer Name:**

Churchill III Debenture Corp.  
Churchill III Real Estate Limited Partnership  
Principal Regulator - British Columbia

**Type and Date:**

Preliminary Prospectus dated January 12, 2005  
Mutual Reliance Review System Receipt dated January 13, 2005

**Offering Price and Description:**

Minimum: \$2,000,000 (200 Debentures)  
Maximum: \$16,000,000 (1,600 Debentures)  
Price: \$10,000 per Debenture

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

Dundee Securities Corporation

**Promoter(s):**

Churchill International Securities Corporation  
**Project #728954 & 728938**

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**Issuer Name:**

Clarington Canadian Resources Class  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Simplified Prospectus dated January 14, 2005  
Mutual Reliance Review System Receipt dated January 14, 2005

**Offering Price and Description:**

Series A Shares

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

ClaringtonFunds Inc.

**Promoter(s):**

ClaringtonFunds Inc.  
**Project #729466**

---

**Issuer Name:**

Congress Financial Capital Company  
Principal Regulator - Nova Scotia

**Type and Date:**

Preliminary Short Form Prospectus dated January 14, 2005  
Mutual Reliance Review System Receipt dated January 14, 2005

**Offering Price and Description:**

\$400,000,000.00 - \* % Medium Term Notes (Unsecured)  
Unconditionally guaranteed as to principal, premium (if any), interest and certain other amounts by WACHOVIA CORPORATION

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

BMO Nesbitt Burns Inc.  
RBC Dominion Securities Inc.  
Scotia Capital Inc.

**Promoter(s):**

Wachovia Corporation  
Project #729391

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**Issuer Name:**

CPIL Inc.  
Principal Regulator - Manitoba

**Type and Date:**

Preliminary CPC Prospectus dated January 7, 2005  
Mutual Reliance Review System Receipt dated January 12, 2005

**Offering Price and Description:**

Maximum Offering: \$1,000,000 (5,000,000 Common Shares); Minimum Offering: \$750,000 (3,750,000 Common Shares) Price: \$0.20 per Common Share Minimum Subscription: \$800 (4000 Common Shares)

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

Canaccord Capital Corporation

**Promoter(s):**

-

Project #728116

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**Issuer Name:**

Dynamic Canadian Dividend Fund Ltd.  
Dynamic Focus+ Small Business Fund  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Simplified Prospectuses dated January 13, 2005  
Mutual Reliance Review System Receipt dated January 14, 2005

**Offering Price and Description:**

Series I Shares and Series I Units

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

Goodman & Company, Investment Counsel Ltd.

**Promoter(s):**

Goodman & Company, Investment Counsel Ltd.

Project #711713

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**Issuer Name:**

Echo Drive Capital Inc.  
Principal Regulator - Ontario

**Type and Date:**

Preliminary CPC Prospectus dated January 13, 2005  
Mutual Reliance Review System Receipt dated January 17, 2005

**Offering Price and Description:**

\$400,000.00 - 4,000,000 common shares Price: \$0.10 per common share

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

Investpro Securities Inc.

**Promoter(s):**

Gerald A. LaLonde  
William F. Cowperthwaite  
Project #729687

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**Issuer Name:**

Gaz Métro Limited Partnership  
Principal Regulator - Quebec

**Type and Date:**

Preliminary Short Form Prospectus dated January 14, 2005  
Mutual Reliance Review System Receipt dated January 14, 2005

**Offering Price and Description:**

\$65,090,000.00 - 2,830,000 Units Price: \$23.00 per Unit

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

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

**Promoter(s):**

-

Project #729389

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**Issuer Name:**

Grey Wolf Exploration Inc.  
Principal Regulator - Alberta

**Type and Date:**

Preliminary Prospectus dated January 14, 2005  
Mutual Reliance Review System Receipt dated January 18, 2005

**Offering Price and Description:**

\$ \* - \* Common Shares Price: \$ \* per Common Share

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

CIBC World Markets Inc.  
BMO Nesbitt Burns Inc.  
GMP Securities Ltd.  
Canaccord Capital Corporation

**Promoter(s):**

Robert L. G. Watson  
Chris E. Williford  
Project #730097

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**Issuer Name:**

Harris Steel Group Inc.  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Short Form Prospectus dated January 12, 2005  
Mutual Reliance Review System Receipt dated January 12, 2005

**Offering Price and Description:**

\$71,925,000 - 3,500,000 Common Shares Price; \$20.55  
per Common Share

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

GMP Securities Ltd.  
Canaccord Capital Corporation  
First Associates Investments Inc.  
Raymond James Ltd.  
Sprott Securities Inc.  
Dominick & Dominick Securities Inc.

