The Ontario Securities Commission

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

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Chapter 1

Notices / News Releases

1.1 Notices

1.1.1 Current Proceedings Before The Ontario Securities Commission

FEBRUARY 04, 2005

CURRENT PROCEEDINGS

BEFORE

ONTARIO SECURITIES COMMISSION

\- -

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

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

SCHEDULED OSC HEARINGS

Date	Matter
TBA	**Yama Abdullah Yaqeen** s. 8(2) J. Superina in attendance for Staff Panel: RLS/ST/DLK
TBA	**Cornwall *et al*** s. 127 K. Manarin in attendance for Staff Panel: HLM/RWD/ST
February 14, 15 & 23, 2005 10:00 a.m.	**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
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 10:00 a.m.	**Philip Services Corp. *et al*** s. 127 K. Manarin in attendance for Staff Panel: PMM/RWD/ST

May 24-27, 2005 10:00 a.m.	**Joseph Edward Allen, Abel Da Silva, Chateram Ramdhani and Syed Kabir** s. 127 J. Waechter in attendance for Staff Panel: TBD
May 26, 2005 10:00 a.m.	**Firestar Capital Management Corp., Kamposse Financial Corp., Firestar Investment Management Group, Michael Ciavarella and Michael Mitton** s. 127 J. Cotte in attendance for Staff Panel: PMM/RWD
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
June 13–30, 2005 10:00 a.m. June 14 & 28, 2005 2:30 p.m.	**In the matter of Allan Eizenga,** Richard Jules Fangeat*, Michael Hersey*, Luke John McGee* and Robert Louis Rizzutto* **and In the matter of Michael Tibollo** s. 127 T. Pratt in attendance for Staff Panel: TBA * Fangeat settled June 21, 2004 * Hersey settled May 26, 2004 * McGee settled November 11, 2004 * Rizzutto settled August 17, 2004

ADJOURNED SINE DIE

Global Privacy Management Trust and Robert Cranston

Andrew Keith Lech

S. B. McLaughlin

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

1.1.2 Request for Comments - Proposed Multilateral Instrument 52-111 and Companion Policy 52-111CP Reporting on Internal Control over Financial Reporting and Proposed Repeal and Replacement of Multilateral Instrument 52-109, Forms 52-109F1, 52-109FT1, 52-109F2 and 52-109FT2 and Companion Policy 52-109CP Certification of Disclosure in Issuers' Annual and Interim Filings

REQUEST FOR COMMENTS

**PROPOSED MULTILATERAL INSTRUMENT 52-111
AND COMPANION POLICY 52-111CP
REPORTING ON INTERNAL CONTROL OVER
FINANCIAL REPORTING**

AND

**PROPOSED REPEAL AND REPLACEMENT OF
MULTILATERAL INSTRUMENT 52-109,
FORMS 52-109F1, 52-109FT1, 52-109F2 AND 52-109FT2
AND COMPANION POLICY 52-109CP
CERTIFICATION OF DISCLOSURE IN ISSUERS'
ANNUAL AND INTERIM FILINGS**

Request for Public Comment

The Commission is publishing for a 120-day comment period the following materials in today's Bulletin:

- Multilateral Instrument 52-111 *Reporting on Internal Control over Financial Reporting*;
- Companion Policy 52-111CP;
- Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*;
- Forms 52-109F1, 52-109FVT1, 52-109FM1, 52-109F1R, 52-109F1R – AIF, 52-109F2, 52-109FT2, 52-109FM2 and 52-109F2R; and
- Companion Policy 52-109CP.

We request comments on the proposed materials by **June 6, 2005**.

These materials are published in Chapter 6 of the Bulletin.

1.1.3 Notice of Proposed Amendments to the Securities Act

NOTICE OF PROPOSED AMENDMENTS TO THE SECURITIES ACT

The Commission is publishing in Chapter 9 of today's Bulletin an unofficial blackline consolidation of the amendments made by the *Budget Measures Act (Fall), 2004*, (Bill 149) to section 126.2 and to Part XXIII.1 of *Securities Act*.

1.1.4 Notice of Commission Approval - Proposed Amendments to CNQ Rules - Entry of Off-Market Orders by Non-Market Makers

CANADIAN TRADING AND QUOTATION SYSTEM INC. (CNQ)

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

NOTICE OF COMMISSION APPROVAL

On January 28, 2005 the Commission approved the Proposed Amendments to CNQ Rules – Entry of Off-Market Orders by Non-Market Makers. The notice and request for comment was published on December 3, 2004 at (2004) 27 OSCB 9803. No comment letters were received.

1.1.5 Revised Notice of Rule National Instrument 31-101 National Registration System, National Policy 31-201 National Registration System

REVISED NOTICE OF RULE

NATIONAL INSTRUMENT 31-101 *NATIONAL REGISTRATION SYSTEM*,

NATIONAL POLICY 31-201 *NATIONAL REGISTRATION SYSTEM*

The Commission is publishing in today's Bulletin a revised version of the Notice that accompanied the publication of National Instrument 31-101 *National Registration System* and National Policy 31-201 *National Registration System* in the January 7, 2005 edition of the Bulletin. We are not re-publishing the appendices to the Notice or the National Instrument or the National Policy as there are no changes to them.

The material revisions to the Notice clarify certain procedural matters in Québec and British Columbia. A black-lined version of the Notice showing all changes made to the previously published version of the Notice accompanies the revised version.

As stated when the Notice was first published, the National Instrument and the materials required by the *Securities Act*, Ontario to be delivered to the Minister responsible for the administration of the Act were delivered on December 21, 2004. If the Minister approves the National Instrument, does not reject the National Instrument or return it to the Commission for further consideration, it will come into force on April 4, 2005.

1.1.6 CSA Staff Notice 12-307 - Ceasing to be a Reporting Issuer under the Mutual Reliance Review System for Exemptive Relief Applications

CSA STAFF NOTICE 12-307

CEASING TO BE A REPORTING ISSUER UNDER THE MUTUAL RELIANCE REVIEW SYSTEM FOR EXEMPTIVE RELIEF APPLICATIONS

First published September 12, 2003, revised February 4, 2005.

Background

Effective on September 12, 2003, the local securities regulatory authority or regulator in Alberta, Saskatchewan, Manitoba, Ontario, Québec, Nova Scotia and Newfoundland and Labrador (the "Jurisdictions") adopted a revised procedure, accessible under National Policy 12-201 Mutual Reliance Review System for Exemptive Relief Applications ("NP 12-201") and available in certain circumstances, for requests for exemptive relief under the securities legislation (the "Legislation") of the Jurisdictions in which the applicant is seeking a decision that it cease to be a reporting issuer.

A reporting issuer:

- that is not a reporting issuer in British Columbia (including issuers that have voluntarily surrendered their reporting issuer status under British Columbia Instrument 11-502 Voluntary Surrender of Reporting Issuer Status[1]);
- that is seeking a decision, from the local securities regulatory authority or regulator (the "Decision Maker") in each of the Jurisdictions in which it is a reporting issuer, that it cease to be a reporting issuer;
- whose outstanding securities, 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;
- whose securities are not traded on a marketplace as defined in National Instrument 21-101 Marketplace Operation; and
- that is not in default of any of its obligations under the Legislation as a reporting issuer;

may request the relief by submitting, to each of the Jurisdictions in which the applicant is seeking the relief, the fees applicable under the Legislation and a letter in duplicate
prepared by or on behalf of the applicant that:

- states that the applicant is seeking a decision of the Decision Makers that it cease to be a reporting issuer;
- references this Staff Notice; and
- includes representations that the applicant meets each of the criteria set out in this Staff Notice.

An example application letter and form of decision granting the relief is attached as Schedule 1. Notwithstanding the format of the application described, staff may request that the reporting issuer provide additional information in support of the application.

Issuers are reminded to review securities legislation to determine whether relief is required in a jurisdiction. In Manitoba, section 131(3) of *The Securities Act* (Manitoba) describes circumstances where an issuer automatically ceases to be reporting. If an issuer can rely on this section, a letter should be sent to the Commission confirming this reliance and the issuer will no longer be reporting. If the issuer cannot rely on this provision, Manitoba will continue to process the application under this policy. Likewise, in British Columbia an issuer may be able to rely on British Columbia Instrument 11-502 Voluntary Surrender of Reporting Issuer Status.

[1] A reporting issuer in British Columbia with not more than 50 security holders (both debt and equity), whose securities are not traded through any exchange or market, may surrender its status as a reporting issuer simply by filing with the British Columbia Securities Commission the notice described in British Columbia Instrument 11-502 Voluntary Surrender of Reporting Issuer Status.

Objective

The revised procedure will simplify the process, in certain routine circumstances, for a reporting issuer submitting an application under NP 12-201 that it cease to be a reporting issuer. If an applicant requesting relief to cease to be a reporting issuer does not meet the requirements of this Staff Notice, the applicant may submit an application under the standard procedure set out in NP 12-201.

Schedule 1

Example of an Application Letter

*

Dear *

*

Re: * (the "Applicant") - Application to Cease to be a Reporting Issuer under the securities legislation of – [list the jurisdictions and define as "Jurisdictions"]

We are applying to the **[identify principal regulator]** as principal regulator on behalf of the Applicant for an order under the securities legislation (the "Legislation") of the Jurisdictions that the Applicant is deemed to have ceased to be a reporting issuer in the Jurisdictions.

Pursuant to CSA Staff Notice 12-307, the Applicant represents 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.

Dated this ___day of ________, in the City of ________ in the Province of ________.

Applicant name *
Signature of the person who has signing authority

Example of an Order/ Letter Granting the Relief

*

Dear *

*

Re: * (the “Applicant”) - Application to Cease to be a Reporting Issuer under the securities legislation of – [list the jurisdictions and define as “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.

____
*
Signature of the person who has signing authority

1.1.7 Concept Paper 23-402 - Best Execution and Soft Dollar Arrangements

CONCEPT PAPER 23-402
BEST EXECUTION AND SOFT DOLLAR ARRANGEMENTS

Introduction

The Commission, along with the British Columbia Securities Commission, the Alberta Securities Commission, the Manitoba Securities Commission and the Autorité des marchés financiers du Québec, is publishing Concept paper 23-402 *Best execution and soft dollar arrangements* for comment. The purpose of the concept paper is to set out a number of issues related to best execution and soft dollar arrangements for discussion and obtain feedback. We will take the feedback received through the consultation process into account in our assessment of what, if any, further steps are appropriate.

Request for Comment

We welcome your comments on the issues identified in the concept paper in both hard copy and email form. Please submit them in writing on or before May 6, 2005.

Please address your submission to all of the CSA listed below in care of the OSC, in duplicate as indicated below:

British Columbia Securities Commission
Alberta Securities Commission
Manitoba Securities Commission
Ontario Securities Commission

c/o John Stevenson, Secretary
Ontario Securities Commission
20 Queen Street West
Suite 1903, Box 55
Toronto, Ontario M5H 3S8
Fax: (416) 593-2318
Email: jstevenson@osc.gov.on.ca

Please also send your submission to the Autorité des marchés financiers as follows:

Anne-Marie Beaudoin, Directrice du secrétariat
Autorité des marchés financiers
Tour de la Bourse
800, square Victoria
C.P. 246, 22e étage
Montréal, Québec H4Z 1G3
Email: consultation-en-cours@lautorite.com

We cannot keep submissions confidential because securities legislation in certain provinces requires us to publish a summary of written comments received during the comment period.

The paper is published in Chapter 6 of this bulletin.

Questions

Please refer your questions to any of the following people:

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cpetlock@osc.gov.on.ca

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doubrown@gov.mb.ca

February 4, 2005

1.3 News Releases

1.3.1 OSC Commences Proceedings in Respect of Foreign Capital Corp., Montpellier Group Inc. and Pierre Alfred Montpellier

FOR IMMEDIATE RELEASE
January 28, 2005

OSC COMMENCES PROCEEDINGS IN RESPECT OF FOREIGN CAPITAL CORP., MONTPELLIER GROUP INC. AND PIERRE ALFRED MONTPELLIER

Toronto –The Ontario Securities Commission has issued a Notice of Hearing and related Statement of Allegations in respect of Foreign Capital Corp., Montpellier Group Inc. and Pierre Alfred Montpellier.

On April 14, 2004, Pierre Montpellier pled guilty in court to fraud and theft contrary to the Criminal Code of Canada. Specifically, he agreed that he had defrauded 128 investors in Foreign Capital Corporation of $5,347,300.00 by falsely representing to them that their funds would be invested in private placement programs. He further agreed that at the time of these offences, he was a licensed mutual funds salesman, and was offering investment counselling services through the offices of the Montpellier Group Inc. located in Sudbury, Ontario. On the basis of these facts, Enforcement Staff allege that Montpellier, the Montpellier Group Inc. and Foreign Capital Corporation have engaged in conduct contrary to the public interest.

The hearing of these allegations has been scheduled for February 25, 2005 at 10:00 am in the Commission's main hearing room on the 17th floor of the Commission's offices at 20 Queen Street West, Toronto. Copies of the Notice of Hearing and Statement of Allegations in this matter are available on the Commission's website at **www.osc.gov.on.ca**.

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

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

1.3.2 Ontario Court of Appeal Restores Commission's 15 Year Sanctions in Piergiorgio Donnini Matter

FOR IMMEDIATE RELEASE
January 28, 2005

ONTARIO COURT OF APPEAL RESTORES COMMISSION'S 15 YEAR SANCTIONS IN PIERGIORGIO DONNINI MATTER

Toronto – In a unanimous decision issued today, the Ontario Court of Appeal allowed the Commission's appeal of the decision of the Ontario Divisional Court and restored the Commission's 15 year sanctions imposed on Piergiorgio Donnini.

The appeal arose out of a hearing before the Commission pursuant to sections 127 and 127.1 of the *Securities Act* (Ontario) in respect of allegations made by Staff of the Commission against Donnini. On September 12, 2002, after a five day hearing, the Commission found that Donnini committed unlawful insider trading, contrary to section 76(1) of the Act. In exercising its protective and preventive jurisdiction under section 127(1) of the Act, the Commission imposed sanctions on Donnini, including a 15-year suspension of Donnini's registration. In addition, pursuant to section 127.1, the Commission ordered Donnini to pay investigation and hearing costs in the amount of $186,052.30.

Donnini had appealed to the Divisional Court the Commission's findings that he committed unlawful insider trading, the Commission's order imposing the 15 year sanctions and award of costs against him.

The Divisional Court had dismissed Donnini's appeal from the finding that he committed unlawful insider trading, but allowed the appeal in respect of the sanctions imposed on Donnini and the award of costs. In particular, the Divisional Court reduced the sanctions imposed by the Commission on Donnini from 15 to 4 years. On the issue of costs, the Divisional Court directed the Commission to reconsider its costs award against Donnini by following certain specific procedural steps.

In restoring the 15 years sanctions ordered by the Commission in respect of Donnini, the Ontario Court of Appeal made the following comments:

> "…The high level of deference which a reviewing court must show to a security commission's decision extends to the question of sanctions because of the expertise of the commission regarding securities matters…
>
> The Commission wrote careful and extensive reasons on the sanctions issue. The Commission considered the extent and seriousness of the unlawful conduct, Donnini's experience in the market, his position in the industry, his other violations of securities law and Yorkton's own

> internal rules and, of particular importance, general deterrence[…]
>
> There is no doubt that the 15-year suspension of Donnini's registration is a substantial penalty. However, the Commission took into account the appropriate factors in imposing such a severe sanction – Donnini's senior position at Yorkton, his experience in the industry, his other misconduct in the market and, perhaps most importantly, the devastating impact insider trading can have on the integrity of the market and on investor confidence. In my view, these factors stand up to "a somewhat probing analysis."

The Ontario Court of Appeal dismissed Donnini's cross-appeal on liability, stating:

> Moreover, on the record before the Commission, there was ample evidence to support the Commission's conclusion that Donnini had engaged in unlawful insider trading. The Commission's findings that the proposed second special warrants financing (including its size and price) was a material fact, that Donnini knew of the material fact by 2:45 p.m. on February 29, 2000, and that he acted on this knowledge by trading in KCA shares on a "massive scale" on February 29 and March 1, before the information was known publicly on the market, are all amply supported by the record and, especially, in the comprehensive reasons of the Commission.

Finally, the matter of the costs award is referred back to the Commission for further consideration.

The Court of Appeal's decision is available at www.ontariocourts.on.ca.

For Media Inquiries: Wendy Dey
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416-593-8120

For Investor Inquiries: OSC Contact Centre
416-593-8314
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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 SignalEnergy Inc. - MRRS Decision

Headnote

Relief from issuer bid requirements – relief from the requirement to provide prospectus level financial statement disclosure in a take-over bid circular – offeror had purchased an oil and gas company that constituted a significant acquisition – securities legislation requires that audited financial statements for the last three completed fiscal years of the oil and gas property be included in the take-over bid circular – offeror may rely on audited operating statements as alternative disclosure in the take-over bid circular.

Applicable Ontario Statutory Provisions

Securities Act, R.S.O. 1990, c. S.5. as am, subsection 104(2)(c).

Applicable Securities Rules

Companion Policy to Ontario Securities Commission Rule 41-501 – General Prospectus Requirements.

Citation: SignalEnergy Inc., 2005 ABASC 7

January 14, 2005

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

AND

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

AND

**IN THE MATTER OF
SIGNALENERGY INC. (THE FILER)**

MRRS DECISION DOCUMENT

Background

1. The local securities regulatory authority or regulator (the Decision Maker) in each of the Jurisdictions has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) that, in connection with its offer to purchase all of the issued and outstanding securities of Predator Exploration Ltd. (Predator), the Filer be exempt from the requirement under the Legislation to include in the Circular (as defined below) audited financial statements for the O&G Properties (as defined below) for the last three completed fiscal years (the Requested Relief).

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

   2.1 the Alberta Securities Commission is the principal regulator for this application, and

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

Interpretation

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

Representations

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

   4.1 The Filer was incorporated pursuant to a certificate of amalgamation dated May 1, 1996 issued under Part 1 of the *Companies Act* (Quebec) resulting from the amalgamation of “Société d’exploitation Algène Biotechnologies Inc.” and “Société d’investissement R&D Algène Inc.”

   4.2 The head office of the Filer is located in Calgary, Alberta.

   4.3 The Filer is a reporting issuer or the equivalent in each of the Jurisdictions and is not in default of any requirement under the Legislation.

   4.4 The Filer’s authorized capital consists of an unlimited number of common shares (Common Shares), Preferred Shares and Class “A” Shares. 30,665,772 Common Shares, nil Preferred Shares and

5,240,754 Class "A" Shares were outstanding as of November 24, 2004.

4.5 The Common Shares are listed and posted for trading on the Toronto Stock Exchange.

4.6 Predator was incorporated on January 6, 2000 pursuant to the provisions of the *Company Act* (British Columbia).

4.7 The head office of Predator is in Calgary, Alberta.

4.8 Predator is a reporting issuer in Alberta and British Columbia and is not in default of any requirements under the applicable legislation.

4.9 The common shares of Predator (the Predator Shares) are listed and posted for trading on the TSX Venture Exchange.

4.10 Pursuant to a pre-acquisition agreement between the Filer and Predator dated as of October 29, 2004, the Filer proposed to make an offer to purchase all of the issued and outstanding Predator Shares at a purchase price of 0.3846 of a Common Share for each Predator Share (the Take-Over Bid).

4.11 The Take-Over Bid will be conducted as formal take-over bid under the Legislation.

4.12 Effective January 9, 2004, the Filer completed the acquisition of certain oil and gas properties (the O&G Properties) in the greater Carrot Creek area located in west central Alberta from ManCal Energy Inc. (the Vendor).

4.13 The acquisition of the O&G Properties by the Filer constitutes a "significant acquisition" under the Legislation (the Significant Acquisition).

4.14 The Filer has not accounted for the Significant Acquisition as a reverse take-over and the O&G Properties did not constitute a "reportable segment" of the Vendor, as defined in section 1701 of the Handbook, at the time of the Significant Acquisition.

4.15 The Filer has prepared a take-over bid circular (the Circular) in connection with the Take-Over Bid and as a result of the Significant Acquisition, the Legislation requires, among other things, that the Filer include in the Circular audited financial statements for the O&G Properties for the last three completed fiscal years (the Property Financial Statements).

4.16 The Filer will not include the Property Financial Statements in the Circular, but will be including audited operating statements for the O&G Properties for the last three completed fiscal years which present, in relation to the O&G Properties, among other things, gross revenue, royalty expenses, production costs and operating income (the Audited Operating Statements).

Decision

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

6. The decision of the Decision Makers under the Legislation is that the Requested Relief is granted provided that the Circular includes the Audited Operating Statements.

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

"Stephen R. Murison"
Vice-Chair
Alberta Securities Commission

2.1.2 UBS Global Asset Management (Canada) Co. - MRRS Decision

Headnote

UBS Global Asset Management (Canada) Co.

Mutual Reliance Review System for Exemptive Relief Applications – relief from requirement to obtain specific and informed written consent from clients once in each twelve-month period with respect to certain funds – subject to conditions.

Applicable Ontario Legislation

Ontario Regulation 1015, R.R.O. 1990, sec. 227(2)(b)(ii), 233.