**Promoter(s):**

-

**Project #728795**

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**Issuer Name:**

Keystone Newport ULC  
Keystone North America Inc.  
Principal Regulator - Ontario

**Type and Date:**

Amended and Restated Preliminary Prospectus dated  
January 11, 2005  
Mutual Reliance Review System Receipt dated January 12,  
2005

**Offering Price and Description:**

C\$ \* Income Participating Securities Price: \$10.00 per IPS

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

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

**Promoter(s):**

Keyston Group Holdings, Inc.

**Project #725600 & 725599**

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**Issuer Name:**

Manulife Financial Corporation  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Short Form Shelf Prospectus dated January  
14, 2005  
Mutual Reliance Review System Receipt dated January 18,  
2005

**Offering Price and Description:**

\$3,500,000,000.00 - Debt Securities Class A Shares; Class  
B Shares Common Shares

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

-

**Promoter(s):**

-

**Project #729480**

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**Issuer Name:**

Mercer International Inc.  
Principal Regulator - British Columbia

**Type and Date:**

Preliminary MJDS Prospectus dated January 11, 2005  
Mutual Reliance Review System Receipt dated January 12,  
2005

**Offering Price and Description:**

9,416,196 Shares of Beneficial Interest.

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

RBC Dominion Securities Inc.  
CIBC World Markets Inc.  
Raymond James Ltd.

**Promoter(s):**

-

**Project #728841**

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**Issuer Name:**

Mercer International Inc.  
Principal Regulator - British Columbia

**Type and Date:**

Preliminary MJDS Prospectus dated January 11, 2005  
Mutual Reliance Review System Receipt dated January 12,  
2005

**Offering Price and Description:**

US\$300,000,000.00 - % Senior Notes due 2013

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

RBC Dominion Securities Inc.  
Credit Suisse First Boston Canada Inc.  
CIBC World Markets Inc.

**Promoter(s):**

-

**Project #728882**

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**Issuer Name:**

Niko Resources Ltd.  
Principal Regulator - Alberta

**Type and Date:**

Preliminary Short Form Prospectus dated January 14, 2005  
Mutual Reliance Review System Receipt dated January 14,  
2005

**Offering Price and Description:**

\$102,000,000.00 - 2,000,000 Common Shares Price:  
\$51.00 per Common Share

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

Canaccord Capital Corporation  
FirstEnergy Capital Corp.  
Orion Securities Inc.  
Peters & Co. Limited  
Maison Placements Canada Inc.

**Promoter(s):**

-

**Project #729623**

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**Issuer Name:**

OpenSky Capital Managed Protection Income Trust Fund  
Principal Regulator - Quebec

**Type and Date:**

Amended and Restated Preliminary Prospectus dated  
January 12, 2005  
Mutual Reliance Review System Receipt dated January 12,  
2005

**Offering Price and Description:**

\$ \* - \* Units Price: \$10.00 per Unit Minimum Purchase: 200  
Units

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

National Bank Financial Inc.  
Canaccord Capital Corporation  
Desjardins Securities Inc.  
Dundee Securities Corporation  
HSBC Securities (Canada) Inc.  
Raymond James Ltd.  
Berkshire Securities Inc.  
First Associates Investments Inc.  
McFarlane Gordon Inc.  
Richardson Partners Financial Limited  
Wellington West Capital Inc.

**Promoter(s):**

OpenSky Capital

**Project #702778**

---

**Issuer Name:**

PROGRESS ENERGY TRUST  
Principal Regulator - Alberta

**Type and Date:**

Preliminary Short Form Prospectus dated January 17, 2005  
Mutual Reliance Review System Receipt dated January 17,  
2005

**Offering Price and Description:**

\$100,000,000 6.75% Convertible Unsecured Subordinated  
Debentures Price: \$1,000.00 per Debenture

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

CIBC World Markets Inc.  
BMO Nesbitt Burns Inc.  
Scotia Capital Inc.  
FirstEnergy Capital Corp.  
TD Securities Inc.  
Canaccord Capital Corporation  
Raymond James Ltd.  
First Associates Investments Inc.

**Promoter(s):**

-

**Project #730034**

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**Issuer Name:**

Qwest Energy 2005 Financial Corp.  
Qwest Energy 2005 Flow-Through Limited Partnership  
Principal Regulator - British Columbia

**Type and Date:**

Preliminary Prospectus dated January 14, 2005  
Mutual Reliance Review System Receipt dated January 14,  
2005

**Offering Price and Description:**

(1) Maximum Offering: \$50,000,000 (500,000 LP Units);  
Minimum Offering: \$5,000,000 (50,000 LP Units) Unit  
Price: \$100.00 per LP Unit Minimum LP Unit Purchase: 50  
LP Units;

(2) Maximum Offering: \$50,000,000 (500,000 Bonds)

Minimum Offering: \$1,000,000 (10,000 Bonds)

Bond Price: \$100.00 per Bond Minimum Bond Purchase:  
50 Bonds

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

Dundee Securities Corporation  
Canaccord Capital Corporation  
Berkshire Securities Inc.  
Raymond James Ltd.  
Wellington West Capital Inc.  
GMP Securities Ltd.  
Acumen Capital Finance Partners Limited  
Bieber Securities Inc.  
First Associates Investments Inc.  
HSBC Securities (Canada) Inc.

**Promoter(s):**

Qwest Energy Investment Corp.

**Project #729557 & 729532**

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**Issuer Name:**

Rockwater Capital Corporation  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Short Form Prospectus dated January 12, 2005  
Mutual Reliance Review System Receipt dated January 13,  
2005

**Offering Price and Description:**

\$ \* - \* Common Shares Price: \$ \* per Common Share

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

TD Securities Inc.  
First Associates Investments Inc.  
CIBC World Markets Inc.  
GMP Securities Ltd.  
Scotia Capital Inc.  
Genuity Capital Markets  
Sprott Securities Inc.

**Promoter(s):**

-

**Project #728861**

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**Issuer Name:**

Royal Bank of Canada  
Principal Regulator - Quebec

**Type and Date:**

Preliminary Short Form Prospectus dated January 17, 2005  
Mutual Reliance Review System Receipt dated January 18, 2005

**Offering Price and Description:**

\$300,000,000.00 - 12,000,000 Non-Cumulative First Preferred Shares Series W Price: \$25.00 per Preferred Share Series W to yield 4.90%

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

RBC Dominion Securities Inc.  
Scotia Capital Inc.  
TD Securities Inc.  
BMO Nesbitt Burns Inc.  
CIBC World Markets Inc.  
National Bank Financial Inc.  
Desjardins Securities Inc.  
HSBC Securities (Canada) Inc.  
Laurentian Bank Securities Inc.  
Trilon Securities Corporation

**Promoter(s):**

-

**Project #730094**

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**Issuer Name:**

Symmetry Allocation Pool  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Simplified Prospectus dated January 12, 2005  
Mutual Reliance Review System Receipt dated January 13, 2005

**Offering Price and Description:**

Series A Units

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

-

**Promoter(s):**

Mackenzie Financial Corporation  
**Project #728993**

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**Issuer Name:**

Altamira Inflation-Adjusted Bond Fund  
Principal Regulator - Ontario

**Type and Date:**

Final Simplified Prospectus dated January 12, 2005  
Mutual Reliance Review System Receipt dated January 14, 2005

**Offering Price and Description:**

Series I and Series A Units

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

Altamira Financial Services Ltd.  
Altamira Financial Services Ltd.

**Promoter(s):**

-

**Project #709184**

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**Issuer Name:**

Boardwalk Real Estate Investment Trust  
Principal Regulator - Alberta

**Type and Date:**

Final Short Form Prospectus dated January 14, 2005  
Mutual Reliance Review System Receipt dated January 14, 2005

**Offering Price and Description:**

\$120,000,000.00 - 5.31% SERIES A SENIOR UNSECURED DEBENTURES DUE JANUARY 23, 2012 Price: 99.953% plus accrued interest, if any

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

National Bank Financial Inc.  
RBC Dominion Securities Inc.