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

AND

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

AND

**IN THE MATTER OF
UBS GLOBAL ASSET MANAGEMENT (CANADA) CO.**

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the **"Decision Maker"**) in each of the Provinces of Alberta, Ontario, Nova Scotia and Newfoundland and Labrador (the **"Jurisdictions"**) has received an application from UBS Global Asset Management (Canada) Co. (the **"Applicant"**) for a decision (the **"Decision"**) pursuant to the securities legislation of the Jurisdictions (the **"Legislation"**) that the restriction against an adviser exercising discretionary authority with respect to a client's account to purchase and/or sell the securities of a related issuer or a connected issuer of the registrant without providing the client with the statement of policies of the registrant and securing the specific and informed written consent of the client once in each twelve month period (the **"Annual Consent Requirement"**) does not apply to the securities of the UBS (Canada) Funds (the **"Funds"**), subject to certain conditions.

AND WHEREAS pursuant to the Mutual Reliance Review System for Exemptive Relief Applications (the **"System"**), the Ontario Securities Commission is the principal regulator for this application;

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

AND WHEREAS it has been represented by the Applicant to the Decision Makers that:

1. The Applicant is a corporation amalgamated under the *Companies Act of Nova Scotia* and is registered under the *Securities Act* (Ontario) as an adviser, in the categories of investment counsel and portfolio manager, and as a limited market dealer. The Applicant is registered as an adviser or in an equivalent capacity in each of the other Jurisdictions. The Applicant is also registered as a limited market dealer in Newfoundland and Labrador.

2. The Applicant manages some of its client's assets on a discretionary basis with segregated, separate portfolios of securities for each client that may consist of securities of the Funds. All discretionary clients of the Applicant enter into an investment management agreement with the Applicant whereby each client specifically consents to the Applicant exercising its discretion under the investment management agreement to, among other things, buying and/or selling securities of related issuers and/or connected issuers of the Applicant, including the Funds.

3. All discretionary clients of the Applicant receive a statement of policies that lists the related issuers and connected issuers of the Applicant, including the Funds, when the client initially retains the services of the Applicant. In the event of a significant change in its statement of policies, the Applicant will provide to each of its clients a copy of the revised version of, or amendment to, its statement of policies.

4. Units of the Funds are, and will be, offered continuously to investors on a private placement basis.

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

AND WHEREAS pursuant to the System this MRRS Decision Document evidences the decision of each Decision Maker;

THE DECISION of the Decision Makers pursuant to the Legislation is that the Applicant is exempt from the Annual Consent Requirement under the Legislation in respect of the exercise of discretionary authority to invest in securities of the Funds provided the Applicant has secured the specific and informed written consent of the client in advance of the exercise of discretionary authority in respect of such securities.

January 26, 2005.

"Robert L. Shirriff" "David L. Knight"

2.1.3 TD Waterhouse Canada Inc. - MRRS Decision

Headnote

MRRS – Revocation and replacement of prior MRRS decision in response to a change in operating model where an affiliated company now acts in the capacity of the portfolio manager designated in the previous order. Relief granted, subject to certain conditions, from the requirement under section 36 of the Securities Act (Ontario) that a registrant deliver trade confirmations to clients. In other jurisdictions, additional relief granted equivalent to section 7.3 of OSC Rule 35-502, Non-Resident Advisors.

Applicable Ontario Statutory Provisions

Securities Act, R.S.O. 1990, c. S.5, as am s. 36.

Applicable Ontario Securities Commission Rule

Rule 35-502, Non-Resident Advisors.

January 14, 2005

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

AND

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

AND

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

MRRS DECISION DOCUMENT

Background

The local securities regulatory authority or regulator (the Decision Maker) in each of the Jurisdictions has received an application from the Filer under the securities legislation of the Jurisdictions (the Legislation) to revoke a previous MRRS decision document dated May 21, 2004 (the Prior Decision) and replace it with a decision for:

(a) except in Prince Edward Island, an exemption from the requirement that a registered dealer send to clients a written confirmation of the trade setting out certain information specified in the Legislation (the Confirmation Requirement) for transactions conducted under current and future wrap account programs created by the Filer, including the Premier Managed Portfolio Program (the Programs); and

(b) except in Ontario, an exemption from the requirement to be registered as an adviser (the Registration Requirement) for certain portfolio managers who provide portfolio management services for the benefit of the Filer's clients (the Clients) participating in a Program in Jurisdictions where the portfolio managers are not registered (the Advisers).

Under the Mutual Reliance Review System for Exemptive Relief Applications:

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

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

Interpretation

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. it is an investment dealer registered under the Legislation, and is a member of the Investment Dealers Association of Canada;

2. it offers Clients a discretionary asset management service through which Clients may invest in a portfolio of securities based on the investment advice of and/or management by Advisers, including through arrangements its affiliate, TD Asset Management Inc. (TDAM), has with those Advisers;

3. a Client must:

   (a) open an account (an Account);

   (b) enter into a written client agreement with TDW (a Client Agreement); and

   (c) provide TDW with information regarding the Client's investment objective and other information necessary to enable TDW to prepare, along with the Client, a written investment policy statement;

4. it will assist the Client in selecting one or more Advisers to manage and/or provide advice with respect to all or a portion of the assets in the Account according to:

   (a) the Client's investment policy statement; and

(b) the expertise and investment style of the Adviser;

5. under the Client Agreement:

(a) it is appointed by each Client to act as portfolio manager with discretionary authority for the Account, including the right to delegate to TDAM who may delegate to an Adviser management and/or the power to provide investment advice over all or a portion of the assets in the Account;

(b) unless otherwise requested by the Client, the Client will waive receipt of trade confirmations as required under applicable Legislation; and

(c) the Client will agree to pay a fee to the Filer based on the market value of the Account during each applicable period, which fees will include all custodial, transaction and brokerage fees and commissions and professional or other fees of TDAM and the Advisers; and

6. it will provide the Client with a statement of account with information required under the applicable Legislation including a list of all transactions during the period and a statement of portfolio at the end of such period;

7. it will provide trade confirmations as required under the applicable Legislation to TDAM or the Adviser;

8. the Filer and TDAM will agree to be responsible for any loss that arises out of the failure of an Adviser:

(a) to exercise the powers and discharge the duties of its office honestly, in good faith and in the best interests of the Filer, TDAM and the Client for whose benefit the investment advice is and/or portfolio management services are to be provided, or

(b) to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances,

and acknowledges that it cannot be relieved by Clients from this responsibility (the Assumed Obligations);

9. TDAM will enter into a written portfolio advisory agreement or similar agreement (the Advisory Agreement) with each third party Adviser, setting out the terms and conditions governing the relationship between TDAM, the Adviser and the Clients and the rights, obligations and duties of the parties;

10. under the Advisory Agreement:

(a) the Advisor will assist TDAM by providing advice and/or managing the Client's assets that are designated to that Adviser, based on the Client's investor profile and investment policy statement;

(b) the Advisor will communicate appropriate trading instructions to TDAM and/or to another party with the consent of TDAM and otherwise participate or assist the Filer in providing periodic performance reports or other related information to the Clients;

11. a Client must obtain all advice and information and give all instructions and directions through the Filer;

12. if there is any direct contact between the Client and the Adviser, a registered representative of the Filer will at all times be present, either in person or by telephone;

13. each Adviser will be licensed, qualified or registered as a portfolio manager or investment counsel in either the United States, the United Kingdom, one of the Jurisdictions or elsewhere to provide discretionary investment counseling and portfolio management services; and

14. Advisers who are not otherwise registered in Ontario will not be required to register as advisers under the *Securities Act* (Ontario) as they can rely on exemptions from registration in Ontario Rule 35-502 *Non-Resident Advisers.*

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:

(a) the Prior Decision is revoked;

(b) the Confirmation Requirement shall not apply to the Filer in respect of a Client's Account in which the Filer acts as principal or agent in connection with the associated trade;

(c) except in Ontario, the Registration Requirement does not apply to the Advisers who provide investment counseling and portfolio management services for the benefit of Clients in connection with the Programs, provided that:

(i) the obligations and duties of each of the Advisers is set out in an Advisory Agreement;

(ii) each of the Filer and TDAM contractually agrees with each Client that it will be responsible for the Assumed Obligations;

(iii) the Filer and TDAM are not relieved of the Assumed Obligations by Clients;

(iv) the Filer is registered under the Legislation as an investment dealer in the Jurisdictions in which Clients are resident and TDAM is registered under the Legislation as a portfolio manager in the jurisdictions in which Clients are residents; and

(v) in Manitoba, the relief is available only to Advisers who are not registered in any Canadian jurisdiction.

"L.E. Evans"
Director, Capital Markets Regulation
British Columbia Securities Commission

2.1.4 Wells Fargo Financial Canada Corporation - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – Relief for a variation of a previous decision document granted to a wholly owned subsidiary of another reporting issuer (the parent) in respect of certain continuous disclosure requirements – Relief subject to condition that Filer and the parent continue to comply with all terms and conditions contained in the previous decision document except as varied by the decision.

Applicable Ontario Statutory Provisions

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

National Instruments

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

January 21, 2005

**IN THE MATTER OF
THE SECURITIES LEGISLATION
OF BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN, MANITOBA, ONTARIO, QUEBEC, NEW BRUNSWICK, PRINCE EDWARD ISLAND, 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
WELLS FARGO FINANCIAL CANADA 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) for a variation of a decision document dated October 31, 2003 (Original Decision Document) issued by the Decision Makers granting certain exemptive relief to the Filer (the Requested Relief).

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

(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*, in Québec Commission Notice 14-101, or in the Original Decision Document 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 indirect, wholly owned subsidiary of Wells Fargo & Company (WFC).

2. The principal executive offices of the Filer are now located in Mississauga, Ontario.

3. The Original Decision Document provided, among other things, that the Material Change Requirements, Proxy Requirements, Insider Reporting Requirements, Annual Filing Requirements, and Interim Financial Statement Requirements do not apply to the Filer in connection with any Notes (the Relief).

4. The business of the Filer is described in paragraph 5 of the Original Decision Document. Under one of the conditions to receiving the Relief, the Filer must not carry on business other than to raise capital for its Canadian affiliates for use in their consumer finance and related businesses and to provide commercial revolving lines of credit to small businesses in Canada.

5. The Filer wishes to vary the Original Decision Document by adding to its consumer finance and related businesses the raising of capital for commercial purposes and for its U.S. affiliates.

6. The Filer has established a medium term note program (the MTN Program) under a short form base shelf prospectus dated November 24, 2003. The Filer may issue up to $1,500,000,000 principal amount of Notes (or the equivalent thereof in U.S. dollars) under the prospectus from time to time over a twenty-five month period which began on November 26, 2003.

7. The Filer proposes to increase the principal amount of Notes that may be issued under the prospectus to $4,000,000,000 (or the equivalent thereof in U.S. dollars) by filing a prospectus amendment (Prospectus Amendment). The Filer also proposes to raise capital for its U.S. affiliates through the issuance in Canada of medium term notes and commercial paper. The Filer currently engages in such financing activities for its Canadian affiliates. In addition, the Filer's Canadian affiliates propose to increase their commercial lending activities. Presently, the Filer's Canadian affiliates have engaged primarily in consumer finance activities. In all other respects, the MTN Program remains the same.

8. The Filer and WFC are in compliance, and will continue to comply, with the remaining terms and conditions of the Original Decision Document.

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 and paragraph 5 of the Original Decision Document is amended as follows:

(a) in the second sentence, the word "Toronto" is replaced with "Mississauga";

(b) in the third sentence, the phrase "and commercial" is inserted after the word "consumer"'; and

(c) in the third sentence, the words "and U.S." are inserted after the word "Canadian" and before the word "affiliates",

provided that each of the Filer and WFC continue to comply with all terms and conditions contained in the Original Decision Document, except as varied by this decision.

"Robert L. Shirriff, Q.C."

"H. Lorne Morphy, Q.C."
Ontario Securities Commission

2.1.5 CPG Capital Corp. - 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 15, 2004

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

AND

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

AND

IN THE MATTER OF CPG CAPITAL CORP. (THE FILER)

MRRS DECISION DOCUMENT

Background

1. The local securities regulatory authority or regulator (the Decision Maker) in each of the Jurisdictions has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) that the Filer be deemed to cease to be a reporting issuer under the Legislation (the Requested Relief).

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

   2.1 the Alberta Securities Commission is the principal regulator for this application, and

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

Interpretation

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

Representations

4. This Decision is based on the following facts represented by the Filer:

   4.1 The Filer is a corporation incorporated under the laws of British Columbia on July 16, 2002 under the name of 651186 B.C. Ltd. The Filer changed its name to its current name on October 4, 2002.

   4.2 The Filer's head office is located in Vancouver, British Columbia.

   4.3 The Filer is currently a reporting issuer in the Jurisdictions and ceased to be a reporting issuer in British Columbia on July 23, 2004.

   4.4 The authorized capital of the Filer consists of 100,000,000 common shares without par value (the Common Shares).

   4.5 Pursuant to a final prospectus dated April 14, 2003 and a concurrent private placement, the Filer together with Churchill Institutional Real Estate Limited Partnership (the LP) sold a total of 1,195 units (the Units) with each unit being comprised of one unit of the LP and one debenture of the Filer (a Debenture).

   4.6 Cease trade orders were issued against the Filer by the Executive Director of the British Columbia Securities Commission on June 10, 2004, by the Director of the Manitoba Securities Commission on July 8, 2004 and by the Director of the Ontario Securities Commission on June 28, 2004 (collectively referred to as the Cease Trade Orders) for failure to file the interim financial statements for the period ending March 31, 2004 (the Interim Financial Statements).

   4.7 Pursuant to a series of transactions, the Debentures have all been paid out and the following securities are the only securities issued and outstanding as fully paid and non-assessable securities of the Filer:

      4.7.1 51 Common Shares held by Waterfront Capital Corporation, a company incorporated pursuant to the laws of Alberta and continued pursuant to the laws of British Columbia (Waterfront), and

      4.7.2 49 Common Shares held by Churchill Property Group Inc., a company incorporated pursuant

to the laws of British Columbia (Churchill).

4.8 Waterfront and Churchill have consented to the Filer making application for the Decision and have acknowledged that they are aware that until such time as the Cease Trade Orders are revoked, they will not be permitted to trade the Common Shares held by them in British Columbia, Manitoba and Ontario (the CTO Jurisdictions) nor will the Filer be able to issue any securities of any kind, including further Common Shares, to any person in the CTO Jurisdictions.

4.9 The outstanding securities of the Filer, 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.

4.10 No securities of the Filer are traded on a marketplace as defined in National Instrument 21-101 Marketplace Operation.

4.11 The Filer is applying for relief to cease to be a reporting issuer in all jurisdictions of Canada in which it is currently a reporting issuer.

4.12 The Filer is not in default of any of its obligations under the Legislation as a reporting issuer other than the requirement to file the Interim Financial Statements.

Decision

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

6. The decision of the Decision Makers under the Legislation is that the Requested Relief is granted.

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

2.1.6 Golf Town Income Fund - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – Relief granted from the requirement to file certain financial statements with a business acquisition report provided that the business acquisition report will include the financial statements pertaining to the acquired business that were included in a recent prospectus.

Ontario Rule Cited

Ontario Securities Commission Rule 41-501 General Prospectus Requirements.

National Instrument Cited

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

January 26, 2005

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

AND

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

AND

**IN THE MATTER OF
GOLF TOWN INCOME FUND**

MRRS DECISION DOCUMENT

Background

The local securities regulatory authority or regulator (the Decision Maker, and collectively, the Decision Makers) in each of Alberta, Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia, Newfoundland and Labrador and New Brunswick (the Jurisdictions) has received an application from the Filer for: (i) a decision under the securities legislation of the Jurisdictions (the Legislation) for an exemption from the requirement that certain financial statements prescribed by section 8.4 of National Instrument 51-102 Continuous Disclosure Obligations (NI 51-102) be filed with the business acquisition report prepared by Golf Town Income Fund (the Filer) in connection with the Filer's acquisition of Golf Town Canada Inc. 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) 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

Unless otherwise defined, the terms herein have the meaning set out in National Instrument 14-101 Definitions.

Representations

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

1. The Filer is a limited purpose trust established under the laws of the Province of Ontario as of October 1, 2004 by a declaration of trust.

2. The Filer is a reporting issuer, or the equivalent, in each of the Jurisdictions and, to the best of its knowledge, is currently not in default of any applicable requirements under the securities legislation of the Jurisdictions.

3. The Filer is also a reporting issuer, or the equivalent, in Prince Edward Island, the Yukon, the Northwest Territories and Nunavut; however, an application is not being made to the securities regulatory authorities for this province and these territories as we understand that NI 51-102 has not been adopted in these jurisdictions.

4. Although the Filer is also a reporting issuer in British Columbia, an application is not being made in this province as BC Implementing Rule 51-801 exempts issuers from Part 8 of NI 51-102 in British Columbia.

5. On October 14, 2004, the Filer filed a preliminary long form prospectus in all of the provinces and territories for an offering of trust units (the Offering). The proceeds of the Offering were intended to finance the acquisition of Golf Town Canada Inc. (the Acquisition).

6. On November 5, 2004, the Filer filed its final prospectus (the Prospectus) in all of the provinces and territories of Canada in connection with the Offering, qualifying 10,228,520 trust units for total gross proceeds of CDN $102,280,520.

7. On November 12, 2004, the Filer closed the Offering and completed the Acquisition.

8. The trust units of the Filer are listed for trading on the Toronto Stock Exchange.

9. The Acquisition constitutes a "significant acquisition" of the Filer for the purposes of NI 51-102, requiring the Filer to file a business acquisition report on or before January 26, 2005 pursuant to sections 8.2 and 8.5(1)2 of NI 51-102.

10. Pursuant to section 8.4 of NI 51-102, the business acquisition report must be accompanied by certain financial statements, including:

    (i) audited financial statements for Golf Town Canada Inc. for the years ended January 31, 2004 and January 25, 2003;

    (ii) interim financial statements for Golf Town Canada Inc. for the nine month period ended October 31, 2004 together with comparative interim financial statements for the nine month period ended October 31, 2003;

    (iii) a pro forma balance sheet for the Filer as at October 31, 2004;

    (iv) pro forma income statements for the Filer for the year ended January 31, 2004 and for the nine month period ended October 31, 2004; and

    (v) a compilation report for the Filer to accompany the Filer's pro forma financial statements.

11. OSC Rule 41-501 General Prospectus Requirements (Rule 41-501) sets out the financial statements required to be included or incorporated by reference in a prospectus, including financial statements relating to "significant acquisitions". Pursuant to Rule 41-501, the Prospectus included the following financial statements (the Prospectus Financial Statements):

    (i) audited balance sheets of Golf Town Canada Inc. for the years ended January 31, 2004 and January 25, 2003;

    (ii) audited statements of income, retained earnings, and cash flows of Golf Town Canada Inc. for the years ended January 31, 2004, January 25, 2003, and January 26, 2002;

    (iii) an unaudited balance sheet of Golf Town Canada Inc. as at August 28, 2004;

    (iv) unaudited interim statements of income, retained earnings, and cash flows of Golf Town Canada Inc. for the seven month period ended August 28, 2004, together with comparative interim statements of income, retained earnings, and cash flows for the seven month period ended August 23, 2003;

    (v) a pro forma consolidated balance sheet for the Filer as at August 28, 2004;

(vi) pro forma income statements for the Filer for the year ended January 31, 2004 and for the seven month period ended August 28, 2004; and

(vii) a compilation report for the Filer on the pro forma financial statements.

12. Except for the closing of the Offering on November 12, 2004, there are no material facts or events relating to Golf Town Canada Inc. from August 28, 2004, the date of the most recent financial statements included in the Prospectus, to November 12, 2004, the closing date of the Acquisition.

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 filed by the Filer includes the Prospectus Financial Statements.

"Cameron McInnis"
Manager, Corporate Finance
Ontario Securities Commission

2.1.7 Videoflicks.com 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.

January 28, 2005

Sheldon Huxtable
180 Dundas Street West, Suite 1801
Toronto, ON M5G 1Z8

Attention: Andrea Chafe

Dear Ms. Chafe,

Re: Videoflicks.com Inc. (the "Applicant") - Application to Cease to be a Reporting Issuer under the securities legislation of Alberta and Ontario (collectively, 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 in the Jurisdictions.

"Cameron McInnis"
Manager, Corporate Finance
Ontario Securities Commission

2.1.8 Inland Securities Corporation - ss. 6.1(1) of MI 31-102 and s. 6.1 of OSC Rule 13-502

Headnote

International dealer 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
INLAND SECURITIES CORPORATION

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 Inland Securities Corporation (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 Illinois 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 registered in Ontario as a dealer in the category of international dealer. The head office of the Applicant is in Oak Brook, Illinois.

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 or will encounter 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 31, 2005.

"David M. Gilkes"

2.1.9 BBVA Securities Inc. - 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
BBVA SECURITIES INC.

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 BBVA Securities Inc. (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 a corporation organized under the laws of the State of Delaware 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 intends to seek registration under the Act as a dealer in the category of international dealer. The head office of the Applicant is in New York, NY.

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 does not maintain branch offices in Canada, has no commercial banking accounts in Canada and has encountered difficulties in setting up its own Canadian 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 27, 2005.

"David M. Gilkes"

2.1.10 Rogers Wireless Communications Inc. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - Decision declaring corporation to be no longer a reporting issuer following the acquisition of all of its outstanding securities by another issuer.