**Promoter(s):**

-

**Project #727987**

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**Issuer Name:**

Builders Energy Services Trust  
Principal Regulator - Alberta

**Type and Date:**

Final Prospectus dated January 13, 2005  
Mutual Reliance Review System Receipt dated January 14, 2005

**Offering Price and Description:**

\$46,000,000.00 - 4,600,000 Trust Units Price: \$10.00 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:**

Creststreet Power & Income Fund LP  
Principal Regulator - Ontario

**Type and Date:**

Final Prospectus dated January 13, 2005  
Mutual Reliance Review System Receipt dated January 13, 2005

**Offering Price and Description:**

\$27,000,000.00 - 7.00% 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:**

Final CPC Prospectus dated January 12, 2005  
Mutual Reliance Review System Receipt dated January 14, 2005

**Offering Price and Description:**

\$810,000.00 - 5,400,000 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:**

EnerVest Diversified Income Trust  
Principal Regulator - Alberta

**Type and Date:**

Final Short Form Prospectus dated January 12, 2005  
Mutual Reliance Review System Receipt dated January 12, 2005

**Offering Price and Description:**

Offering of Rights to Subscribe for Units Subscription Price: Five Rights and \$7.20 per Unit The Subscription Price is 87.9% of the market price per Unit on January 11, 2005

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

GMP Securities Ltd.

**Promoter(s):**

-

Project #727383

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**Issuer Name:**

Financial Industry Opportunities Fund Inc.

**Type and Date:**

Final Prospectus dated January 14, 2005  
Received on January 14, 2005

**Offering Price and Description:**

Class A, Series I and Class A, Series II

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

-

**Promoter(s):**

-

Project #723232

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**Issuer Name:**

Gammon Lake Resources Inc.  
Principal Regulator - Quebec

**Type and Date:**

Final Short Form Prospectus dated January 12, 2005  
Mutual Reliance Review System Receipt dated January 13, 2005

**Offering Price and Description:**

\$110,005,000.00 - 15,715,000 Common Shares Issuable Upon the Exercise of 15,715,000 Special Warrants

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

BMO Nesbitt Burns Inc.

RBC Dominion Securities Inc.

First Associates Investments Inc.

**Promoter(s):**

-

Project #723757

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**Issuer Name:**

GrowthWorks Commercialization Fund Ltd.  
Principal Regulator - Ontario

**Type and Date:**

Final Prospectus dated January 12, 2005  
Mutual Reliance Review System Receipt dated January 14, 2005

**Offering Price and Description:**

Class A Shares, Series 1 Maximum Offering: \$60 Million

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

GrowthWorks Capital Ltd.

**Promoter(s):**

-

Project #703694

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**Issuer Name:**

InterOil Corporation

**Type and Date:**

Amendment #1 dated January 13, 2005 to Base Shelf Prospectus dated December 13, 2004  
Received on January 18, 2005

**Offering Price and Description:**

\$165,000,000 - 4,500,000 Common Shares Price: \$36.66 per Common Share

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

-

**Promoter(s):**

-

Project #706942

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**Issuer Name:**

Saxon US Equity Fund  
Saxon International Equity Fund  
Principal Regulator - Ontario

**Type and Date:**

Final Simplified Prospectuses dated January 13, 2005  
Mutual Reliance Review System Receipt dated January 14, 2005

**Offering Price and Description:**

-

**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:**

The Business, Engineering, Science & Technology  
Discoveries Fund Inc.

**Type and Date:**

Final Prospectus dated January 11, 2005  
Received on January 12, 2005

**Offering Price and Description:**

Class A Shares, Series I; Class A Shares, Series II; and  
Class A Shares, Series III

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

-

**Promoter(s):**

1208733 Ontario Inc.

**Project #720054**

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**Issuer Name:**

Trimark Floating Rate Income Fund  
Principal Regulator - Ontario

**Type and Date:**

Final Simplified Prospectus dated January 17, 2005  
Mutual Reliance Review System Receipt dated January 18, 2005

**Offering Price and Description:**

-

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

AIM Funds Management Inc.

**Promoter(s):**

AIM Funds Management Inc.

**Project #727272**

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**Issuer Name:**

Versacold Income Fund  
Principal Regulator - British Columbia

**Type and Date:**

Final Short Form Prospectus dated January 14, 2005  
Mutual Reliance Review System Receipt dated January 14, 2005

**Offering Price and Description:**

\$30,000,000.00 - 6.25% Convertible Unsecured  
Subordinated Debentures Price: \$1,000 per Debenture

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

TD Securities Inc.  
CIBC World Markets Inc.  
Scotia Capital Inc.  
Raymond James Ltd

**Promoter(s):**

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**Project #727911**

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## Chapter 12

# Registrations

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### 12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
New Registration	Hexavest Inc.	Investment Counsel & Portfolio Manager and Commodity Trading Counsel & Commodity Trading Manager	January 12, 2005
New Registration	G.I. Capital Corp.	Investment Counsel & Portfolio Manager	January 14, 2005
New Registration	Black Creek Investment Management Inc.	Limited Market Dealer and Investment Counsel & Portfolio Manager	January 17, 2005
New Registration	E*Trade Securities LLC	International Dealer	January 14, 2005
New Registration	ChabotPage Investment Counsel Inc.	(Extra-Provincial) Investment Counsel and Portfolio Manager	January 6, 2005

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## Chapter 25

# Other Information

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### 25.1 Approvals

"Wendell S. Wigle"

"Suresh Thakrar"

#### 25.1.1 Strategic Advisors Corp. and Strategic Capital Partners Inc. - cl. 213(3)(b) of the LTCA

##### Headnote

Approval under clause 213(3)(b) of the Loan and Trust Corporations Act – Manager of pooled funds sold pursuant to dealer registration and prospectus exemptions approved to act as trustee.

##### Statutes Cited

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

January 11, 2005

Strategic Advisors Corp.  
1311 Yonge Street  
Toronto, Ontario  
M4T 3B6

Attention: Adam Abramson, Vice President

Dear Sir/Mesdames:

**Re: Strategic Advisors Corp. ("SAC") and Strategic Capital Partners Inc. ("SCPI")  
Application for approval to act as trustee pursuant to clause 213(3)(b) of the *Loan and Trust Corporations Act* (Ontario) (the "LTCA")  
Application No. 913/04**

By way of letter dated October 27, 2004 (the "Application"), you applied on behalf of SAC and SCPI (together, the "Applicants") to the Ontario Securities Commission (the "Commission"), pursuant to the authority conferred upon the Commission in clause 213(3)(b) of the LTCA, for an approval to act as the trustee of the Strategic Value Trust and any other pooled fund established and managed by one or both of the Applicants from time to time (together, the "Pooled Funds").

Each of the Pooled funds will be "mutual funds" for the purposes of the Securities Act (Ontario), but will not be reporting issuers as their securities will be sold pursuant to available dealer registration and prospectus exemptions.

This letter confirms that, based on the information and representations set out in the Application, and for the purposes described in the Application, the Commission hereby approves the proposal that the Applicants act as trustee of the Pooled Funds which they will manage.

## 25.2 Exemptions

### 25.2.1 CI Mutual Funds Inc. et al. - s. 147 of the Act and s. 6.1 of OSC Rule 13-502

#### Headnote

Item F(1) of Appendix C of OSC Rule 13-502 Fees – exemption for Funds from paying an activity fee of \$5,500 in connection with an application brought under subsection 147 of the Act, provided an activity fee be paid on the basis that the application be treated as an application for other regulatory relief under item F(3) of Appendix C of the Rule.

#### Rules Cited

Ontario Securities Commission Rule 13-502, Fees, (2003) 26 OSCB 4339 and 27 OSCB 7747.  
Securities Act, R.S.O. 1990, c. S.5 as am., ss.77(2) and ss.78(1).  
National Instrument 13-101 – System for Electronic Document Analysis and Retrieval (SEDAR), s. 2.1(1)1.

BY FACSIMILE

December 3, 2004

#### McCarthy Tetrault LLP

Box 48, Suite 4700  
Toronto Dominion Bank Tower  
Toronto, Ontario  
M5K 1E6

Attention: Katarzyna Szybiak

Dear Sirs and Mesdames:

**Re: CI Mutual Funds Inc. and the funds listed at Schedule A  
Application under Section 147 of the Securities Act (Ontario) and Section 6.1 of OSC Rule 13-502 - Fees ("Rule 13-502")  
Application # 946/04**

By letter dated November 8, 2004 (the "Application"), you applied on behalf of CI Mutual Funds Inc. ("CI"), the manager of the funds listed at Schedule A (the "Existing Funds") and any similar limited partnerships or pooled funds managed by CI now or in the future (collectively with the Existing Funds, the "Funds"), to the Ontario Securities Commission (the "Commission") under section 147 of the *Securities Act* (Ontario) (the "Act") for relief from subsections 77(2) and 78(1) of the Act, which require every mutual fund in Ontario to file interim and comparative annual financial statements (the "Financial Statements") with the Commission.