Applicable Ontario Statutory Provisions

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

January 31, 2005

TORYS
Suite 3000
79 Wellington St. W.
Box 270, TD Centre
Toronto (Ontario) M5K 1N2

Attention: Mrs. Rima Ramchandani

Re: Rogers Wireless Communications Inc. (the "Applicant") – Application to cease to be a Reporting Issuer under the securities legislation of Alberta, Saskatchewan, Ontario, Québec, Nova Scotia, New Brunswick, Newfoundland and Labrador (the "Jurisdictions")

Dear Madam,

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.

"Eve Poirier"
La Chef du Service du financement des sociétés

2.1.11 Flaherty & Crumrine Investment Grade Fixed Income Fund - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – open-end investment trust exempt from prospectus and registration requirements in connection with issuance of units to existing unit holders pursuant to distribution reinvestment plan whereby distributors of income are reinvested in additional units of the trust, subject to certain conditions – first trade in additional units deemed a distribution unless made in compliance with MI 45-102.

Applicable Ontario Statutory Provisions

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

Multilateral Instrument Cited

Multilateral Instrument 45-102 Resale of Securities (2001), 24 OSCB 5522.

January 25, 2005

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

AND

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

AND

IN THE MATTER OF
FLAHERTY & CRUMRINE INVESTMENT GRADE FIXED 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 a decision under the securities legislation of the Jurisdictions (the "**Legislation**") for an exemption from the dealer registration requirement and the prospectus requirements of the Legislation (the "**Requested Relief**") for certain trades of units of the Filer pursuant to a distribution reinvestment plan (the "**Plan**").

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 is an investment trust established under the laws of the Province of Alberta and governed by a declaration of trust dated October 29, 2004 as amended and restated on November 25, 2004. The Filer's head office is located in Ontario.

2. The beneficial interests in the Filer are divided into a single class of limited voting units (the "**Units**"). The Filer is authorized to issue an unlimited number of Units. Each Unit represents a Unitholder's proportionate undivided beneficial interest in the Filer.

3. The Filer filed a final prospectus dated November 25, 2004 (the "**Prospectus**") with the securities regulatory authorities in each of the Jurisdictions qualifying for distribution units of the Filer and became a reporting issuer or the equivalent in the Jurisdictions upon obtaining a receipt for the Prospectus on November 26, 2004 from each of the Jurisdictions. As of the date hereof, the Filer is not on the list of defaulting reporting issuers maintained by any of the Jurisdictions.

4. The Filer is not considered to be a "mutual fund" as defined in the Legislation because the holders of the Units (the "**Unitholders**") are not entitled to receive "on demand" an amount computed by reference to the value of a proportionate interest in the whole or in part of the net assets of the Filer as contemplated in the definition of "mutual fund" in the Legislation.

5. The Units are listed and posted for trading on the Toronto Stock Exchange (the "TSX") under the symbol "**FFI.UN**". As of December 31, 2004, 14,882,310 Units were issued and outstanding.

6. Brompton FFI Management Limited is the manager and the promoter of the Filer (the "**Manager**").

7. Flaherty & Crumrine Incorporated is the portfolio manager of the Filer (the **"Portfolio Manager"**). The Portfolio Manager will provide investment advisory and portfolio management services for

the Filer in accordance with and subject to the terms of the portfolio management agreement.

8. Computershare Trust Company of Canada is the trustee of the Filer.

9. Brompton Capital Advisors Inc. (the **"Advisor"**) has been retained by the Filer and the Manager to be the principal investment advisor of the Filer and will be responsible to the Filer for services provided by the Portfolio Manager. The Advisor will monitor the provision of the investment advisory or portfolio management services for the Filer by the Portfolio Manager.

10. The Filer will invest the net proceeds of the offering of the Units together with proceeds from borrowings in the investment grade portfolio (the **"Investment Grade Portfolio"**) with the objectives of: (i) providing Unitholders with a stable stream of monthly distributions targeted to be $0.1354 per unit; (ii) mitigating the impact of significant interest rate increases on the value of the Investment Grade Portfolio; (iii) preserving Net Asset Value per Unit; and (iv) enhancing the total return per Unit by actively managing the Investment Grade Portfolio. The Investment Grade Portfolio will be actively managed and will consist primarily of various corporate debt securities and hybrid preferred securities of North American issuers.

11. The Filer intends to make monthly cash distributions (**"Distributions"**) no later than the tenth business day of each month (each a **"Distribution Date"**) to a Unitholder of record on the last business day of the immediately preceding month.

12. The Filer intends to adopt the Plan so that Distributions will, if a Unitholder so elects, be automatically reinvested on such Unitholder's behalf in accordance with the provisions of the agreement governing the operation of the Plan (the "**DRIP Agreement**") entered into by the Manager, on behalf of the Filer, and Computershare Trust Company of Canada, as plan agent (the "**Plan Agent**").

13. Non-residents of Canada within the meaning of the *Income Tax Act* (Canada) are not eligible to participate in the Plan.

14. Pursuant to the terms of the Plan, a Unitholder may elect to become a participant in the Plan by notifying a participant in CDS (the "**CDS Participant**") through which the Unitholder holds his or her Units of the Unitholder's intention to participate in the Plan. The CDS Participant shall, on behalf of the Unitholder, provide notice to CDS (the "**Participation Notice**") of the Unitholder's participation in the Plan no later than the close of business on the business day which is two business days prior to the last business day of each calendar month (the "**Record Date**") in respect of the next expected Distribution in which the Unitholder intends to participate, by delivering to CDS authorization in the manner prescribed by CDS from time to time. CDS shall, in turn, notify the Plan Agent no later than the close of business on the date that is two business days immediately preceding such Record Date of such Unitholder's participation in the Plan.

15. Distributions due to Unitholders who have elected to participate in the Plan (the "**Plan Participants**") will automatically be reinvested on their behalf by the Plan Agent to purchase plan Units ("**Plan Units**") in accordance with the following terms and conditions:

    (a) if the weighted average trading price of Units on the TSX (or such other exchange or market on which the Units are then listed, if the Units are not listed by the TSX) for the 10 trading days immediately preceding the relevant Distribution Date, plus applicable commissions or brokerage charges (the "**Market Price**") on the relevant Distribution Date is less than the Net Asset Value per Unit on the Distribution Date, the Plan Agent shall apply the Distributions either to purchase Plan Units in the market or from treasury in accordance with subparagraph (c) below;

    (b) if the Market Price is equal to or greater than the Net Asset Value per Unit on the relevant Distribution Date, the Plan Agent shall apply the Distributions to purchase Plan Units from the Filer through the issue of new Units at a purchase price equal to the higher of (A) the Net Asset Value per Unit on the relevant Distribution Date, and (B) 95% of the Market Price on the relevant Distribution Date; and

    (c) purchases of Plan Units described in subparagraph (a) above will be made in the market by the Plan Agent on an orderly basis during the 6 trading day period following the Distribution Date and the price paid for those Plan Units will not exceed 115% of the Market Price of the Units on the relevant Distribution Date. On the expiry of such 6 day period, the unused part, if any, of the Distributions will be used to purchase Plan Units from the Filer at a purchase price equal to the Net Asset Value per Unit on the relevant Distribution Date.

16. Plan Units purchased under the Plan will be registered in the name of CDS and credited to the

account of the CDS Participant through whom a Unitholder holds Units.

17. No fractional Units will be issued under the Plan. A cash adjustment for any uninvested Distributions will be paid by the Plan Agent to CDS on a monthly basis to be credited to the Plan Participants via the applicable CDS Participants.

18. The Plan Agent will be purchasing Plan Units from the Filer only in accordance with the mechanics described in the Plan, and accordingly, there is no opportunity for a Plan Participant or the Plan Agent to speculate with respect to changes in the Net Asset Value per Unit.

19. The Filer will invest in the assets with the objective of providing Unitholders with a high level of sustainable income as well as a cost-effective method of reducing the risk of investing in such securities. Accordingly, the Net Asset Value per Unit should be less volatile than that of a typical equity Filer, and the potential for significant changes in the Net Asset Value per Unit over short periods of time is moderate.

20. The amount of Distributions that may be reinvested in Plan Units issued from treasury is small relative to the Unitholders' equity in the Filer. The potential for dilution arising from the issuance of Plan Units by the Filer at the Net Asset Value per Unit on a relevant Distribution Date is not significant.

21. The Plan is open for participation by all Unitholders other than non-residents of Canada, such that any Canadian resident Unitholder can ensure protection against potential dilution by electing to participate in the Plan.

22. A Plan Participant may terminate his or her participation in the Plan by written notice to the CDS Participant through which the Plan Participant holds his or her Units. CDS will then inform the Plan Agent and thereafter Distributions on such Units held by such Unitholder will be paid to the CDS Participant.

23. The Plan Agent's charges for administering the Plan will be paid by the Filer out of the assets of the Filer.

24. The Manager may terminate the Plan at any time in its sole discretion upon not less than 30 days notice to the Plan Participants, via the applicable CDS Participant and the Plan Agent.

25. The Manager also reserves the right in its sole discretion to suspend the Plan at any time, in which case the Manager must give written notice of the suspension to all Plan Participants via the applicable CDS Participant.

26. The Manager may, in consultation with the Plan Agent, adopt additional rules and regulations to facilitate the administration of the Plan, which shall, once adopted, be deemed to form part of the DRIP Agreement.

27. The Manager may also amend the Plan or the DRIP Agreement at any time, in its sole discretion, provided that: 1. if the amendment is material to Plan Participants, at least 30 days notice shall be given to Plan Participants via the applicable CDS Participant and to the Plan Agent; and 2. if the amendment is not material to Plan Participants, notice may be given to Plan Participants and to the Plan Agent after effecting the amendment. No material amendment will be effective until it has been approved by the TSX (if required).

28. The Manager may, upon 90 days written notice to the Plan Agent, and upon payment to the Plan Agent of all outstanding fees payable, remove the Plan Agent and appoint any person or entity authorized to act as agent under the Plan.

29. The distribution of the Plan Units by the Filer pursuant to the Plan cannot be made in reliance on certain registration and prospectus exemptions contained in the Legislation as the Plan involves the reinvestment of distributable income distributed by the Filer and not the reinvestment of dividends or interest of the Filer.

30. The distribution of the Plan Units by the Filer pursuant to the Plan cannot be made in reliance on certain registration and prospectus exemptions contained in the Legislation for distribution reinvestment plans of mutual funds, as the Filer is not considered to be a "mutual fund" as defined in the Legislation because the Unitholders are not entitled to receive on demand an amount computed by reference to the value of a proportionate interest in the whole or in a portion of the net assets of the Filer.

Decision

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

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

(a) except in Alberta, New Brunswick, and Saskatchewan, the Requested Relief is granted provided that:

(i) at the time of the trade or distribution the Filer is a reporting issuer or the equivalent under the Legislation

and is not in default of any requirements of the Legislation;

(ii) no sales charge is payable in respect of the trade;

(iii) the Filer has caused to be sent to the person or company to whom the Plan Units are traded, not more than 12 months before the trade, a statement describing:

(I) their right to elect to participate in the Plan on a monthly basis to receive Plan Units instead of cash on the making of a Distribution by the Filer and how to terminate such participation; and

(II) instructions on how to make the election referred to in (I);

(b) in each of the Jurisdictions the first trade (alienation) of the Plan Units acquired under this Decision shall be deemed to be a distribution or a primary distribution to the public; and

(c) in each of the Jurisdictions the prospectus requirement contained in the Legislation shall not apply to the first trade (alienation) of Plan Units acquired by Plan Participants pursuant to the Plan, provided that:

(i) except in Québec, the conditions in paragraphs 2 through 5 of subsection 2.6(3) of Multilateral Instrument 45-102 – Resale of Securities are satisfied; and

(ii) in Québec:

(I) the Filer will be required to file a report on the number of units distributed for every financial year in Québec at the time of filing its annual report;

(II) at the time of the alienation the Filer is a reporting issuer in Québec and is not in default of any of the requirements of securities legislation in Québec;

(III) no unusual effort is made to prepare the market or to create a demand for the Plan Units;

(IV) no extraordinary commission or other consideration is paid to a person or company other than the vendor of the Plan Units in respect of the first trade; and

(V) the vendor of the Plan Units, if an insider with the Filer, has no reasonable grounds to believe that the Filer is default of any requirement of the Legislation.

"H. Lorne Morphy"
Commissioner
Ontario Securities Commission

"Suresh Thakrar"
Commissioner
Ontario Securities Commission

2.1.12 McLean Budden Limited - MRRS Decision

Headnote

MRRS Decision - relief from certain conflict disclosure provisions in connection with the distribution by a mutual fund dealer, investment counsel and portfolio manager of units of mutual funds which it manages – relief subject to certain conditions.

Applicable Ontario Statutory Provisions

Securities Act, R.S.O. 1990, c. S.5, as amended.

Regulations Cited

Regulation made under the Securities Act, R.R.O. 1990, Reg. 1015, as amended, ss. 223, 226 -228, 233.

January 27, 2005

**IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA, ALBERTA, ONTARIO, NOVA SCOTIA AND NEWFOUNDLAND AND LABRADOR (THE JURISTICTIONS)**

AND

**IN THE MATTER OF
THE MUTUAL RELIANCE SYSTEM
FOR EXEMPTIVE RELIEF APPLICATIONS (MRRS)**

AND

**IN THE MATTER OF
McLEAN BUDDEN LIMITED (MCLEAN BUDDEN)**

MRRS DECISION DOCUMENT

Background

The local securities regulatory authority or regulator (the **Decision Maker**) in each of the Jurisdictions has received an application from McLean Budden for a decision under the securities legislation of the Jurisdictions (the **Legislation**) that the following conflict of interest provisions contained in the Legislation do not apply to McLean Budden (collectively, the **Requested Relief**) in connection with distributing units of mutual funds managed by McLean Budden (the **Funds**):

(i) the requirement that a registrant prepare a conflict of interest Statement of Policies (or equivalent) in the required form, revise the conflict statement in the event of any significant change in the information, file the statement with the applicable Decision Makers and provide its customers and clients with copies of the statements (the **Conflict Statement Requirement**);

(ii) the requirement that a registrant send or deliver to its clients a written confirmation of a securities transaction that contains certain disclosure if the security was a security of a related issuer, or in the course of a distribution, a security of a connected issuer, of the registrant (the **Trade Confirmation Requirement**);

(iii) the requirement that a registrant make certain disclosure to its client and obtain the requisite specific and informed written consent of its client if a registrant acts as an adviser, exercising discretionary authority with respect to the investment portfolio or account of its client, to purchase or sell securities of a related issuer, or in the course of a distribution, securities of a connected issuer of the registrant (the **Discretionary Management Disclosure Requirement**); and

(iv) the requirement that a registrant make certain disclosure to its client if the registrant acts as an adviser in respect of securities of a related issuer, or in the course of a distribution, securities of a connected issuer (the **Adviser Disclosure Requirement**).

Under the Mutual Reliance Review System for Exemptive Relief Applications:

(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* and National Instrument 33-105 *Underwriting Conflicts* 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 McLean Budden to the Decision Makers:

1. McLean Budden is a corporation incorporated under the laws of Canada. The head office of McLean Budden is located in Ontario.

2. McLean Budden is registered in Ontario as an adviser in the categories of investment counsel and portfolio manager and in equivalent categories in each of the Jurisdictions. In addition, McLean Budden is registered in Ontario as a limited market dealer.

3. McLean Budden is the manager, portfolio adviser and promoter of the Funds and may in the future be the manager, portfolio adviser and promoter of additional mutual funds (collectively, the **Funds**)

.

4. Each of the Funds is or will be an open-ended mutual fund trust established under the laws of Ontario and the phrase "McLean Budden" or the acronym "MB" is or will be part of the name of each Fund.

5. As part of its portfolio management operations, McLean Budden provides discretionary portfolio management services to investment portfolio accounts of clients pursuant to discretionary management agreements.

6. McLean Budden manages its clients' assets on a discretionary basis via investments in the Funds, but also utilizes segregated, separate portfolios of securities for clients.

7. Under a discretionary management agreement, McLean Budden's discretionary account clients specifically authorize McLean Budden to invest in the Funds.

8. All clients receive written specific disclosure of the relationship between McLean Budden and the Funds.

9. For the segregated, separate client portfolios it manages, McLean Budden may act as an adviser in respect of securities of McLean Budden or a related issuer of McLean Budden, or in the course of a distribution, in respect of securities of a connected issuer of McLean Budden, where McLean Budden obtained the prior written consent of the client to exercise discretionary authority in respect of these securities and McLean Budden has otherwise complied with the Conflict Statement Requirement, the Trade Confirmation Requirement, the Discretionary Management Disclosure Requirement and the Adviser Disclosure Requirement.

10. Currently, McLean Budden does not act as an adviser, dealer or underwriter in respect of securities of McLean Budden or of a related issuer of McLean Budden, or in the course of a distribution, in respect of securities of connected issuers of McLean Budden other than:

    (i) in connection with the distribution of units of the Funds; and

    (ii) in connection with investments by the Funds in securities of related issuers or connected issuers of McLean Budden pursuant to regulatory relief previously obtained by McLean Budden and the Funds in the Jurisdictions dated February 28, 2003 (the **Investment Restriction Exemption**).

11. Each of the Funds may be offered on a continuous basis and will be acquired by investors either under a prospectus filed by the Fund or on a private placement basis.

The 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:

(i) McLean Budden obtains the client's specific and informed consent to purchase or sell the units of the Funds;

(ii) the Funds' investments in related issuers and connected issuers of McLean Budden comply with the Investment Restriction Exemption;

(iii) no later than twelve months after the date on which McLean Budden begins to rely on this Decision and annually thereafter, McLean Budden delivers to clients an annual statement of portfolio which discloses the securities of related issuers and connected issuers of McLean Budden that are: (a) held directly by the client at any time during the preceding twelve month period, or (b) held by the client indirectly through the Funds as at the date of the statement; and

(iv) McLean Budden advises its clients no less frequently than annually that a prospectus or offering memorandum, as applicable, is available in respect of the Funds and clients may obtain a copy on request or online through the Mclean Budden website.

This Decision, as it relates to the jurisdiction of a Decision Maker, will terminate one year after the publication in final form of any legislation or rule of that Decision Maker dealing with providing portfolio management services in a manner that conflicts with or makes inapplicable any provision of this Decision.

"Suresh Thakrar"
Commissioner
Ontario Securities Commission

"H. Lorne Morphy, Q.C."
Commissioner
Ontario Securities Commission

2.1.13 Terravest Income Fund - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – relief to income fund from the requirement to provide pro forma financial statements in a Business Acquisition Report for issuer's most recently completed financial year for which financial statements are required to have been filed - most recent 12-month period for which audited financial statements have been filed relate to income fund's acquired business for year ending August 31, 2003 – income fund permitted to include pro forma financial statements for the 12 month period ended September 30, 2004 and pro forma financial statements for the 84 day period ended September 30, 2004 in its business acquisition report - pro forma financial statements would provide secondary market with similar financial information as was provided in prospectus of December 9, 2004

Applicable Instruments

National Instrument 51-102 Continuous Disclosure Obligations

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

AND

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

AND

IN THE MATTER OF
TERRAVEST INCOME FUND

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "**Decision Maker**") in each of Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick, Nova Scotia and Newfoundland and Labrador (the "**Jurisdictions**") has received an application from TerraVest Income Fund ("**TerraVest**") for a decision under the securities legislation of the Jurisdictions (the "**Legislation**") for an exemption order granting relief from certain requirements of NI 51-102 – Continuous Disclosure Obligations ("**NI 51-102**") and in the case of Quebec by a revision of the general order that will provide the same result as such an order (or some text which will have the same signification), to allow TerraVest to include certain pro forma income statements in its Business Acquisition Report ("**BAR**") which is to be filed in connection with its acquisition (the "**Stylus Acquisition**") of an 80% interest in the business of Atlantic Furniture Manufacturing Ltd. ("**Atlantic**") and Atlantic's wholly owned subsidiary, Stylus Furniture Limited, (collectively "**Stylus**"):

AND WHEREAS TerraVest made a similar application to the Decision Makers, as well as to the local securities regulatory authorities of British Columbia and Prince Edward Island, by letter dated November 15, 2004 pursuant to National Policy 43-201 and Ontario Securities Commission NI 51-102 in connection with the Prospectus (as herein defined) and relief was granted.

AND WHEREAS pursuant to the Mutual Reliance Review system for Exemptive Relief Applications (the "**System**"), the Alberta Securities Commission is the principal regulator for this application.

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

AND WHEREAS TerraVest has represented to the Decision Makers that:

Background

1. TerraVest is an open-ended investment trust established for the purposes of investing in a diversified group of income producing businesses.

2. The head office of TerraVest is located in Vegreville, Alberta.

3. TerraVest is a reporting issuer or the equivalent in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and Labrador.

4. TerraVest is not in default of any requirements of securities legislation in any of the Jurisdictions, nor is it in default of the requirements of the securities legislation of British Columbia and Prince Edward Island.

5. Prior to the Stylus Acquisition, TerraVest had two operating divisions, RJV Gas Field Services ("**RJV**") and Ezee-On Manufacturing ("**Ezee-On**"). RJV is one of the largest providers of wellhead processing equipment for the Canadian natural gas industry. Ezee-On manufactures heavy duty equipment for large acreage grain farms and livestock operations.

6. RJV and Ezee-On are businesses that were owned and operated by Laniuk Industries Inc. ("**Laniuk**"). Laniuk was a reporting issuer, the common shares of which were listed on the TSX Venture Exchange.

7. TerraVest acquired Laniuk pursuant to a plan of arrangement (the "**Arrangement**") that was approved by the security holders of Laniuk on June 21, 2004. By the Arrangement, all

shareholders of Laniuk received, in exchange of each of their common shares of Laniuk, units of TerraVest or shares exchangeable for units of TerraVest.

8. TerraVest filed a prospectus (the "**IPO Prospectus**") dated June 29, 2004 with the Decision Makers and the local securities regulatory authorities of British Columbia and Prince Edward Island. Pursuant to the IPO Prospectus TerraVest issued 2,830,000 units (including 190,000 units issued under the over-allotment option) to raise gross proceeds of $23,064,500. As well, pursuant to the IPO Prospectus, the principal shareholder of Laniuk sold 675,000 units (including 60,000 units sold under the over-allotment option).

9. Both of the primary offering under the IPO Prospectus and the Arrangement closed on July 9, 2004. The issuance of securities pursuant to exercise the over allotment option closed on July 23, 2004.

10. The purchase method of accounting was used for the acquisition of Laniuk by TerraVest. Deloitte & Touche LLP was the auditor of Laniuk and is the auditor of TerraVest.

The Stylus Acquisition

11. The Stylus Acquisition was undertaken pursuant to an acquisition agreement dated November 17, 2004, among the Stylus Commercial Trust ("**Stylus Trust**"), a subsidiary of the Fund, and Rick Ripoli, Dennis Ripoli and Derek Barichello (the "**Vendors**") and parties wholly-owned by them, as amended by an amended and restated acquisition agreement dated December 2, 2004 (collectively the "**Purchase Agreement**"). Pursuant to the Purchase Agreement, Stylus Trust acquired an 80% interest in the business of Atlantic and its wholly owned subsidiary, Stylus Furniture Limited, ("**Stylus**") for $21.6 million, subject to working capital adjustments, through a purchase of shares and assets. The assets and shares of Stylus are held by a limited partnership in which Stylus Trust holds an 80% equity interest and the Vendors hold a 20% equity interest.

12. The Stylus Acquisition, which closed in escrow on December 2, 2004 pending completion of the financing under the Prospectus (as herein defined), is the first acquisition by TerraVest since its conversion to an income fund on July 9, 2004.

13. TerraVest financed the Stylus Acquisition through a public offering pursuant to a prospectus dated December 9, 2004 (the "**Prospectus**"), which Prospectus was filed with all of the Decision Makers and the local securities regulators of British Columbia and Prince Edward Island. TerraVest closed its offering of 3,277,500 Units under the Prospectus on December 17, 2004

14. The Prospectus includes the following Financial Statements:

    (a) Audited annual financial statements for Atlantic for the year ended July 31, 2004;

    (b) Pro forma financial statements for the 12 month period ended September 30, 2004 which compiles (i) results of TerraVest, and Laniuk prior to its acquisition by TerraVest, for the 12 months ended September 30, 2004 and (ii) the results of Atlantic for the year ended July 31, 2004; and

    (c) Pro forma financial statements for the 84 day period ended September 30, 2004 which compile (i) the results of TerraVest (and Laniuk prior to its acquisition by TerraVest) for the 84 day period ended September 30, 2004 and (ii) the results of Atlantic for the three months ended October 31, 2004 pro rated for an 84 day period.

Significant Acquisition Test – The Optional Income Test

15. Pursuant to paragraph 8.3(4)(c) of NI 51-102 the income test is to be calculated based upon the issuer's consolidated income from the later of: (i) the most recently completed financial year, without giving effect to the acquisition; or (ii) the 12 months ended on the last day of the most recently completed interim period of the reporting issuer, without giving effect to the acquisition.

16. TerraVest has not been in existence for twelve months, TerraVest has neither a complete fiscal year for which audited financial statements have been prepared nor financial results for any other 12 month period. Accordingly TerraVest has performed the calculation for the income test using the consolidated income from continuing operations of its businesses generated from the pro forma income statements of TerraVest for the twelve month period ended September 30, 2004 (calculated, with the exception of the inclusion of Atlantic, using the same assumptions as the pro forma income statement included in the Prospectus) and the financial statements of Atlantic for the year ended July 31, 2004. By these tests, the Stylus Acquisition is a "significant acquisition" for which TerraVest is required to file a BAR.

Submissions: BAR Financial Statements

17. Paragraph 8.4(3) of NI 51-102, requires an issuer to include in its BAR, a pro forma income

statement that gives effect to significant acquisitions after the ending date of the issuer's most recently completed financial year for which financial statements are required to have been filed, for each of the following financial periods: (i) the issuer's most recently completed financial year for which financial statements are required to have been filed; and (ii) the most recently completed interim period that ended after the period in subparagraph (i) for which financial statements are required to have been filed.

18. Since its formation as a trust, TerraVest has not completed a financial year for which financial statements are required to have been filed. Audited financial statements for TerraVest since its conversion to a trust are not required to be filed until after the deadline for filing the BAR has passed and therefore will not be available in time to be included in the BAR. As a result, the most recent twelve month period for which there are audited financial statements that relate to TerraVest are the financial statements of Laniuk for the year ended August 31, 2003 which were included in the IPO Prospectus and the Prospectus (the "**Laniuk Financial Statements**").

19. By the time the BAR is filed, approximately 18 months will have passed since the period covered by the Laniuk Financial Statements. During this time, there have been a number of important developments relating to TerraVest, including, the acquisition of Laniuk by TerraVest pursuant to the Arrangement using the purchase method of accounting and the completion of Terravest's conversion to an income fund with the closing of the offerings under the IPO Prospectus.

20. Therefore, in lieu of pro forma financial statements as at and for the year ended August 31, 2003 and some later interim period (which may exceed 12 months) TerraVest seeks relief from the BAR financial statement filing requirements in section 8.4(3) of NI 51-102 to allow it to include the same pro forma financial statements as were included in the Prospectus as follows:

    (a) Pro forma financial statements for the 12 month period ended September 30, 2004 which compiles (i) results of TerraVest and Laniuk prior to its acquisition by TerraVest, for the 12 months ended September 30, 2004 and (ii) the results of Atlantic for the year ended July 31, 2004; and

    (b) Pro forma financial statements for the 84 day period ended September 30, 2004 which compile (i) the results of TerraVest (and Laniuk prior to its acquisition by TerraVest) for the 84 day period ended September 30, 2004 and (ii) the results of Atlantic for the three months ended October 31, 2004 pro rated for an 84 day period;

    (collectively the "**Proposed Pro Forma Financial Statements**").

21. While the financial statements compiled in the Proposed Pro Forma Financial Statements were not audited, they were reviewed by Deloitte and Touche LLP for the purpose of inclusion in an offering document (the Prospectus).

22. Based on the foregoing, it is submitted that the Proposed Pro Forma Financial Statements are consistent with the objectives of the BAR which are to provide to investors in the secondary market with information consistent with the information provided to investors in the primary market and to provide that information on a timely basis. The Proposed Pro Forma Financial Statements will (i) provide the secondary market with similar information as was available to the primary market in the Prospectus and (ii) provide more timely and relevant information to investors as compared to the only alternative pro forma financial statements which would be based on the Laniuk Financial Statements.

23. If the relief is granted, TerraVest will include the Proposed Pro Forma Financial Statements, the audited annual financial statements for Atlantic for the year ended July 31, 2004 and the financial statements for Atlantic for the three months ended October 31, 2004 in its BAR.

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

AND WHEREAS each of the Decision Makers is satisfied that the test contained in the Legislation providing the decision Maker with the jurisdiction to make the Decision has been met.

THE DECISION of the Decision Makers pursuant to the Legislation is that in lieu of any other requirements to include financial statement in its BAR, TerraVest shall include the following financial statements in its BAR:

(a) Pro forma financial statements for the 12 month period ended September 30, 2004 which compiles (i) results of TerraVest, and Laniuk prior to its acquisition by TerraVest, for the 12 months ended September 30, 2004 and (ii) the results of Atlantic for the year ended July 31, 2004;

(b) Pro forma financial statements for the 84 day period ended September 30, 2004 which compile (i) the results of TerraVest (and Laniuk prior to its acquisition by TerraVest) for the 84 day period ended September 30, 2004 and (ii) the results of

Atlantic for the three months ended October 31, 2004 pro rated for an 84 day period;

(c) Audited annual financial statements for Atlantic for the year ended July 31, 2004; and

(d) Financial statements for Atlantic for the three months ended October 31, 2004.

February 1, 2005.

“Mavis Legg”

2.1.14 Starpoint Energy Trust and Starpoint Energy Ltd. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications. Relief from registration and prospectus requirements for a distribution reinvestment plan, subject to certain conditions. Relief from continuous disclosure requirements.

Applicable Ontario Statutory Provisions

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

Applicable National Instrument

National Instrument 51-102 Continuous Disclosure Obligations.

Citation: StarPoint Energy Trust et al, 2005 ABASC 4

January 12, 2005

**IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ALBERTA, BRITISH COLUMBIA, SASKATCHEWAN, MANITOBA, ONTARIO, QUÉBEC, PRINCE EDWARD ISLAND, 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**

**STARPOINT ENERGY TRUST
AND STARPOINT ENERGY LTD. (THE FILERS)**

MRRS DECISION DOCUMENT

Background

1. The local securities regulatory authority or regulator (the Decision Maker) in each of the Jurisdictions has received an application from StarPoint Energy Trust (the Trust) and StarPoint Energy Ltd. (StarPoint)(StarPoint and the Trust being hereinafter collectively referred to as the Filer) for a decision under the securities legislation of the Jurisdictions (the Legislation) that:

   1.1 the requirement contained in the Legislation to be registered to trade in a security and to file and obtain a receipt for a preliminary prospectus and a final prospectus (the Registration and Prospectus Requirements) shall not apply to distributions by the Trust of units

of the Trust issued pursuant to a premium distribution, distribution reinvestment and optional trust unit purchase plan (the DRIP Plan);

1.2 with respect to the successor of StarPoint Energy Ltd. (AmalCo) on its amalgamation with StarPoint Acquisition Ltd. (AcquisitionCo) and E3 Energy Inc. (E3) in those Jurisdictions in which it becomes a reporting issuer or the equivalent under the Legislation, the requirements contained in the Legislation to issue a news release and file a report with the Jurisdictions upon the occurrence of a material change, file an annual report, where applicable, file interim financial statements and audited annual financial statements with the Jurisdictions and deliver such statements to the securityholders of AmalCo, file and deliver an information circular or make an annual filing with the Jurisdictions in lieu of filing an information circular, file an annual information form, file a business acquisition report if required, and provide management's discussion and analysis of financial condition and results of operations, all as more particularly set out in National Instrument 51-102 *Continuous Disclosure Obligations* (NI 51-102) (the Continuous Disclosure Requirements) shall not apply to AmalCo (the Continuous Disclosure Relief);

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

2.1 The Alberta Securities Commission is the principal regulator for this application; and

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

Interpretation

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

Representations

4. This Decision is based on the following facts represented by the Filer:

4.1 StarPoint was incorporated on July 22, 2003 under the laws of the Province of Alberta and StarPoint's head office is located in Calgary, Alberta.

4.2 The common shares of StarPoint are listed and posted for trading on the Toronto Stock Exchange (TSX) under the trading symbol SPN.

4.3 StarPoint is a reporting issuer in the provinces of Alberta, British Columbia, Saskatchewan, Ontario, Québec, Nova Scotia, New Brunswick and Newfoundland and Labrador.

4.4 To its knowledge, StarPoint is not in default of any of the requirements of the Legislation in any of the provinces in which it is a reporting issuer.

4.5 E3 was formed by amalgamation under the laws of Canada on July 6, 1987 and its head office is located in Calgary, Alberta.

4.6 E3 is a reporting issuer in Alberta, British Columbia, Ontario, Quebec and New Brunswick and its shares are listed for trading on the TSX under the trading symbol ETE.

4.7 StarPoint and E3 are entering into a plan of arrangement (the Arrangement) whereby they will be reorganizing the business of the StarPoint and E3 as an income trust called StarPoint Energy Trust (the Trust) and transferring certain assets into a separate public company.

4.8 As part of the Arrangement, exchangeable shares will be issued by AcquisitionCo to security holders of StarPoint and E3, which shares will be exchangeable into shares in the capital stock of AmalCo (the Exchangeable Shares).

4.9 The Trust is an open-ended, unincorporated investment trust governed by the laws of the Province of Alberta and created pursuant to a trust indenture dated December 6, 2004 between StarPoint and Olympia Trust Company (the Trust Indenture). The head and principal office of the Trust is located in Calgary, Alberta.

4.10 The Trust will not be a "mutual fund" under the Legislation as the holders of Units are not entitled to receive on demand an amount computed by reference to the value of a proportionate interest in the whole or in part of the net assets of the Trust, as contemplated by the definition of "mutual fund" in the Legislation.

4.11 Pursuant to the terms of the Trust Indenture, the Trust is authorized to issue an unlimited number of transferable trust units (the Units) and an unlimited number of special voting units (the Special Voting Units). Each holder of Units (a Unitholder) is entitled to an equal fractional undivided beneficial interest in any distribution from the Trust (whether of income net realized capital gains or other amounts) and in any net assets of the Trust in the event of termination or winding-up of the Trust. Each Unit entitles a Unitholder to one vote at meetings of Unitholders.

4.12 The Special Voting Units entitle the holders thereof to attend at meetings of Unitholders and to such number of votes at meetings of Unitholders as may be prescribed by the board of directors of AmalCo in the resolution authorizing the issuance of any such Special Voting Units. Except for the right to attend and vote at meetings of the Unitholders, the Special Voting Units shall not confer upon the holders thereof any other rights and the holders of Special Voting Units shall not be entitled to any distributions of any nature whatsoever from the Trust or have any beneficial interest in any assets of the Trust on termination of the Trust.

4.13 An application has been made to have the Units listed and posted for trading on the TSX upon the approval of the Arrangement.

4.14 The Trust intends to establish the DRIP Plan to enable eligible Unitholders, at their discretion, to automatically reinvest the distributable income of the Trust paid on their Units into additional Units ("DRIP Units") at a 5% discount to the Average Market Price (as defined below) of Units, on the applicable distribution payment date (the distribution reinvestment component of the DRIP Plan) or to exchange such Units for a cash payment equal to 102% of such distributions on such date (the premium distribution component of the DRIP Plan). In addition, at their discretion, the Unitholders who are enrolled in either of the two components of the DRIP Plan described above (the Participants) may purchase additional DRIP Units at the Average Market Price by making optional cash payments (OCPs) within certain specified limits.

4.15 Under the distribution reinvestment component of the DRIP Plan, all cash distributions in respect of Units registered in the name of or held under the DRIP Plan for the account of Participants enrolled in the distribution reinvestment component of the Plan will be applied by the trust company or other qualified person that is appointed as agent under the DRIP Plan (the "DRIP Agent"), on behalf of such Participants, towards the purchase from treasury, on the applicable distribution payment date, of that number of new Units equal to the aggregate amount of such distributions divided by 95% of the Average Market Price for the applicable Pricing Period (as defined in the DRIP Plan). DRIP Units purchased by the DRIP Agent for the account of Participants under the distribution reinvestment component of the DRIP Plan will be registered in the name of the DRIP Agent or its nominee and credited to the applicable Participants' accounts, and all cash distributions on Units so held under the DRIP Plan will be automatically reinvested in DRIP Units in accordance with the terms of the DRIP Plan and the current election of that Participant as between the distribution reinvestment component and premium distribution component.

4.16 Under the premium distribution component of the DRIP Plan, all cash distributions in respect of Units registered in the name of or held under the DRIP Plan for the account of Participants enrolled in the premium distribution component of the DRIP Plan will be applied by the DRIP Agent, on behalf of such Participants, towards the purchase from treasury, on the applicable distribution payment date, of that number of new Units equal to the aggregate amount of such distributions divided by 95% of the Average Market Price for the applicable Pricing Period.

4.17 In connection with the premium distribution component of the DRIP Plan, the DRIP Agent will pre-sell, for the account of Participants in the premium distribution component of the DRIP Plan, through a qualified investment dealer designated by the Trust (the Plan Broker), in one or more transactions on the Toronto Stock Exchange, a number of Units approximately equal to the number of Units to be purchased on the applicable distribution payment date with the reinvested distributions of Participants enrolled in the premium distribution component of the Plan. The DRIP Agent will receive from the Plan

Broker, on the applicable distribution payment date and for the account of such Participants (but subject to proration as described herein), the Premium Distribution (as defined in the DRIP Plan) in an amount equal to 102% of the reinvested distributions that such participants would have otherwise been entitled to receive on that distribution payment date. The Plan Broker will be entitled to retain for its own account the difference between the proceeds realized in connection with the pre-sales of Units and the cash payment to the DRIP Agent in an amount equal to 102% of the reinvested cash distributions.

4.18 Units issued to the DRIP Agent on behalf of Participants under the premium distribution component of the DRIP Plan will not be credited to such Participants' accounts under the DRIP Plan but will instead be delivered to the Plan Broker in exchange for the Premium Distribution on the applicable distribution payment date.

4.19 The Plan Broker's *prima facie* return under the premium distribution component of the DRIP Plan will be approximately 3% of the cash distributions reinvested thereunder (based on pre-sales of Units having a market value of approximately 105% of the such distributions and a fixed cash payment to the DRIP Agent, for the account of applicable Participants, of an amount equal to 102% of such distributions). The Plan Broker may, however, realize more or less than this prima facie amount, as the actual return will vary according to the prices the Plan Broker is able to realize on the pre-sales of Units. The Plan Broker bears the entire price risk of pre-sales in the market, as the DRIP Agent is entitled to receive, for the account of Participants who have elected to receive the Premium Distribution, a fixed cash payment equal to 102% of the reinvested amount.

4.20 All activities of the Plan Broker on behalf of the DRIP Agent that relate to pre-sales of Units for the account of Participants who enrol in the premium distribution component of the DRIP Plan will be in compliance with applicable Legislation and the rules and policies of the TSX (subject to any exemptive relief granted). The Plan Broker will also be a member of the Investment Dealers Association of Canada and will be registered under the Legislation of any Jurisdiction where the first trade in DRIP Units pursuant to the premium distribution component of the DRIP Plan makes such registration necessary.

4.21 Distributions due to Participants enrolled in either the distribution reinvestment component or the premium distribution component of the DRIP Plan will be applied by the DRIP Agent to the purchase of DRIP Units. Participants who elect to purchase additional DRIP Units through OCPs will pay such amounts to the DRIP Agent who will purchase additional DRIP Units from treasury on the applicable distribution payment date.

4.22 No commissions, service charges or brokerage fees will be payable by Participants in connection with the purchase of DRIP Units from the Trust. All administrative costs of the DRIP Plan will be paid by the Trust.

4.23 The Trust reserves the right to determine, for any distribution payment date, the number of DRIP Units that will be available for purchase under the DRIP Plan.

4.24 If, in respect of any distribution payment date, fulfilling the elections of all Participants under the DRIP Plan would result in the Trust exceeding the limit on new equity set by the Trust, then elections for the purchase of DRIP Units on that distribution payment date will be accepted (i) first, from Participants electing to reinvest distributions under the distribution reinvestment component of the DRIP Plan, (ii) second, from Participants electing to receive the Premium Distribution under the premium distribution component of the DRIP Plan, and (iii) third, from Participants electing to make OCPs. If the Trust is not able to accept all elections for a particular component of the DRIP Plan (including as a result of the Trust exceeding the aggregate annual limit on DRIP Units issuable pursuant to the OCP component of the DRIP Plan), then participation and purchases of DRIP Units in that component of the DRIP Plan on the applicable distribution payment date will be prorated among all Participants in that component of the DRIP Plan according to the number of their Units participating in the particular component or the amount of their OCPs, as the case may be.

4.25 The DRIP Agent will purchase DRIP Units directly from the Trust. If the Trust determines not to issue any equity

through the DRIP Plan on a particular distribution payment date, or to the extent that the availability of DRIP Units is prorated as set forth above, then Participants will receive from the Trust the regular cash distributions which they would otherwise be entitled to receive on such date and which are not reinvested as a result of such determination or proration.

4.26 The acquisition price for DRIP Units purchased directly from the Applicant, in respect of a particular distribution payment date, will be based on the arithmetic average (calculated to four decimal places) of the daily volume weighted average trading prices of Units on the TSX for a defined period preceding such distribution payment date. Such trading prices will be appropriately adjusted for certain capital changes (including Unit subdivisions, Unit consolidations, certain rights offerings and certain distributions) (the "Average Market Price"). The acquisition price of DRIP Units under both the distribution reinvestment component and the premium distribution component of the DRIP Plan shall be 95% of the Average Market Price. The acquisition price of DRIP Units purchased with OCPs shall be the Average Market Price.

4.27 Participants may terminate their participation in the DRIP Plan by providing written notice to the DRIP Agent at any time and a Participant's participation in the DRIP Plan will be terminated automatically following receipt by the DRIP Agent of a written notice of the death of a participant. A notice of termination or a notice of a participant's death that is not received by the DRIP Agent by the specified deadline preceding a distribution record date will not take effect until after the distribution payment date to which such record date relates.

4.28 The Trust reserves the right to restrict participation in the DRIP Plan by Unitholders that are resident in foreign jurisdictions or to whom a trade of DRIP Units would be subject to the laws of a foreign jurisdiction. Residents of any jurisdiction with respect to which the issue of DRIP Units under the DRIP Plan would not be lawful will not be able to participate in the DRIP Plan.