By same date and cover, you additionally applied to the securities regulatory authority in Ontario (the "Decision Maker") on behalf of CI for an exemption, pursuant to subsection 6.1 of Rule 13-502, from the requirement to pay an activity fee of \$5,500 in connection with the Application in accordance with item F(1) of Appendix C of the Rule, on

the condition that fees be paid on the basis that the Application be treated as an application for other regulatory relief under item F(3) of Appendix C of Rule 13-502, and from the requirement to pay an activity fee of \$1,500 in connection with the latter relief (the "Fee Exemption"). Item F of Appendix C of Rule 13-502 specifies the activity fee applicable for applications for discretionary relief. Item F(1) specifies that applications under section 147 of the Act pay an activity fee of \$5,500, whereas item F(3) specifies that applications for other regulatory relief pay an activity fee of \$1,500.

From our view of the Application and other information communicated to staff, we understand the relevant facts and representations to be as follows:

1. CI is a corporation existing under the laws of Ontario with its head office in Toronto, Ontario. CI is the investment advisor of the Existing Funds, and CI or an affiliate of CI will be the manager or investment advisor of any future Funds.
2. CI is registered under the Act as an advisor in the categories of investment counsel and portfolio manager.
3. The Funds are, or will be, mutual fund trusts or limited partnerships established under the laws of Ontario and as such each Fund is, or will be, "a mutual fund in Ontario" as defined in section 1(1) of the Act.
4. Sections 77(2) and 78(1) of the Act require every mutual fund in Ontario to file interim and annual financial statements with the Commission.
5. Sections 89 and 92 of the Regulation to the Act (the "Regulation") require that the Financial Statements filed pursuant to subsections 77(2) and 78(1) of the Act include the statement of portfolio transactions (the "Statement"). A mutual fund may omit the Statement required by section 89 and 92 of the Regulation from its Financial Statements, if, among other conditions, a copy of the Statement is filed with the Commission prior to or concurrently with the filing of the Financial Statements. The Existing Funds and CI currently rely on section 94 of the Regulation.
6. CI acts as investment advisor to the Existing Funds units of which are offered pursuant to statutory exemptive relief and, as such, are not reporting issuers in any of the provinces or territories in Canada.
7. Unitholders of the Existing Funds receive interim and annual financial statements for the Existing Funds they hold. The Existing Funds annual financial statements are audited by PricewaterhouseCoopers LLP.
8. Pursuant to section 2.1(1) of National Instrument 13-101 – System for Electronic Document

Analysis and Retrieval (SEDAR), every issuer required to file Financial Statements with the Commission must make this filing through SEDAR, whereupon the filing will be made available to the general public through the SEDAR internet website.

9. In the Application, CI and the Existing Funds have requested under section 147 of the Act relief from filing the Financial Statements with the Commission. The activity fee associated with the Application is \$5,500 in accordance with item F(1) of Appendix C of Rule 13-502.
10. If CI and the Existing Funds had, as an alternative to the Application, sought an exemption from the requirement to file the Financial Statements via SEDAR, the activity fee for that application would be \$1,500 in accordance with item F(3) of Appendix C of Rule 13-502.
11. If the Existing Funds were reporting issuers seeking the same relief as requested in the Application, such relief could be sought under section 80 of the Act, rather than under section 147 of the Act, and the activity fee for that application would be \$1,500 in accordance with item F(3) of Appendix C of Rule 13-502.

**SCHEDULE A**

**FUNDS**

Altrinsic Opportunities Fund  
BPI American Opportunities Fund  
BPI American Opportunities RSP Fund  
BPI Global Opportunities III Fund  
BPI Global Opportunities III RSP Fund  
CI Multi-Manager Opportunities Fund  
Landmark Global Opportunities Fund  
Landmark Global Opportunities RSP Fund  
Trident Global Opportunities Fund  
Trident Global Opportunities RSP Fund  
Trilogy Global Opportunities Fund  
Trilogy Global Opportunities RSP Fund

**Decision**

This letter confirms that, based on the information provided in the Application, and the facts and representations above, and for the purposes described in the Application, the Decision Maker hereby exempts CI and the Funds from:

- i) paying an activity fee of \$5,500 in connection with the Application, provided that CI and the Funds pay an activity fee on the basis that the Application be treated as an application for other regulatory relief under item F(3) of Appendix C to Rule 13-502; and
- ii) paying an activity fee of \$1,500 in connection with the Fees Exemption application under item F(3) of Appendix C to Rule 13-502.

“R. Goldberg”



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