4.29 Legislation in certain of the Jurisdictions provides exemptions from the Registration and Prospectus Requirements for distribution reinvestment plans. Such exemptions are not available to the Trust in certain of the Jurisdictions, however, because those exemptions are generally with respect to the distribution of one or more of the following: (i) dividends; (ii) interest; (iii) capital gains; or (iv) earnings or surplus. The distributions that are paid to the Unitholders are royalty income in relation to the income that the Trust receives from AmalCo on oil- and gas-producing properties.

4.30 The distribution of DRIP Units by the Trust under the DRIP Plan cannot be made in reliance on existing exemptions from the Registration and Prospectus Requirements in any Jurisdictions other than Alberta, Saskatchewan and New Brunswick as the DRIP Plan involves the reinvestment of distributable income distributed by the Trust and not the reinvestment of dividends, interest or distributions of capital gains or out of earnings or surplus.

4.31 The distribution of DRIP Units by the Trust pursuant to the DRIP Plan cannot be made in reliance on existing registration and prospectus exemptions contained in the Legislation for dividend reinvestment plans of mutual funds, as the Trust is not a mutual fund as defined in the Legislation.

4.32 Legislation in some of the Jurisdictions provides exemptions from the Registration and Prospectus Requirements for distributions of securities on the making of OCPs provided, however, that in any financial year of an issuer the aggregate number of securities issued pursuant to this component of the plan does not exceed 2% of the issued and outstanding securities as at the commencement of each financial year. Initially, the Trust will have only one Unit issued and outstanding at the time of its establishment and therefore the relief would not be available for the Trust's first financial year.

4.33 Participants in the DRIP Plan must be existing Unitholders of the Trust and as such, have either received their Units pursuant to the Arrangement or purchased the Units through an exchange recognized by the securities regulatory authorities. Unitholders who received their Units pursuant to the

Arrangement received a copy of the Information Circular, which provided prospectus level disclosure with respect to the Trust. In addition, as the Trust is a reporting issuer and is subject to the Continuous Disclosure Requirements, disclosure with respect to the Trust is publicly available on SEDAR at www.sedar.com. As a result, all Unitholders have access to the information required to be filed pursuant to the Legislation for a reporting issuer.

4.34 Upon completion of the Arrangement, AmalCo will become a reporting issuer under the Legislation of Alberta, British Columbia, Ontario, Quebec, Newfoundland and Labrador, New Brunswick and Nova Scotia, due to the fact that its existence will continue following the exchange of securities in connection with the Arrangement which involves two existing reporting issuers, StarPoint and E3.

4.35 Upon becoming a reporting issuer under the Legislation, an issuer must comply with the Continuous Disclosure Requirements. However, application of the Continuous Disclosure Requirements to both the Trust and AmalCo would be costly but provide no real benefit to investors, for the following reasons. The Trust and AmalCo will be very closely integrated. The Exchangeable Shares provide a holder with a security in an issuer (AmalCo) all of whose common shares will be held by the Trust. The value of the Exchangeable Shares and Units is therefore entirely dependent on the assets and operations of only the Trust, on a consolidated basis. As a result, the only Continuous Disclosure Requirements relevant to a holder of Exchangeable Shares are Continuous Disclosure Requirements relating to the Trust. Holders of Exchangeable Shares effectively have a participating interest in the Trust and do not have a participating interest in AmalCo and, therefore, it is the information furnished under the Continuous Disclosure Requirements relating to the Trust that is directly relevant to the holders of both Exchangeable Shares and Units. Only the Trust, as the sole holder of the outstanding common shares of AmalCo, not the holders of Exchangeable Shares or Units, will have a direct participating interest in AmalCo.

Decision

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

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

6.1 except in Alberta, Saskatchewan and New Brunswick, the Registration and Prospectus Requirements shall not apply to distributions by the Trust of DRIP Units pursuant to the DRIP Plan, including pursuant to the making of OCPs, provided that:

6.1.1 no sales charge is payable by Participants in respect of the distributions;

6.1.2 the Trust has caused to be sent to each Participant not more than 12 months before the trade, a copy of the DRIP Plan which contains a statement describing: (a) their right to withdraw from the DRIP Plan and to make an election to receive cash instead of DRIP Units on the making of a distribution of income by the Trust (the Withdrawal Right), and (b) instructions on how to exercise the Withdrawal Right;

6.1.3. for the financial year of the Trust ending December 31, 2005, the aggregate number of DRIP Units issuable pursuant to the making of OCPs does not exceed 2% of the Units issued and outstanding immediately after the date the Arrangement becomes effective, and, thereafter, the aggregate number of DRIP Units issuable pursuant to the making of OCPs in any financial year shall not exceed 2% of the aggregate number of Units outstanding at the start of that financial year; and

6.1.4. at the time of the trade or distribution, the Trust is a reporting issuer or the equivalent in at least one of the Jurisdictions and is not in default of any requirements of the Legislation;

6.2 Except in Québec, the first trade or resale of DRIP Units acquired pursuant to the DRIP Plan in a Jurisdiction shall be deemed to be a distribution or primary distribution to the public in the Jurisdictions, unless the conditions set out in paragraphs 2 through 5 of subsection 2.6(3) of Multilateral Instrument 45-102 *Resale of Securities* are satisfied;

6.3 In Québec, the first trade (alienation) of DRIP Units acquired pursuant to the DRIP Plan and this decision document may not occur without a prospectus or an exemption from the requirements of preparing a prospectus except if:

6.3.1. the Trust is and has been a reporting issuer in Québec for the four months immediately preceding the trade, including the period of time that StarPoint or E3 was a reporting issuer in Québec immediately before the Arrangement;

6.3.2 no extraordinary commission or other consideration is paid in respect of the trade;

6.3.3. no unusual effort is made to prepare the market or create a demand for the DRIP Units that are subject to the trade; and

6.3.4 if the selling security holder is an insider of the Trust, the selling security holder has no reasonable grounds to believe that the Trust is in default of securities legislation in Québec.

6.4 The Continuous Disclosure Requirements shall not apply to AmalCo for so long as:

6.4.1 the Trust is a reporting issuer in at least one of the jurisdictions listed in Appendix B of MI 45-102 and is an electronic filer under National Instrument 13-101 *SEDAR*;

6.4.2 the Trust concurrently sends to all holders of Exchangeable Shares resident in the Jurisdictions all disclosure material furnished to the Unitholders under the Continuous Disclosure Requirements;

6.4.3 the Trust complies with the requirements of the Legislation and of the TSX, and of any other market or exchange on which the Units are or come to be quoted or listed, in respect of making public disclosure of material information on a timely basis;

6.4.4. the Trust files with each Decision Maker copies of all documents required to be filed by it pursuant to NI 51-102;

6.4.5 AmalCo is in compliance with the requirements of the Legislation to issue a news release and file a report under the Legislation upon the occurrence of a material change in respect of the affairs of AmalCo that is not also a material change in the affairs of the Trust;

6.4.6 the Trust includes in all future mailings of proxy solicitation materials to holders of Exchangeable Shares a clear and concise statement explaining the reason for the mailed material being solely in relation to the Trust and not to AmalCo, such statement to include a reference to the similarities between the Exchangeable Shares and Units and the right to direct voting at meetings of the Unitholders;

6.4.7 the Trust remains the direct or indirect beneficial owner of all of the issued and outstanding voting securities of AmalCo; and

6.4.8 AmalCo has not issued any securities, other than the Exchangeable Shares, securities issued to the Trust or its affiliates, or debt securities issued to banks, loan corporations, trust corporations, treasury branches, credit unions, insurance companies or other financial institutions.

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

"Stephen R. Murison"
Vice-Chair
Alberta Securities Commission

2.1.15 Viking Energy Royalty Trust - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – Relief from prospectus and registration requirements applicable to certain trades in connection with a business combination involving two income trusts.

Applicable Statutory Provisions

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

January 26, 2005

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

AND

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

AND

**IN THE MATTER OF
VIKING ENERGY ROYALTY TRUST**

MRRS DECISION DOCUMENT

Background

1. The local securities regulatory authority or regulator (the Decision Maker) in each of Alberta, Manitoba, Ontario, Nova Scotia and Newfoundland and Labrador (the Jurisdictions) has received an application from Viking Energy Royalty Trust (Viking) for a decision, pursuant to the securities legislation of the Jurisdictions (the Legislation), that the requirements contained in the Legislation to be registered to trade in a security and to file and obtain a receipt for a preliminary prospectus and a final prospectus (the Registration and Prospectus Requirements) shall not apply to certain trades in trust units of Viking issued in connection with a business combination (the Business Combination) pursuant to a combination agreement with Calpine Natural Gas Trust (Calpine).

2. Under the Mutual Reliance Review System for Exemptive Relief Applications (the System), the Alberta Securities Commission is the principal regulator for this application.

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

Interpretation

4. Unless otherwise defined, the terms herein have the meaning set out in National Instrument 14-101 – *Definitions*.

Representations

5. This decision is based on the following facts represented by Viking to the Decision Makers:

5.1 Viking is an open-end investment trust formed under the laws of the Province of Alberta and is governed by an amended and restated trust indenture dated as of July 1, 2003 between Computershare Trust Company of Canada (Computershare), as trustee, and VHI. The head office of Viking is located in Calgary, Alberta.

5.2 Viking's purpose is to acquire, hold or invest in securities, royalties or other interests in entities that derive their value from petroleum and natural gas and energy related assets and to issue Viking Units to the public. Pursuant to an amended and restated royalty agreement dated as of July 1, 2003 between Viking Holdings Inc. (VHI) and the Trustee and an amended and restated royalty agreement dated as of July 1, 2003 between VHI, in its capacity as trustee of Viking Holdings Trust (VHT) and the Trustee, Viking receives 99% of the net production revenues attributable to VHI and VHT's petroleum and natural gas properties. Viking also receives interest and principal payments with respect to a debt instrument issued to Viking by VHT and unsecured subordinated notes issued by Viking Energy Ltd. (VEL) and distributions from VHT. VHT receives cash flow from payments received from a royalty granted by VEL, interest and principal payments with respect to debt instruments issued to VHT by VEL and partnership income received from the Sedpex Partnership.

5.3 Computershare is the trustee of Viking and the holders of the Viking Units are the sole beneficiaries of Viking.

5.4 Viking has been a reporting issuer or the equivalent under the Legislation since December, 1996 and, to the best of its knowledge, is not in default of any requirements of the Legislation.

5.5 Viking is authorized to issue an unlimited number of Viking Units, each of which represents an equal fractional undivided beneficial interest in Viking. All Viking Units share equally in all distributions from Viking and all Viking Units carry equal voting rights at meetings of holders of Viking Units (the Viking Unitholders). As of November 23, 2004, there were 110,476,934 Viking Units issued and outstanding.

5.6 The Viking Units are listed and posted for trading on the Toronto Stock Exchange (the TSX).

5.7 Viking makes and expects to continue to make monthly cash distributions to Viking Unitholders in an amount per Unit equal to a pro rata share of all amounts and income received by Viking in each month, less: (i) expenses of Viking; and (ii) any other amounts required to be deducted, withheld or paid by Viking.

5.8 All of the issued and outstanding common shares of VHI are owned by Viking.

5.9 Calpine is an open-end investment trust formed under the laws of the Province of Alberta and is governed by a trust indenture (the Calpine Trust Indenture) dated as of August 23, 2003, as amended and restated September 2, 2004 between Computershare, as trustee, and Calpine Natural Gas Limited (CNGL). The head office and principal business office of Calpine is located in Calgary, Alberta.

5.10 Calpine was created initially for the purposes of issuing the Calpine Units and to indirectly purchase and manage certain natural gas and petroleum properties owned by Calpine Natural Gas, L.P. (the Partnership). Calpine holds its 99.99% limited partnership interest in the Partnership through Calpine Natural Gas Commercial Trust, which is wholly-owned by Calpine. All of the issued and outstanding common shares of CNGL are owned by Calpine. CNGL is the general partner of the Partnership and holds a 0.01% interest in the Partnership. Calpine Unitholders participate in the income derived from natural gas and petroleum properties acquired from time to time by the Partnership or other subsidiaries of Calpine.

5.11 Computershare is the trustee of Calpine and the holders of the Calpine Units are the sole beneficiaries of Calpine.

5.12 Calpine has been a reporting issuer or the equivalent under the Legislation since October 3, 2003 and, to the best of Viking's knowledge, is not in default of any requirements of the Legislation.

5.13 Calpine is authorized to issue an unlimited number of Calpine Units, each of which represents an equal fractional undivided beneficial interest in Calpine. All Calpine Units share equally in all distributions from Calpine and all Calpine Units carry equal voting rights at meetings of holders of Calpine Units (the Calpine Unitholders). As of November 23, 2004, there were 27,066,160 Calpine Units issued and outstanding.

5.14 The Calpine Units are listed and posted for trading on the Toronto Stock Exchange (the TSX).

5.15 To effect the Business Combination, Viking, VHI, Calpine and CNGL entered into a combination agreement dated November 23, 2004 (the Combination Agreement).

5.16 Pursuant to the Business Combination, Viking will purchase from Calpine all of the assets of Calpine and will assume the liabilities and obligations of Calpine in exchange for the issuance by Viking to Calpine of trust units of Viking (Viking Units). The aggregate number of Viking Units to be issued to Calpine is equal in number to the product of the number of trust units of Calpine (the Calpine Units) outstanding as of the close of business on the date immediately prior to the completion of the Business Combination multiplied by two.

5.17 The Calpine Units (other than one Calpine Unit which Viking will subscribe for prior to completion of the Business Combination) will be redeemed by Calpine in exchange for Viking Units which shall be distributed to the Calpine Unitholders in accordance with the exchange ratio of two Viking Units for each Calpine Unit.

5.18 The TSX has approved the listing of the Viking Units to be issued pursuant to the Business Combination.

5.19 Viking and Calpine are unable to rely on the exemptions from the Registration and Prospectus Requirements of the Legislation of the Jurisdictions to effect the trades of Viking Units to be completed in connection with the Business Combination because the Business Combination is to be effected pursuant to the Combination Agreement rather than pursuant to a statutory procedure.

5.20 At a meeting (the Calpine Meeting) to be held on or about January 27, 2005, the holders of Calpine Units will be asked to approve the Business Combination, which will require the approval of at least 66 2/3% of the votes cast by Calpine Unitholders present in person or by proxy.

5.21 An information circular prepared in connection with the Calpine Meeting has been delivered to Calpine Unitholders containing or incorporating by reference:

5.21.1 prospectus level disclosure regarding the business and affairs of Viking and Calpine;

5.21.2 a detailed description of the Business Combination;

5.21.3 pro forma information of Viking after giving effect to the Business Combination; and

5.21.4 a fairness opinion prepared by Calpine's financial advisor with respect to the Business Combination.

Decision

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

7. The Decision of the Decision Makers pursuant to the Legislation is that:

7.1 the Registration and Prospectus Requirements shall not apply to the trades of Viking Units pursuant to the Business Combination provided that:

7.1.1 at the time of the trade Viking is a reporting issuer or the equivalent in a jurisdiction listed in Appendix B of Multilateral Instrument 45-102 Resale of Securities and is not in default of any requirements of the Legislation;

7.1.2 the Business Combination is described in an information

circular the (Information Circular) in the required form;

7.1.3 the Information Circular is delivered to each Calpine Unitholder; and

7.1.4 the Business Combination is approved by at least 66 2/3% of the votes cast by Calpine Unitholders present in person or represented by proxy at the meeting to approve the Business Combination; and

7.2. the first trade in Viking Units issued in connection with the Business Combination is a distribution or primary distribution to the public unless the conditions set out in subsection 2.6(3) of Multilateral Instrument 45-102 *Resale of Securities* are satisfied.

"Stephen R. Murison"
Vice-Chair
Alberta Securities Commission

"Dennis A. Anderson", FCA
Member
Alberta Securities Commission

2.1.16 AltaRex Medical Corp. - s. 83

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - Decision declaring corporation to be no longer a reporting issuer following the acquisition of all of its outstanding securities by another issuer.

Applicable Ontario Statutory Provisions

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

January 25, 2005

File No.: B30628

Parlee McLaws LLP
1500, 10180 - 101 Street
Edmonton, Alberta T5J 4K1

Attention: Leanne Krawchuk

Dear Madam:

Re: AltaRex Medical Corp. (the "Applicant") - Application to Cease to be a Reporting Issuer under the securities legislation of Saskatchewan, Manitoba, Ontario, Québec, Nova Scotia and Newfoundland and Labrador (the "Jurisdictions")

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

As the Applicant has represented to the Decision Makers that:

1. the outstanding securities of the Applicant, including debt securities, are beneficially owned, directly or indirectly, by less than 15 security holders in each of the jurisdictions in Canada and less than 51 security holders in total in Canada;

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

3. the Applicant is applying for relief to cease to be a reporting issuer in all of the jurisdictions in Canada in which it is currently a reporting issuer; and

4. the Applicant is not in default of any of its obligations under the Legislation as a reporting issuer,

each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the decision has been

met and orders that the Applicant is deemed to have ceased to be a reporting issuer in the Jurisdictions.

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

2.1.17 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, 2005

**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 Alumbrera 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.

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 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

2.1.18 Front Street Performance Fund II - MRRS Decision

Headnote

Closed-end investment trust exempt from prospectus and registration requirements in connection with the issuance of units to existing unitholders pursuant to a distribution reinvestment plan whereby distributions of income are reinvested in additional units of the trust, subject to certain conditions – first trade in units acquired under the distribution reinvestment plan deemed a distribution unless made in compliance with MI 45-102.

Applicable Ontario Statutory Provisions

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

Multilateral Instrument Cited

Multilateral Instrument 45-102 Resale of Securities (2001), 24 OSCB 5522.

December 7, 2004

IN THE MATTER OF THE SECURITIES LEGISLATION OF BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN, MANITOBA, ONTARIO, QUÉBEC, NOVA SCOTIA, NEW BRUNSWICK, PRINCE EDWARD ISLAND 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 FRONT STREET PERFORMANCE FUND II (THE "FILER")

MRRS DECISION DOCUMENT

BACKGROUND

The local securities regulatory authority or regulator (the "Decision Maker") in each of the Jurisdictions has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the "Legislation") that the requirements contained in the Legislation to be registered to trade in a security (the "Registration Requirement") and to file and obtain a receipt for a preliminary prospectus and a final prospectus (the "Prospectus Requirement") shall not apply to the distribution or resale of units of the Filer issued pursuant to an automatic reinvestment plan (as described below).

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

(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 is a closed-end investment trust established under the laws of the Province of Ontario by declaration of trust dated September 29, 2004, as amended and restated on October 15, 2004.

2. The Filer is authorized to issue an unlimited number of transferable units (the "Units") of the Filer, each of which represents an equal, undivided interest in the net assets of the Filer and entitles the holder (the "Unitholder") to one vote at meetings of Unitholders and to participate equally with respect to any and all distributions made by the Filer, including distributions of net income and net realized capital gains.

3. The Filer is not a mutual fund under the Legislation.

4. The Filer filed a final prospectus dated September 29, 2004 (the "Prospectus") with the securities regulatory authorities in each of the Jurisdictions qualifying for distribution of Units of the Filer and became a reporting issuer or the equivalent thereof in the Jurisdictions upon obtaining a receipt for the Prospectus on September 30, 2004 from each of the Jurisdictions. The Filer is not on the list of defaulting reporting issuers maintained by any of the Jurisdictions.

5. The Units are listed and posted for trading on the Toronto Stock Exchange (the "TSX") under the symbol "FPF.UN".

6. The Filer's investment objective is to provide Unitholders with long-term capital growth through selection, management and strategic trading of long and short positions in equity, debt and derivative securities. The Filer's portfolio will consist primarily of investments which generate capital gains, but will also include investments which generate income.

7. The Filer intends to make annual distributions to Unitholders of all of its income for tax purposes, including net realized capital gains (less applicable losses). Distributions over the life of the Filer will be derived primarily from net realized capital gains and income from the Filer's portfolio. Distributions will be payable to Unitholders of record at the close of business on or about the last business day of December in each year (the "Record Date") with the first such distribution to be declared in December 2004.

8. The Filer proposes to establish an automatic reinvestment plan (the "Plan") pursuant to which distributions by the Filer will be automatically reinvested in additional Units of the Filer ("Plan Units").

9. Distributions payable to participants in the Plan ("Plan Participants") will be paid to CIBC Mellon Trust Company in its capacity as agent under the Plan (the "Plan Agent") and applied to purchase Plan Units. Such purchases will either be made through the purchase of Plan Units from the Filer or in the market.

10. No commissions or service charges will be payable by Plan Participants in connection with the Plan.

11. Non-residents of Canada within the meaning of the *Income Tax Act* (Canada) are not eligible to participate in the Plan.

12. If the closing market price plus applicable commissions or brokerage charges (collectively, the "Market Price") of the Units on the Record Date is less than the net asset value (the "NAV") per Unit as at that date, the Plan Agent will apply the distribution to purchase Plan Units in the market. If the Market Price of the Units on the applicable Record Date is equal to or greater than the NAV per Unit, the Plan Agent will apply the distribution to purchase Plan Units from the Filer through the issue of whole new Units at a price per Unit equal to the greater of (a) NAV per Unit on the Record Date; and (b) the weighted average of the trading prices of the Units for the five trading days preceding the Record Date.

13. If the Market Price of the Units on the Record Date is less than the NAV per Unit as at that date, the Plan Agent will purchase Plan Units in the market for a period commencing on the fifth business day after the Record Date and ending on the twentieth business day after the Record Date, at such times as the Market Price of the Units is less than the NAV per Unit as at the Record Date. Upon the expiration of such period, the unused part, if any, of the distribution attributable to Plan Participants will be used to purchase Plan Units from the Filer on the basis set forth above.

14. The Plan Units purchased in the market or from the Filer under the Plan will be allocated to Plan Participants in proportion to their share of the distribution. Registrations and transfers of Plan Units will be made only through the book-entry system operated by the Canadian Depository for Securities Limited ("CDS") and, therefore, through participants in the CDS system (individually, a "CDS Participant" and, collectively, "CDS Participants"). Plan Participants will receive confirmation of the number of Plan Units issued to them under the Plan and the issue price per Unit from their CDS Participant.

15. No fractional Units will be issued under the Plan. A cash adjustment for any uninvested distributions will be paid by the Plan Agent to CDS on a monthly basis to be credited to the Plan Participants via the applicable CDS Participants.

16. The Plan Agent will be purchasing Plan Units only in accordance with the mechanism described in the Plan and, accordingly, there is no opportunity for a Plan Participant or the Plan Agent to speculate on changes in the NAV per Unit.

17. In light of the nature of the Filer and the terms of the Plan, the Filer believes that the potential for dilution arising from the issuance of Plan Units by the Filer at the NAV per Unit pursuant to the Plan is not significant.

18. The Plan is open for participation by all Unitholders (subject to certain restrictions on non-residents of Canada), so that such Unitholders can reduce potential dilution by electing to participate in the Plan. Under the Plan, distributions by the Filer are automatically reinvested in additional Units, unless a Unitholder elects not to participate in the Plan. Since the Filer is designed for long-term capital growth rather than short-term income generation, it is expected that most Unitholders will not elect to opt out of the Plan.

19. A Plan Participant may terminate his or her participation in the Plan at any time by written notice to the Plan Agent through his or her CDS Participant, following which distributions payable to such Plan Participant will be made in cash.

20. Plan Participants do not have the option of making cash payments to purchase additional Units under the Plan.

21. To the extent that the Filer distributes additional Plan Units to Plan Participants pursuant to the Plan, such distributions are subject to the

Registration and Prospectus Requirements under the Legislation unless appropriate exemptions are available.

22. Except in Alberta, the distribution of additional Plan Units to Plan Participants pursuant to the Plan cannot be made in reliance on certain prospectus exemptions contained in the Legislation in respect of the reinvestment of dividends, interest or distributions of capital gains out of earnings or surplus, because the Plan involves the reinvestment of distributions of income and net realized capital gains.

23. The distribution of additional Plan Units to Plan Participants pursuant to the Plan cannot be made in reliance on prospectus exemptions contained in the Legislation for reinvestment plans of mutual funds because the Filer is not a "mutual fund" as defined in the Legislation.

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:

1. except in Alberta, the Registration Requirements and Prospectus Requirements contained in the Legislation shall not apply to trades or distributions by the Filer or by an administrator or agent of the Filer of Plan Units for the account of Plan Participants pursuant to the Plan, provided that:

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

    (b) no sales charge is payable in respect of the trade;

    (c) the Filer has caused to be sent to the person or company to whom the Plan Units are traded, not more than 12 months before the trade, a statement describing:

        (i) their right to elect to not participant in the Plan, and

        (ii) instructions on how to make the election referred to in (i);

    (d) the first trade of the Plan Units acquired under this Decision shall be deemed to be a distribution or a primary distribution to the public; and

2. the Prospectus Requirement contained in the Legislation shall not apply to the first trade of Plan Units acquired by Plan Participants pursuant to the Plan, provided that:

    (a) except in Québec, the conditions in paragraphs 2 through 5 of subsection 2.6(3) of Multilateral Instrument 45-102 – Resale of Securities are satisfied; and

    (b) in Québec:

        (i) at the time of the first trade the Filer is a reporting issuer in Québec and is not in default of any of the requirements of securities legislation in Québec;

        (ii) no unusual effort is made to prepare the market or to create a demand for the Plan Units;

        (iii) no extraordinary commission or other consideration is paid to a person or company other than the vendor of the Plan Units in respect of the first trade; and

        (iv) the vendor of the Plan Units, if in a special relationship with the Filer, has no reasonable grounds to believe that the Filer is default of any requirement of the Legislation of Québec.

"Paul Moore"
Vice Chair
Ontario Securities Commission

"Theresa McLeod"
Commissioner
Ontario Securities Commission

2.1.19 Sony Corporation - s. 4.5 of MI 52-109

Headnote

Application for relief in Ontario from the requirement to file annual certificates through SEDAR in order to rely on exemption for issuers that comply with the requirements in section 302(a) of the Sarbanes-Oxley Act – Applicant not a SEDAR filer.

Application for relief in Ontario from the requirement to file interim certificates – Applicant a SEC foreign issuer but not a designated foreign issuer – Issuer has de minimis presence in Canada – Relief granted subject to conditions, including compliance with the foreign private issuer requirements in section 302(a) of the Sarbanes-Oxley Act.

Rules cited

Multilateral Instrument 52-109 – Certification of Disclosure in Issuers' Annual and Interim Filings.
National Instrument 71-102 – Continuous Disclosure and Other Exemptions Relating to Foreign Issuers.

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

AND

IN THE MATTER OF
SONY CORPORATION

DECISION DOCUMENT
(Multilateral Instrument 52-109)

WHEREAS Sony Corporation (Sony) has applied for an exemption pursuant to section 4.5 of Multilateral Instrument 52-109 *Certification of Disclosure In Issuers' Annual and Interim Filings* (MI 52-109) from the requirements contained in MI 52-109:

(a) to file annual certificates under section 2.1; and

(b) to file interim certificates under section 3.1;

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

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

AND WHEREAS Sony has represented to the Director that:

1. Sony is a Japanese joint stock company (*Kabushiki Kaisha*), and is a reporting issuer in Ontario, Québec and British Columbia.

2. The registered office of Sony is located at 7-35, Kitashinagawa 6-chome, Shinagawa-ku, Tokyo, Japan.

3. Except for not filing its interim certificates for the interim periods ended June 30, 2004 and September 30, 2004, Sony is not in default of Ontario securities legislation.

4. The American Depositary Receipts (ADRs) of Sony are listed on the Toronto Stock Exchange (the TSX).

5. The common stock or ADRs of Sony are also listed on the Tokyo, Osaka, New York, London, Paris, Frankfurt, Dusseldorf, Brussels, Vienna, and Swiss exchanges.

6. The ADRs of Sony are registered pursuant to section 12(b) of the 1934 Act.

7. Under National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers* (NI 71-102), Sony is classified as a "SEC foreign issuer".

8. Under National Instrument 13-101 *System for Electronic Document Analysis and Retrieval (SEDAR)* (NI 13-101), Sony is a "foreign issuer (SEDAR)". As a result, Sony is not required to comply with NI 13-101.

9. Sony does not intend to become an electronic SEDAR filer.

10. Under subsection 4.1(1) of MI 52-109, Sony would be exempt from the requirement to file annual certificates under MI 52-109 if

    (a) it is in compliance with U.S. federal securities laws implementing the annual report certification requirements in section 302(a) of the *Sarbanes-Oxley Act of 2002* (the Sarbanes-Oxley Act); and

    (b) its signed certificates relating to its annual report for its most recently completed financial year are filed through SEDAR as soon as reasonably practicable after they are filed with the SEC.

11. Sony is a SEC foreign issuer under NI 71-102.

12. As a result, the certification exemption for foreign issuers in section 4.2 of MI 52-109 is not available to Sony.

13. Sony is subject to foreign disclosure requirements.

14. During Sony's last financial year ended March 31, 2004, the volume of trading of its ADRs on the

TSX was only 0.02% of the comparative volume of its ADR trading on the NYSE.

15. As at March 31, 2004, Ontario registered holders comprised only 0.0051% of the holders of its outstanding ADRs, Québec registered holders comprised only 0.0017% of the holders of its outstanding ADRs, and Canadian registered holders comprised only 0.0001% of the holders of its outstanding common stock.

16. The total number of equity securities owned, directly or indirectly, by residents of Canada does not exceed 10 per cent, on a fully-diluted basis, of the total number of equity securities of Sony, calculated in accordance with NI 71-102.

17. Under subsection 4.1(3) of MI 52-109, issuers are exempt from the requirement to file interim certificates in the Canadian form if:

    (a) the issuer furnishes to the SEC a current report on Form 6-K containing the issuer's quarterly financial statements and MD&A;

    (b) the Form 6-K is accompanied by signed certificates that are furnished to the SEC in the same form required by U.S. federal securities laws implementing the quarterly report certification requirements in section 302(a) of the Sarbanes-Oxley Act; and

    (c) the signed certificates relating to the quarterly report filed under cover of the Form 6-K are filed through SEDAR as soon as reasonably practicable after they are furnished to the SEC.

18. Sony furnishes to the SEC a current report on Form 6-K containing Sony's quarterly financial statements.

19. No form of certification under the Sarbanes-Oxley Act is required from Sony for quarterly financial statements furnished under Form 6-K as of the date hereof.

20. Sony does not voluntarily furnish to the SEC signed certificates relating to quarterly reports filed under Form 6-K in compliance with section 302(a) of the Sarbanes-Oxley Act.

THE DECISION of the Director under the Legislation is that pursuant to section 4.5 of MI 52-109, the requirements contained in MI 52-109:

(a) to file its annual certificates under section 2.1; and

(b) to file interim certificates under section 3.1;

shall not apply to Sony for so long as:

(a) Sony is in compliance with U.S. federal securities laws implementing the certification requirements in section 302(a) of the Sarbanes-Oxley Act applicable to Sony;

(b) Sony is in compliance with its disclosure obligations under the 1934 Act;

(c) the total number of equity securities owned, directly or indirectly, by residents of Canada does not exceed 10 per cent, on a fully diluted basis, of the total number of equity securities of Sony;

(d) Sony's signed certificates filed with the SEC relating to its annual report for each financial year are filed with the Ontario Securities Commission as soon as reasonably practicable after they are filed with the SEC; and

(e) Sony's signed certificates filed with the SEC relating to its quarterly financial statements, if any, are filed with the Ontario Securities Commission as soon as reasonably practicable after they are filed with the SEC.

December 9, 2004.

"Erez Blumberger"

2.1.20 Air France-KLM et al. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – relief from the registration and prospectus requirements in respect of certain trades made pursuant to an employee share offering by a control block shareholder, the French state, of a French issuer – employee share offering involves the use of a collective employee shareholding vehicle, a fonds commun de placement d'enterprise (FCPE) – relief granted to trades in shares by the controlling shareholder to Canadian participants, trades in shares by Canadian participants made to or with the FCPE, and trades in units of the FCPE made to or with Canadian participants subject to resale restrictions – relief granted to the manager of the FCPE from the adviser registration requirement.

Applicable Ontario Statutory Provisions

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

February 1, 2005

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO AND QUEBEC (THE JURISDICTIONS)

AND

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

AND

IN THE MATTER OF
AIR FRANCE-KLM,
THE REPUBLIC OF FRANCE,
AEROACTIONS 2 ENTERPRISE MUTUAL FUND AND
HSBC CCF ASSET MANAGEMENT (EUROPE) S.A.

MRRS DECISION DOCUMENT

Background

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

(a) an exemption from the dealer registration requirements and the prospectus requirements of the Legislation with the result that those requirements shall not apply to:

(i) trades in ordinary shares of the Filer (the Shares) by the control block shareholder of the Filer, the Republic of France (the Controlling Shareholder), to current employees of Air France (a wholly-owned subsidiary of the Filer) and its affiliates (the Qualifying Employees) who choose to participate in a global employee offering of Shares (the Employee Offering) and are resident in Canada (collectively, the Canadian Participants);

(ii) trades in Shares (including Bonus Shares as defined in paragraph 10 hereof) acquired by the Canadian Participants pursuant to the Employee Offering to a collective employee shareholding vehicle, the Aéroactions 2 Enterprise Mutual Fund, a "Fonds Commun de Placement d'Enterprise" or "FCPE" (the Fund);

(iii) trades in securities of the Fund (the Units) made to or with the Canadian Participants;

(iv) the distribution of Units by the Fund to the Canadian Participants in connection with the Employee Offering; and

(v) the redemption of the Units by the Fund; and

(b) an exemption from the adviser registration requirements and dealer registration requirements of the Legislation with the result that those requirements shall not apply to the manager of the Fund (the Manager), where applicable,

(collectively, the Requested Relief).

Under the Mutual Reliance Review System for Exemptive Relief Applications

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

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

Interpretation

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

Representations

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

1. Air France-KLM is a corporation governed by the laws of France. Its head office is located at 2, rue Esnault-Pelterie, 75007, Paris, France. Air France-KLM is not, and has no intention of becoming, a reporting issuer under the Legislation. The Shares are posted and listed for trading on the Euronext

Paris and Amsterdam stock exchanges and the New York Stock Exchange (in the form of American Depository Shares).

2. The Controlling Shareholder is the Republic of France. The Controlling Shareholder beneficially owns 70,965,384 Shares, representing approximately 26.3% of the issued and outstanding Shares. The Controlling Shareholder is not, and has no intention of becoming, a reporting issuer under the Legislation.

3. The Fund is a “Fonds Commun de Placement d’Enterprise” or “FCPE”, an employee shareholding vehicle established pursuant to the laws of France. The Fund has been organized by the Manager to facilitate the participation of Qualifying Employees in the Employee Offering and to simplify custodial arrangements for employee participation in the Employee Offering. The Fund has been established for the sole purpose of providing Qualifying Employees with an opportunity to indirectly acquire an interest in the Shares. The Fund is not, and has no intention of becoming, a reporting issuer under the Legislation. The Fund will not engage in any of the investment practices described in Part 2 of National Instrument 81-102 – *Mutual Funds*, except as described herein.

4. The Manager, HSBC CCF Asset Management (Europe) S.A., is a leading portfolio management company governed by the laws of France. The Manager is registered with and authorized by the Autorité des Marchés Financiers (the AMF), the French securities regulatory authority, to manage French investment funds and is required to comply with the rules of the AMF. The Manager may, for the Fund’s account, acquire, sell or exchange all securities in the Fund’s portfolio and make all reinvestments. The Manager may also hold cash in accordance with the rules of the Fund to satisfy redemption requests. The Manager is also responsible for the preparation of accounting and periodic information reports as prescribed by the rules of the Fund. The Manager’s activities will not affect the underlying value of the Units and will not involve providing investment advice to any Canadian Participants. The Manager is not, and has no intention of becoming, a reporting issuer under the Legislation.

5. Banque CCF is the custodian (the Custodian) through which the Shares purchased by Qualifying Employees pursuant to the Employee Offering will be deposited in the Fund. The Custodian executes orders to purchase and sell Shares in the Fund’s portfolio and takes all necessary action to allow the Fund to exercise the rights relating to the Shares held in the portfolio. Under French law, the Custodian must be selected by the Manager from a limited number of companies authorized by the French Minister of the Economy, Finance and Industry, and its appointment must be approved by the AMF.

6. HSBC CCF Epargne Enterprise is the transfer agent (the Transfer Agent) responsible for maintaining and administering the accounts in respect of Units of the Fund. The Transfer Agent receives requests for the subscription and redemption of Units.

7. On December 9, 2004, the Controlling Shareholder sold 47,680,883 Shares to institutional investors on an accelerated book building (ABB) basis, following which the Filer and the Controlling Shareholder will effect the Employee Offering, all of which will be undertaken in accordance with the laws of France, including French privatization law.

8. The Qualifying Employees will be invited to participate in the Employee Offering. There are 263 Qualifying Employees resident in Canada in the provinces of Ontario (33) and Quebec (230) who, in the aggregate, represent less than 0.37% of the total number of Qualifying Employees worldwide (71,654).

9. The Canadian-resident Qualifying Employees will not be induced to participate in the Employee Offering by expectation of employment or continued employment.

10. Under the terms of the Employee Offering:

    (a) the purchase price for the Shares will be the ABB price of €14.30 (approximately CDN$22.77) less a 20% discount for a net purchase price to Qualifying Employees of €11.44 (approximately CDN$18.22);

    (b) payment for the Shares may be made in full on delivery of the Shares or in three instalments over a two-year period, with 30% of the purchase price payable on delivery of the Shares, 30% of the purchase price payable one year from the date of delivery of the Shares and 40% of the purchase price payable two years from the date of delivery of the Shares;

    (c) the Shares cannot be resold for a period of two years from the date of delivery of the Shares (the Hold Period); and

    (d) Qualifying Employees who hold their Shares for a period of three years will receive from the Controlling Shareholder one free Share (the Bonus Shares) for each Share purchased and held, up to a limit of €610 (approximately CDN$970) ascribed to the aggregate value of the Bonus Shares. Beyond the €610 (approximately CDN$970) limit and up to a

maximum aggregate ceiling of €1,258 (approximately CDN$2,000) of Bonus Shares, Qualifying Employees will be entitled to receive one Bonus Share for every four Shares purchased and held.

11. A default in respect of the first of the three instalment payments will result in a cancellation of the entire subscription for Shares. A default in respect of either of the second or third instalment payments will result in a cancellation of the purchase and sale of the Shares. All right and entitlement to the Bonus Shares and the discounted purchase price for the Shares will be forfeited and a recovery procedure will be implemented. Specifically, the Shares will be sold on the Euronext Paris stock exchange and the proceeds will be applied to repay, first, any amounts owed to the Controlling Shareholder (up to the full value of the Shares including any discount), and second, costs and expenses in connection with the sale of the Shares equal to 5% of the proceeds from the sale. The balance, if any, will be paid to the defaulting Qualifying Employee who subscribed for Shares.

12. The Canadian-resident Qualifying Employees will receive an information package in the English and French languages that will include: (a) a summary of the terms and conditions of the Employee Offering; (b) an instruction form explaining how to subscribe for Shares under the Employee Offering; (c) a subscription form; and (d) a summary of the Canadian income tax considerations relating to the purchase of Shares under the Employee Offering.

13. The Canadian Participants who subscribe for Shares under the Employee Offering will also receive copies of all continuous disclosure materials relating to Air France-KLM that are furnished to shareholders of Air France-KLM.

14. In the event of an over-subscription of the Shares by Qualifying Employees, the Shares will be offered to Qualifying Employees on a *pro rata* basis. After the close of the subscription period, the Controlling Shareholder will reduce the number of Shares which would otherwise be allocated to each subscriber of Shares in proportion to the amount of the subscriber's initial subscription.

15. The Fund is a collective employee shareholding vehicle established under the laws of France to facilitate the participation of Qualifying Employees in the Employee Offering and to simplify custodial arrangements for employee participation in the Employee Offering. The Fund has been established for the sole purpose of providing Qualifying Employees with an opportunity to indirectly acquire an interest in the Shares.

16. The Fund's portfolio will consist entirely of the Shares and cash. Only Qualifying Employees will be permitted to hold Units of the Fund in an amount proportionate to the number of Shares that Qualifying Employees deposit in the Fund.

17. Qualifying Employees who intend to purchase Shares pursuant to the Employee Offering will be required to complete and deliver to Air France a subscription form to be provided by Air France.

18. Upon completion and delivery of the subscription form and the applicable payment for the Shares, the Canadian Participants will cause their purchased Shares to be deposited in the Fund.

19. In consideration for the deposit of the Shares with the Fund, the Canadian Participants will receive a number of Units corresponding to the number of Shares subscribed for.

20. Any Bonus Shares acquired by the Canadian Participants pursuant to the Employee Offering will be automatically deposited in the Fund.

21. At no time will Qualifying Employees who subscribe for Shares (and who are entitled to receive Bonus Shares) be issued share certificates evidencing ownership in the Filer. Units will be issued and registered in the names of the Canadian Participants, who will in turn receive a statement from the Transfer Agent that evidences ownership interests in the Units. The Units will not be listed for trading on any stock exchange.

22. Units of the Fund are not tradeable other than for redemption purposes and there is no public market for the Units. The initial value of a Unit will be equal to the purchase price of a Share acquired pursuant to the Employee Offering. The Unit value of the Fund will be calculated and reported to the AMF, based on the quotient obtained by dividing the net assets of the Fund by the number of Units outstanding. The number of Units will be adjusted on the basis of the market price of the Shares, effective from the first date on which the net asset value of the Fund is calculated and whenever dividends are paid on the Shares or Bonus Shares or other assets are contributed to the Fund.

23. Dividends, if any, will be automatically reinvested in the Fund. Upon the payment of any dividends, a Unitholder will be credited with additional Units or thousandths of a Unit corresponding to the value of the dividend. In addition, any reinvestment of income from the Fund's assets may result in a holder being credited with additional Units or thousandths of a Unit.

24. Subject to the Hold Period restrictions described in paragraph 10, the Fund will redeem the Units at

the request of the Unitholder. To dispose of one's Units, the Unitholder will be required to complete a form of "redemption request" to be delivered to the Transfer Agent. The Transfer Agent will then deliver the redemption request to the Manager who will execute the order by selling the applicable number of Shares through the facilities of the Euronext Paris stock exchange on the most favourable terms to the Unitholder. The Manager will then credit the Unitholder in accordance with the payment and delivery instructions that will have been delivered by the Unitholder with the redemption request.

25. Where a redemption request is delivered to the Transfer Agent, the holder will be paid in cash on the basis of the net market sale price of the Shares corresponding to the holder's Units, and will be adjusted by payment in cash, where necessary. A redemption charge of 0.50% is charged to the holder. All management and administration charges relating to the Fund and the Manager will be paid by the Filer.

26. Canadian Participants will be paid in cash upon the redemption of the Units and will not be given the choice of receiving underlying Shares corresponding to the Units held by Canadian Participants.

27. The Fund, due to board lot sizes, will be able to liquidate positions in the Shares more readily and at a better price than an individual investor.

28. None of the Filer, Air France or the Controlling Shareholder or any of their employees, agents or representatives will provide investment advice to the Canadian Participants with respect to an investment in the Shares or the Units.

29. At the distribution date, after giving effect to the distribution of Shares in connection with the Employee Offering, Canadian-resident holders of Shares will not beneficially own more than 10% of the Shares and will not represent in number more than 10% of the total number of holders of Shares as shown on the books of the Filer.

Decision

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

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

1. the first trade (alienation) in any Shares (including Bonus Shares) or Units acquired by the Canadian Participants pursuant to this decision in a Jurisdiction shall be deemed a distribution to the public under the Legislation of such Jurisdiction; and

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

"Paul M. Moore", Q.C
Ontario Securities Commission

"David L. Knight", FCA
Ontario Securities Commission

2.1.21 St. Joseph Printing Limited - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – issuer deemed to be no longer a reporting issuer under securities legislation (for MRRS Decisions).

Applicable Ontario Statutory Provisions

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

February 2, 2005

Goodman and Carr LLP
200 King Street West
Suite 2300
Toronto, ON M5H 3W5

Attention: Ruby T. C. Wong

Dear Ms. Wong:

Re: St. Joseph Printing Limited (the Applicant) – Application to Cease to be a Reporting Issuer under the securities legislation of Ontario and Quebec (the Jurisdictions)

St. Joseph Printing Limited (the Applicant) has applied to the local securities regulatory authority or regulator (the Decision Maker) in each of Ontario and Quebec (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.

"Charlie MacCready"
Assistant Manager, Corporate Finance

2.1.22 iUnits Canadian Bond Broad Market Index Fund - MRRS Decision

Headnote

Variation of prior decision (due to a change of investment objective of the fund) to grant relief from certain provisions of securities legislation for initial and continuous distribution of units of exchange-traded fund - relief from registration requirement granted to permit the fund and its promoter to disseminate sales communication promoting the fund, subject to compliance with Part 15 of NI 81-102 - relief granted for the fund's prospectus not to contain an underwriter's certificate.

Statutes Cited

Securities Act, R.S.O. 1990, as amended – ss. 25(1), 59(1), 74(1) & 144.

Rules Cited

National Instrument 81-102, Mutual Funds - Part 15.

January 7, 2005

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

AND

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

AND

**IN THE MATTER OF
iUNITS CANADIAN BOND BROAD MARKET INDEX FUND
(THE "FUND")**

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 Fund and Barclays Global Investors Canada Limited, as trustee of the Fund ("Barclays"), for a decision under the securities legislation of the Jurisdictions (the "Legislation") revoking and replacing a MRRS decision dated October 11, 2000 as it relates to the Fund (the "Existing Decision") and that:

(a) the registration requirement of the Legislation does not apply to Barclays or the Fund in connection with their dissemination of sales communications relating to the distribution of securities of the Fund; and

(b) in connection with the distribution of securities of the Fund pursuant to a prospectus, the Fund be exempt from the requirement that the prospectus contain a certificate of the underwriter or underwriters who are in a contractual relationship with the issuer whose securities are being offered.

Under the Mutual Reliance Review System for Exemptive Relief Applications:

1. the Ontario Securities Commission is the principal regulator for this application; and

2. this MRRS decision document evidences the decision of each Decision Maker.

Interpretation

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

Representations

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

1. The Fund is a trust established under the laws of Ontario. Barclays is the trustee of the Fund. Barclays' head office is located in Toronto, Ontario.

2. Barclays is registered in all of the Jurisdictions, except Quebec, as a portfolio manager and investment counsel (or the equivalent categories of registration) under the securities legislation of such Jurisdictions. Barclays is currently registered in Quebec as a non-resident adviser. Barclays is also registered as a Commodity Trading Manager and Limited Market Dealer in Ontario and as a Limited Market Dealer in Newfoundland and Labrador.

3. The Fund is a mutual fund within the meaning of the *Securities Act* (Ontario) and is a reporting issuer under the securities legislation of each Jurisdiction, where such term is applicable.

4. The units of the Fund are listed and posted for trading on the Toronto Stock Exchange (the "TSX").

5. At a special meeting on December 15, 2004, unitholders of the Fund approved a change to the investment objective of the Fund and certain related matters. The new investment objective of the Fund is to replicate, to the extent possible, the return of the *Scotia Capital Universe Bond Index*™ (the "SC Universe Bond Index") by investing in a

regularly rebalanced portfolio of bonds that closely matches the characteristics of the SC Universe Bond Index. Unitholders also approved certain related amendments to the Fund's declaration of trust, including changing the name of the Fund and amendments to the provisions relating to the trustee fee, exchanges and redemptions of units, and subscriptions for units. The units of the Fund are "index participation units".

6. The prior investment objective of the Fund was to replicate, to the extent possible, the return of a bond issued by the Government of Canada with a ten year term to maturity. In order to achieve that objective, the Fund invested in the Government of Canada bond selected by Barclays with a remaining term to maturity of ten years.

7. Pursuant to the Existing Decision, the Fund (then named iUnits Government of Canada 10 Year Bond Fund) was granted an exemption from the registration requirement of securities legislation in connection with the dissemination of sales communications relating to the distribution of units and an exemption from the requirement of securities legislation that the prospectus include a certificate of the underwriters. The Fund continues to require this relief in order to conduct its activities.

8. An Amended and Restated Final Prospectus, dated December 15, 2004, for the Fund was filed in each of the Jurisdictions to reflect the changes to the Fund described in paragraph 5.

9. The Fund receives interest income on the bonds that it holds. The interest income and any other income may be held in cash or be invested by the Fund in bond futures contracts and short-term securities.

10. The interest income received, investment income and any other income of the Fund is expected to be distributed at least quarterly to unitholders.

11. The units of the Fund may only be subscribed for or purchased directly from the Fund by:

    (a) one or more members of the TSX who are registered dealers or brokers and who have entered into an underwriting agreement with the Fund (the "Underwriters"); and

    (b) one or more members of the TSX who are registered dealers or brokers and who have entered into a designated broker agreement with the Fund (the "Designated Brokers").

    Subscription or purchase orders may be placed by an Underwriter or Designated Broker only for units in the prescribed number determined by Barclays from time to time (the "Prescribed Number") or any integral multiple thereof on any day on which there is a trading session of the TSX and the SC Universe Bond Index is calculated (a "Trading Day").

12. Every subscription or purchase order for the Prescribed Number of units of the Fund must be paid for by delivery of, in Barclays discretion:

    (a) one Basket of Bonds and cash in an amount sufficient so that the value of the Basket of Bonds and the cash received is equal to the net asset value of the units next determined following the receipt of the subscription order; or

    (b) cash in an amount equal to the net asset value of the units next determined following the receipt of the subscription order; or

    (c) a combination of bonds and cash, as determined by Barclays, in an amount sufficient so that the value of the bonds and cash received is equal to the net asset value of the units next determined following the receipt of the subscription order.

    (The term "Basket of Bonds" means a group of bonds in specified principal amounts as Barclays may determine in its discretion from time to time.)

13. The units of the Fund may also be issued directly from time to time and, in any event, not more than once every quarter, to one or more Designated Brokers, pursuant to a designated broker agreement which obliges each Designated Broker, upon notice given by Barclays, to make a cash subscription for units in an amount not to exceed 0.15% of the net asset value of the Fund.

14. Neither the Underwriters nor the Designated Brokers will receive any fees or commissions in connection with each Fund's issuance of units to them. Barclays, as trustee of the Fund may, at its discretion, charge an administrative fee on the issuance of units to the Underwriters.

15. Except as described in paragraphs 11 and 13 above, units of the Fund may not be purchased directly from the Fund. However, the Fund may issue additional units to unitholders to the extent that the Fund has not distributed the full amount of its net income in any year.

16. While unitholders who wish to dispose of their units may generally do so by selling their units on the TSX, unitholders may also on any Trading Day:

(a) exchange units in the Prescribed Number or an integral multiple of the Prescribed Number of units for bonds and cash. The exchange price will generally be payable by the delivery of Baskets of Bonds (constituted as most recently published prior to the receipt of the exchange request) and cash; provided that in the case of exchange requests in excess of two times the Prescribed Number, Barclays, in its discretion, may make payment of the of the exchange price by delivering to the unitholder, to the extent practicable, a pro rata portion of the aggregate principal amount of each of the bonds held by the Fund or such other amounts of bonds as Barclays shall determine, together with cash. Barclays may charge, at its discretion, an administrative fee of up to 0.05% of the exchange proceeds to offset certain transaction costs associated with the exchange; or

(b) redeem any number of units of each Fund for cash at a redemption price per unit equal to 95% of the closing price of the units on the TSX on the effective day of redemption.

17. Barclays is entitled to receive an annual trustee fee of 0.30% of the net asset value of the Fund, calculated and accrued daily and paid quarterly. Barclays is responsible for all costs and expenses of the Fund, except the trustee fee, fees payable by Underwriters upon the issuance of units or by unitholders upon the exchange or redemption of units and income and withholding taxes.

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 Existing Decision is revoked and replaced as of, and from, the date of this decision and that:

(a) the registration requirement of the Legislation does not apply to Barclays or the Fund in connection with their dissemination of sales communications relating to the distribution of securities of the Fund, provided they comply with Part 15 of National Instrument 81-102, Mutual Funds; and

(b) in connection with the distribution of securities of the Fund pursuant to a prospectus or any renewal prospectus, the Fund is exempt from the requirement of the Legislation that the prospectus or renewal prospectus contain a certificate of the Underwriters (as defined in paragraph 11 above).

"Paul Moore"
Vice Chair
Ontario Securities Commission

"H. Lorne Morphy"
Commissioner
Ontario Securities Commission

2.1.23 iUnits Canadian Bond Broad Market Index Fund - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Application - variation of a prior decision (due to a change of investment objective of the fund) providing that all unitholders of the funds, which tracks an certain index, exempted from formal take-over bid requirements in connection with normal course purchases of units on the Toronto Stock Exchange, provided that such unitholders provide trustee/manager of the fund with an undertaking not to exercise any votes attached to units which represent more than 20% of the votes attached to all outstanding units of the funds.

Applicable Ontario Statute

Securities Act, R.S.O. 1990, c. s.5, as amended, ss. 95, 96, 97, 98, 100 and 104(2)(c) & 144.

Applicable Ontario Regulation

Regulation under the Securities Act, R.R.O. 1990, Regulation 1015, as amended, s. 203.1(1).

January 7, 2005

**IN THE MATTER OF
THE SECURITIES LEGISLATION
OF BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN, MANITOBA, ONTARIO, QUEBEC, NEW BRUNSWICK, NOVA SCOTIA, PRINCE EDWARD ISLAND, NEWFOUNDLAND AND LABRADOR, YUKON, NORTHWEST TERRITORIES AND NUNAVUT
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**IN THE MATTER OF
iUNITS CANADIAN BOND BROAD MARKET
INDEX FUND
(THE "FUND")**

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 Fund and Barclays Global Investors Canada Limited, as trustee of the Fund ("Barclays"), for a decision under the securities legislation of the Jurisdictions (the "Legislation"): (i) revoking and replacing a MRRS decision dated December 18, 2002 as it relates to the Fund (the "Existing Decision") and (ii) exempting all unitholders of the Fund from the requirements of the Legislation related to take-over bids, including the requirement to file a report of a take-over bid and the accompanying fee with each applicable Jurisdiction, (the "Take-over Bid Requirements") in respect of take-over bids for the Fund.

Under the Mutual Reliance Review System for Exemptive Relief Applications:

1. the Ontario Securities Commission is the principal regulator for this application; and

2. this MRRS decision document evidences the decision of each Decision Maker.

Interpretation

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

Representations

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

1. The Fund is a trust established under the laws of Ontario. Barclays is the trustee of the Fund. Barclays' head office is located in Toronto, Ontario.

2. Barclays is registered in all of the Jurisdictions, except Quebec, as a portfolio manager and investment counsel (or the equivalent categories of registration) under the securities legislation of such Jurisdictions. Barclays is currently registered in Quebec as a non-resident adviser. Barclays is also registered as a Commodity Trading Manager and Limited Market Dealer in Ontario and as a Limited Market Dealer in Newfoundland and Labrador.

3. The Fund is a mutual fund within the meaning of the *Securities Act* (Ontario) and is a reporting issuer under the securities legislation of each Jurisdiction, where such term is applicable.

4. The units of the Fund are listed and posted for trading on the Toronto Stock Exchange (the "TSX").

5. At a special meeting on December 15, 2004, unitholders of the Fund approved a change to the investment objective of the Fund and certain related matters. The new investment objective of the Fund is to replicate, to the extent possible, the return of the *Scotia Capital Universe Bond Index*™ (the "SC Universe Bond Index") by investing in a regularly rebalanced portfolio of bonds that closely matches the characteristics of the SC Universe Bond Index. Unitholders also approved certain related amendments to the Fund's declaration of trust, including changing the name of the Fund

and amendments to the provisions relating to the trustee fee, exchanges and redemptions of units, and subscriptions for units. The units of the Fund are “index participation units”.

6. The prior investment objective of the Fund was to replicate, to the extent possible, the return of a bond issued by the Government of Canada with a ten year term to maturity. In order to achieve that objective, the Fund invested in the Government of Canada bond selected by Barclays with a remaining term to maturity of ten years.

7. An Amended and Restated Final Prospectus, dated December 15, 2004, for the Fund was filed in each of the Jurisdictions to reflect the changes described in paragraph 5.

8. Pursuant to the Existing Decision, the Fund (then named iUnits Government of Canada 10 Year Bond Fund) was granted an exemption from the Take-over Bid Requirements. The Fund continues to require this relief in order to conduct its activities.

9. The units of the Fund may only be subscribed for or purchased directly from the Fund by:

   (a) registered dealers or brokers who have entered into an underwriting agreement with the Fund (the “Underwriters”); and

   (b) registered dealers or brokers who have entered into a designated broker agreement with the Fund (the “Designated Brokers”).

   Subscription or purchase orders may be placed by an Underwriter or Designated Broker only for units in the prescribed number determined by Barclays from time to time (the “Prescribed Number”) or any integral multiple thereof on any day on which there is a trading session of the TSX and the SC Universe Bond Index is calculated (a “Trading Day”).

10. Every subscription or purchase order for the Prescribed Number of units of the Fund must be paid for by delivery of, in Barclays discretion:

   (a) one Basket of Bonds and cash in an amount sufficient so that the value of the Basket of Bonds and the cash received is equal to the net asset value of the units next determined following the receipt of the subscription order; or

   (b) cash in an amount equal to the net asset value of the units next determined following the receipt of the subscription order; or

   (c) a combination of bonds and cash, as determined by Barclays, in an amount sufficient so that the value of the bonds and cash received is equal to the net asset value of the units next determined following the receipt of the subscription order.

   (The term “Basket of Bonds” means a group of bonds in specified principal amounts as Barclays may determine in its discretion from time to time.)

11. The units of the Fund may also be issued directly from time to time and, in any event, not more than once every quarter, to one or more Designated Brokers, pursuant to a designated broker agreement which obliges each Designated Broker, upon notice given by Barclays, to make a cash subscription for units in an amount not to exceed 0.15% of the net asset value of the Fund. Designated Brokers perform certain functions which include standing in the market with a bid and ask price for the Fund’s units for the purpose of maintaining market liquidity for the units.

12. Except as described in paragraphs 10 and 11 above, units of the Fund may not be purchased directly from the Fund. However, the Fund may issue additional units to unitholders to the extent that the Fund has not distributed the full amount of its net income in any year.

13. While unitholders who wish to dispose of their units may generally do so by selling their units on the TSX, unitholders may also on any Trading Day:

   (a) exchange units in the Prescribed Number or an integral multiple of the Prescribed Number of units for bonds and cash. The exchange price will generally be payable by the delivery of Baskets of Bonds (constituted as most recently published prior to the receipt of the exchange request) and cash; provided that in the case of exchange requests in excess of two times the Prescribed Number, Barclays, in its discretion, may make payment of the exchange price by delivering to the unitholders, to the extent practicable, a pro rata portion of the aggregate principal amount of each of the bonds held by the Fund or such other amounts of bonds as Barclays shall determine, together with cash. Barclays may charge, at its discretion, an administrative fee of up to 0.05% of the exchange proceeds to offset certain transaction costs associated with the exchange; or

   (b) redeem any number of units of each Fund for cash at a redemption price per

unit equal to 95% of the closing price of the units on the TSX on the effective day of redemption

14. As units of the Fund are both voting and equity securities for purposes of the Take-over Bid Requirements, anyone acquiring beneficial ownership of, or the power to exercise control or direction over, 10% or more of the outstanding units of the Fund would be required to comply with the early warning press release and reporting requirements, as well as the further acquisition restrictions, imposed by the Legislation (the "Early Warning Requirements") but for section 3.3 of National Instrument 62-103 which provides that the Early Warning Requirements do not apply in respect of the ownership or control of securities issued by a mutual fund that is governed by National Instrument 81-102.

15. There is no exemption from the Take-over Bid Requirements for conventional mutual funds that is comparable to the exemption from the Early Warning Requirements in section 3.3 of National Instrument 62-103 (in Quebec, the exemption from Early Warning Requirements was granted pursuant to discretionary relief orders) because the securities of conventional mutual funds are typically subject to the Take-over Bid Requirements because acquisitions of units of conventional mutual funds are made from treasury.

16. Although units of the Fund trade on the TSX and the acquisition of such units can therefore become subject to the Take-over Bid Requirements,

    (a) it is not possible for one or more Fund unitholders to exercise control or direction over the Fund as the declaration of trust of the Fund generally ensures that there can be no changes made to the Fund which do not have the support of the trustee of the Fund;

    (b) it is difficult for purchasers of units of the Fund to monitor compliance with Take-over Bid Requirements because the number of outstanding units is always in flux as a result of the ongoing issuance and redemption of units by the Fund; and

    (c) the way in which Fund units are priced deters anyone from either seeking to acquire control, or offering to pay a control premium, for outstanding units because unit pricing is dependent upon the value of the underlying bonds held by the Fund and the level of the SC Universe Bond Index.

17. The application of the Take-over Bid Requirements to the Fund can have an adverse impact upon Fund unit liquidity because they can cause both the Designated Brokers and hedgers to cease trading Fund units once prescribed take-over bid thresholds are reached and this, in turn, can serve to provide conventional mutual funds with a competitive advantage over the Fund.

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 pursuant to the Legislation is that: (i) the Existing Decision is revoked and replaced as of, and from, the date of this decision and (ii) the purchase of the units of the Fund by a person or company (a "Unit Purchaser") in the normal course through the facilities of the TSX is exempt from the Take-over Bid Requirements for so long as the Fund remains an exchange traded fund provided that, prior to making any take-over bid for the units of the Fund that is not otherwise exempt from the Take-over Bid Requirements, the Unit Purchaser, and any person or company acting jointly or in concert with the Unit Purchaser (a "Concert Party"), provide Barclays, as trustee and manager of the Fund, with an undertaking not to exercise any votes attached to units of the Fund held by the Unit Purchaser and any Concert Party which represent more than 20% of the votes attached to all outstanding units of the Fund.

"Paul Moore"
Vice Chair
Ontario Securities Commission

"H. Lorne Morphy"
Commissioner
Ontario Securities Commission

2.2 Orders

2.2.1 University of Toronto Asset Management Corporation - s. 147

Headnote

UNIVERSITY OF TORONTO ASSET MANAGEMENT CORPORATION

Subsection 107(3) of the Regulation and section 147 of the Act – Non-profit corporation exempted from the minimum free capital requirement of subsection 107(3) of the Regulation provided that the entity which controls the non-profit enter into a guarantee whereby it agrees to unconditionally guarantee any claims made against the non-profit as a result of the non-profit being registered as an adviser under the Act to a maximum amount equal to what would have been the non-profit's minimum free capital requirement pursuant to subsection 107(3) of the Regulation.

Statute Cited

Securities Act, R.S.O. 1990, c. S.5, as am., s. 147.

Regulation Cited

Regulation made under the Securities Act, R.R.O. 1990, Reg. 1015, as am., s. 107(3).

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

AND

IN THE MATTER OF
UNIVERSITY OF TORONTO ASSET
MANAGEMENT CORPORATION

ORDER
(Section 147)

UPON the application of University of Toronto Asset Management Corporation (the **Corporation**) for an order pursuant to section 147 of the Act that the Corporation be exempt from the minimum free capital requirement of subsection 107(3) of the regulation (the **Regulation**) to the Act;

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

AND UPON the Corporation representing to the Commission as follows:

1. The Corporation is a corporation without share capital that was incorporated by letters patent on April 25, 2000 by The Governing Council of the University of Toronto (the **UofT**) under the *Corporations Act* (Ontario).

2. The principal objectives of the Corporation are to create added value by providing both current and future financial resources for the UofT and its pension funds that will contribute to globally recognized education and research.

3. As a corporation without share capital, the Corporation is governed by its members, who are its directors, whose appointments are, and terminations are, effectively governed by The Governing Council of the UofT. In addition, the UofT controls the Corporation financially.

4. As a corporation without share capital, the Corporation does not have any share capital as evidenced by its audited financial statements.

5. In accordance with an amended and restated Service and UTAM Personnel Agreement between the UofT and the Corporation, the UofT will pay an amount to the Corporation for its services that will enable the Corporation to recover the costs of its operations. As a result, the Corporation will never generate a net income or a net loss.

6. The Corporation has no long-term assets and no long-term liabilities. Accordingly, the Corporation will never have a positive working capital balance.

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

IT IS ORDERED pursuant to section 147 of the Act that the Corporation is exempt from the minimum free capital requirement of subsection 107(3) of the Regulation provided the UofT enters into a guarantee whereby it agrees to unconditionally guarantee any claims made against the Corporation as a result of the Corporation being registered as an adviser under the Act to a maximum amount equal to what would have been the Corporation's minimum free capital requirement pursuant to subsection 107(3) of the Regulation.

January 25, 2005.

"Paul M. Moore" "M. Theresa McLeod"

2.2.2 VoiceIQ Inc., VIQ Solutions Inc. and Yoho Resources Partnership - ss. 83.1(1)

Headnote

Issuer spun off from a reporting issuer in connection with a plan of arrangement deemed to be a reporting issuer where parent company has been a reporting issuer for more than 12 months and the assets that will make up the business of the spun off issuer have been subject to reporting in the continuous disclosure filings of the parent company. Prospectus level disclosure of the spun off entity to be provided in the information circular.

Ontario Statutes

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

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

AND

**IN THE MATTER OF
VOICEIQ INC., VIQ SOLUTIONS INC. AND
YOHO RESOURCES PARTNERSHIP**

**ORDER
(Subsection 83.1(1) of the Act)**

UPON the application of VIQ Solutions Inc. ("Techco") for an order pursuant to subsection 83.1(1) of the Act deeming Techco to be a reporting issuer for the purposes of Ontario securities legislation at the time of a proposed plan of arrangement (the "Arrangement") becoming effective;

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

AND UPON Techco representing to the Commission as follows:

Background

1. On November 19, 2004, VoiceIQ Inc. ("VoiceIQ" or the "Corporation") announced that it had entered into an agreement (the "Arrangement Agreement") providing for the Arrangement to recapitalize and reorganize its business. The Arrangement consists of two parts, the "Creditors' Arrangement", and the "Shareholders' Arrangement".

2. The Shareholders' Arrangement provides for a reorganization of VoiceIQ and its business pursuant to which the shareholders of VoiceIQ (the "Shareholders") will (i) maintain their interests in VoiceIQ's existing voice capture, digitization and compression business (the "Existing Business") and (ii) retain their interests in VoiceIQ which will acquire producing oil and natural gas assets. Essentially, VoiceIQ will (i) transfer the assets comprising the Existing Business to Techco, its subsidiary, (ii) distribute common shares of Techco (the "Techco Shares") and "new" common shares in VoiceIQ (the "New Common Shares") to the Shareholders, such that Shareholders hold direct interests in both, and (iii) raise capital, acquire oil and gas exploration and production assets and change its name to "Yoho Resources Inc."

3. The Creditors' Arrangement provides for a settlement by VoiceIQ with its creditors (with respect to liabilities relating to the conduct of the Existing Business, to be transferred to Techco under the Arrangement) pursuant to the Companies Creditors Arrangement Act (Canada) (the "CCAA"). Creditors who are owed up to $2,000 by VoiceIQ are to receive 100% of their claim value in cash, while creditors owed more than $2,000 will receive the first $2,000 of their claim in cash, plus a pro rata share of a basket of cash and shares of VoiceIQ and Techco. The Creditors' Arrangement must be approved by 66 2/3% of the votes of, and the majority in number of, the creditors of VoiceIQ (other than the professional advisors for liabilities incurred for the purpose of implementing the Creditors' Arrangement) present in person or by proxy at a meeting of the creditors held to obtain such approval (which is expected to be on or about December 20, 2004) and requires approval of the Court of Queen's Bench of Alberta. As a consequence of the Creditors' Arrangement, Techco will acquire the Existing Business with substantially all of the associated liabilities compromised; no other changes will be made to the Existing Business as such under the Arrangement.

4. The Creditors' Arrangement and the Shareholders' Arrangement are inter-conditional.

5. The information circular describing the Arrangement (the "Information Circular"), which is dated November 23, 2004, has been printed and mailed to the Shareholders, and was filed on the System for Electronic Document Analysis and Retrieval ("SEDAR") on November 26, 2004.

VoiceIQ

6. VoiceIQ was incorporated pursuant to the laws of the Province of Alberta by certificate of incorporation on July 12, 1993 under the name Torque Industries Inc. On March 15, 1994, the Corporation acquired The BCB Technology Group Inc. ("BCB Technology"), a private Ontario corporation, through a share exchange. By articles of amendment dated March 18, 1994, the name of the Corporation was changed to BCB Holdings Inc. By articles of continuance dated October 1, 1996, the Corporation was continued

under the laws of Ontario. By articles of amendment dated August 17, 1998 and August 31, 1998, the Corporation changed its name to BCB Voice Systems Inc. and consolidated its common shares on a 10-for-one basis. By articles of amendment dated October 4, 2000, the Corporation changed its name to its present name VoiceIQ Inc. The Corporation's head office is Bankers Hall, 888 3rd St. S.W., Suite 1031, Calgary, Alberta, T2P 5C5 and principal place of business is located at 100 Allstate Parkway, Suite 200, Markham, Ontario.

7. VoiceIQ develops software and provides solutions that capture, digitize, compress and store voice from a variety of sources, including microphones, telephones and hand held recorders.

8. The authorized capital of VoiceIQ consists of an unlimited number of Common Shares and Non-Voting Preference Shares, of which, as at November 19, 2004, 36,401,310 Common Shares and nil Non-Voting Preference Shares were issued and outstanding.

9. As at November 16, 2004, there were issued and outstanding options to purchase 1,511,333 Common Shares (the "Options") and warrants exercisable for 3,539,577 Common Shares (the "Warrants").

10. All holders of outstanding Options and Warrants have agreed to exchange all Options and Warrants held by them for similar securities in Techco.

11. VoiceIQ is, and has been since November 24, 1993, a reporting issuer under the securities legislation of Alberta, and since August 25, 2000, a reporting issuer under the securities legislation of British Columbia and Ontario (collectively, the "Legislation") and, to the best of its knowledge, is not in default of any requirement under the Legislation.

12. The Common Shares are listed and posted for trading on the TSX Venture Exchange (the "TSXV") under the trading symbol "VIQ". Upon the closing of the Arrangement, the Common Shares will be voluntarily delisted from the TSXV. VoiceIQ then intends to make application to list the New Common Shares on the TSXV.

13. The continuous disclosure materials filed by VoiceIQ under the Legislation are available on SEDAR. VoiceIQ's continuous disclosure record is up to date.

14. To the knowledge of VoiceIQ, there are no Shareholders holding sufficient securities to affect materially the control of VoiceIQ.

15. Neither VoiceIQ nor any of its officers or directors has (i) been the subject of any penalties or sanctions imposed by a court relating to Canadian securities legislation or by a Canadian securities regulatory authority, (ii) entered into a settlement agreement with a Canadian securities regulatory authority, or (iii) been subject to any other penalties or sanctions imposed by a court or regulatory body that would likely be considered important to a reasonable investor making an investment decision.

16. Neither VoiceIQ nor any of its officers or directors is or has been subject to:

(a) any known ongoing or concluded investigations by:

(A) a Canadian securities regulatory authority, or

(B) a court or regulatory body, other than a Canadian securities regulatory authority, that would be likely to be considered important to a reasonable investor making an investment decision; or

(b) any bankruptcy or insolvency proceedings, or other proceedings, arrangements or compromises with creditors, or the appointment of a receiver, receiver-manager or trustee, within the preceding 10 years, other than the Creditors' Arrangement contemplated in the Arrangement and described above under "Background".

17. None of the officers or directors of VoiceIQ is or has been at the time of such event an officer or director of any other issuer which is or has been subject to:

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

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

Techco

18. Techco was incorporated under the Business Corporations Act (Alberta) ("ABCA") on November 10, 2004. Techco's head office is located at 1031, 888 –3rd Street, S.W., Calgary, Alberta, T2P 5C5,

and its registered office is located at 1400, 350-7th Avenue, S.W., Calgary, Alberta, T2P 3N9.

19. Techco has not conducted any business to date and has not undertaken any activities other than the execution and delivery of the Arrangement Agreement and matters related to the implementation of the Arrangement.

20. The authorized capital of Techco consists of an unlimited number of Techco Shares. As of the date hereof, there is one Techco Share issued and outstanding, which Techco Share is owned by VoiceIQ.

21. Techco is not a reporting issuer in any jurisdiction.

22. After giving effect to the Arrangement, all of VoiceIQ's assets (collectively, the "Technology Assets") relating to its Existing Business, including without restriction, all of VoiceIQ's interest in its subsidiaries, VoiceIQ Australia Pty Limited, Spark & Cannon Pty Ltd., Spark & Cannon (SA) Pty Ltd., CAN 082 664 220 Pty Limited and VoiceIQ NZ Limited, each of which is wholly-owned (directly or indirectly), or controlled, by VoiceIQ will be transferred by VoiceIQ to Techco pursuant to the terms and conditions of a purchase and sale agreement between VoiceIQ and Techco.

23. After giving effect to the Arrangement, pursuant to the securities legislation of British Columbia (the "BC Legislation"), Techco will be a reporting issuer under BC Legislation and will have been deemed to be a reporting issuer under BC Legislation since August 25, 2000. Techco will also be a reporting issuer in Alberta from the date of listing on the TSXV.

24. Techco intends to apply to the TSXV to have the Techco Shares listed on the TSXV upon the completion of the Arrangement.

25. Neither Techco nor any of its officers, directors or shareholders holding sufficient securities to affect materially the control of Techco (the "Techco Controlling Shareholders") has (i) been the subject of any penalties or sanctions imposed by a court relating to Canadian securities legislation or by a Canadian securities regulatory authority, (ii) entered into a settlement agreement with a Canadian securities regulatory authority, or (iii) been subject to any other penalties or sanctions imposed by a court or regulatory body that would likely be considered important to a reasonable investor making an investment decision.

26. Neither Techco nor any of its officers, directors nor, to the knowledge of Techco, its officers and directors, any of the Techco Controlling Shareholders, is or has been subject to:

    (a) any known ongoing or concluded investigations by:

        (A) a Canadian securities regulatory authority, or

        (B) a court or regulatory body, other than a Canadian securities regulatory authority, that would be likely to be considered important to a reasonable investor making an investment decision; or

    (b) any bankruptcy or insolvency proceedings, or other proceedings, arrangements or compromises with creditors, or the appointment of a receiver, receiver-manager or trustee, within the preceding 10 years, other than the Creditors' Arrangement contemplated in the Arrangement and described above under "Background".

27. None of the officers or directors of Techco, nor, to the knowledge of Techco, its officers and directors, any of the Techco Controlling Shareholders, is or has been at the time of such event an officer or director of any other issuer which is or has been subject to:

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

    (b) any bankruptcy or insolvency proceedings, or other proceedings, arrangements or compromises with creditors, or the appointment of a receiver, receiver-manager or trustee, within the preceding 10 years, except that one current officer, one current officer-director and one current director of Techco are also officers or directors of VoiceIQ, which is subject to the Creditors' Arrangement contemplated in the Arrangement and described above under "Background".

The Arrangement

28. On November 23, 2004, VoiceIQ obtained an interim order (the "Interim Order") of the Ontario Superior Court of Justice (the "Court"), under section 182 of the Business Corporations Act (Ontario) (the "OBCA"), providing for the calling and holding of the annual and special meeting of the Shareholders (the "Meeting") and other procedural matters. The Meeting is anticipated to be held on or about December 20, 2004.

29. The Interim Order provides that the resolution of the Shareholders concerning the Arrangement (the “Arrangement Resolution”) requires the approval of not less than 66 2/3% of the aggregate votes cast by the Shareholders, voting together as a single class, present in person or by proxy at the Meeting. Each Shareholder is entitled to one vote for each Common Share held.

30. In connection with the Meeting and pursuant to the Interim Order, VoiceIQ mailed, on or about November 26, 2004, to each Shareholder: (i) a notice of annual and special meeting; (ii) a form of proxy; (iii) the Information Circular, and (iv) a letter of transmittal. The Information Circular has been prepared substantially in accordance with Multilateral Instrument 52-102 - Continuous Disclosure Obligations, and contains disclosure of the Arrangement and the business and affairs of each of VoiceIQ, Yoho Resources Inc., Techco and the producing oil and natural gas assets to be acquired by VoiceIQ pursuant to the Arrangement.

31. For the Arrangement to become effective, a number of transactions and trades, which are outlined below under “The Arrangement Steps”, must take place. Such transactions and trades are set out in the Plan of Arrangement which is appended to the Information Circular as an exhibit to the Arrangement Agreement. No one transaction or trade will be effective unless all are effective.

32. In connection with the Arrangement, the Board of Directors of VoiceIQ asked Acumen Capital Finance Partners Limited (“Acumen”) to address the fairness, from a financial point of view, of the Arrangement to Shareholders. In connection with this mandate, Acumen has prepared an opinion which states that, as of the date of the opinion, the Arrangement is fair from a financial point of view to the Shareholders.

33. The Arrangement also provides that the Shareholders will have the ability to exercise dissent rights and to be paid the fair value of their Common Shares, as applicable, as set forth under the OBCA, subject to modifications set out by the Interim Order.

The Arrangement Steps

34. The Arrangement Agreement provides for the consummation of the following transactions (comprising the Arrangement) on the effective date of the Arrangement:

34.1 the articles of incorporation of VoiceIQ will be amended to create a new class of non-voting common shares (the “Non-Voting Common Shares”) and a new class of voting common shares (defined herein as the “New Common Shares”) in the capital of VoiceIQ;

34.2 the articles of incorporation of VoiceIQ will also be amended to change its name from “VoiceIQ Inc.” to “Yoho Resources Inc.”;

34.3 the Creditors’ Arrangement will be effected;

34.4 the Technology Assets, together with the associated contractual obligations and liabilities (to the limited extent such liabilities have not been compromised pursuant to the terms of the Creditors’ Arrangement) will be transferred by VoiceIQ to Techco in consideration for (i) that number of Techco Shares equal to the number of Common Shares outstanding immediately prior to the Arrangement (being, as at November 19, 2004, 36,401,310 Techco Shares) less one; and (ii) an indemnification given by Techco to VoiceIQ and its directors, officers and employees;

34.5 VoiceIQ will acquire all outstanding Common Shares from the holders thereof (other than dissenting Shareholders) and shall deliver in exchange for each Common Share held 0.012877 of a New Common Share and one Techco Share. The Common Shares acquired by VoiceIQ will be cancelled;

34.6 a total of $7.0 million will be invested in VoiceIQ by a group of investors in consideration for the issuance of an aggregate of 750,000 Non-Voting Common Shares, 1,250,000 New Common Shares and 1,250,000 flow-through New Common Shares;

34.7 VoiceIQ shall acquire all of the shares of 960330 Alberta Ltd., 960331 Alberta LTd., 960332 Alberta Ltd., 960333 Alberta Ltd., 960334 Alberta Ltd., Edam Joint Venture Ltd., Atlee Joint Venture Ltd., Sousa Joint Venture Ltd., Hamilton Lake III Joint Venture Ltd., Bassett Lake Joint Venture Ltd. and Basset Lake III Joint Venture Ltd. (collectively, the “JV Companies”) from the holders thereof in consideration of the issuance of 5,082,383 Non-Voting Common Shares, a share purchase warrant issued to the holder of the shares of Basset Lake III Joint Venture Ltd. (“Basset JV”) which shall entitle the holder thereof to acquire a certain number of Non-Voting Common Shares at an exercise price of $0.01 per share after the delivery of a reserve

report respecting the oil and gas property that Basset JV will transfer to VoiceIQ pursuant to the Arrangement, as well as in consideration of an aggregate of $4,500,000 in debt of VoiceIQ, as secured against certain of the oil and gas properties and assets owned indirectly by the JV Companies; and

34.8 VoiceIQ will be continued under the ABCA, which continuation shall include the deletion of the Common Shares from VoiceIQ's articles of incorporation, the re-designation of the New Common Shares as the "common shares" of VoiceIQ and the adoption of new by-laws of VoiceIQ.

35. The end result of the steps described above is that: (a) each holder of a Common Share will receive one Techco Share and 0.012877 New Common Shares; (b) the Technology Assets will be transferred to Techco and Techco will be owned by the existing Shareholders of VoiceIQ and the creditors of VoiceIQ (pursuant to the Creditors' Arrangement); and (c) VoiceIQ will change its name to Yoho Resources Inc. and be converted into an oil and gas exploration and production company.

General

36. VoiceIQ is a reporting issuer, in good standing, in various jurisdictions, including Ontario (and has been since November 24, 1993 under the securities legislation of Alberta, and since August 25, 2000 under the securities legislation of British Columbia and Ontario). Its continuous disclosure, including audited financial statements, are available on SEDAR. This historic disclosure relates to the Existing Business, which is to be transferred to Techco; the only material change to the Existing Business will be the compromise of most of its liabilities pursuant to the Creditors' Arrangement. Techco will, in addition to acquiring the business in respect of which there has been historic disclosure, also have substantially the same management team.

37. The Information Circular disseminated in connection with the Arrangement provides (or incorporates by reference) prospectus-level disclosure about Techco and the Existing Business, based on the historical public record disclosure. Certain pro forma financial information is also included to reflect the single change to the business, which is the compromise of liabilities pursuant to the Creditors' Arrangement.

38. Except for dissenting Shareholders, the Shareholders of VoiceIQ immediately prior to the effective time of the Arrangement will become shareholders of Techco immediately following the effective time of the Arrangement. As noted above, Techco intends to apply to list the Techco shares for trading on the TSXV as of the time of the implementation of the Arrangement.

39. The Arrangement will require the approval of the Shareholders, voting as ordered in the Interim Order of the Court, and of the Court. In considering whether to approve the arrangement, the Court will consider whether the Arrangement is fair to such Shareholders.

40. The Board of Directors of VoiceIQ has (i) received a fairness opinion from Acumen to the effect that the Arrangement is fair, from a financial point of view, to the Shareholders, (ii) approved the Arrangement and (iii) recommended that the Shareholders vote in favour of the Arrangement.

41. Holders of Common Shares will have the right to dissent from the Arrangement under Section 185 of the OBCA, and the Information Circular discloses full particulars of this right in accordance with applicable law.

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

IT IS HEREBY ORDERED pursuant to subsection 83.1(1) of the Act that Techco be deemed a reporting issuer for the purposes of Ontario securities legislation at the time of the Arrangement becoming effective.

December 24, 2004.

"Paul M. Moore" "H. Lorne Morphy"

2.2.3 Cangene Corporation and Apotex Holdings Inc. - cl. 104(2)(c) of the Act

Headnote

Clause 104(2)(c) - direct and indirect issuer bids resulting from a reorganization involving issuer and a significant shareholder - purpose of reorganization is to allow shareholder to make use of its proportionate share of issuer's "safe income" for tax planning purposes – after reorganization, the issuer will have the same number of shares issued and outstanding, and each shareholder will have the same number of shares and same relative ownership that they owned prior to the reorganization - shareholder to indemnify and reimburse issuer for costs and liabilities associated with reorganization - no adverse economic impact on or prejudice to issuer or public shareholders - issuer exempt from requirements of sections 95, 96, 97, 98 and 100 of the Act.

Ontario Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 89(1), 92, 95, 96, 97, 98, 100 and 104(2)(c).

Ontario Rules Cited

Rule 61-501 – Insider Bids, Issuer Bids, Going Private Transactions and Related Party Transactions.

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

AND

**IN THE MATTER OF
CANGENE CORPORATION AND
APOTEX HOLDINGS INC.**

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

UPON the application (the "Application") of Cangene Corporation ("Cangene") and Apotex Holdings Inc. ("Apotex") to the Ontario Securities Commission (the "Commission") for an order pursuant to clause 104(2)(c) of the Act that certain acquisitions by Cangene of its common shares ("Common Shares") pursuant to a proposed reorganization (the "Reorganization") described below are exempt from the requirements of sections 95, 96, 97, 98 and 100 of the Act;

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

AND UPON Cangene and Apotex having represented to the Commission as follows:

1. Cangene is a corporation incorporated under the laws of Ontario and is a reporting issuer under the Act not in default of any requirements of the Act.

2. The authorized capital of Cangene consists of an unlimited number of Common Shares, an unlimited number of preferred shares and an unlimited number of Class A preferred shares. As of December 31, 2004, 64,346,870 Common Shares, no preferred shares and no Class A preferred shares were issued and outstanding.

3. The Common Shares are listed on the Toronto Stock Exchange (the "TSX").

4. Apotex is a corporation incorporated under the laws of Ontario and is not a reporting issuer under the Act.

5. As of December 31, 2004, Apotex directly owned 37,707,808 Common Shares, representing approximately 58.6% of Cangene's issued and outstanding Common Shares.

6. Dr. Bernard Sherman ("Sherman") controls Apotex. He also controls other companies and charitable foundations that directly and indirectly own 14,157,979 Common Shares and personally holds 110,000 Common Shares. Accordingly, through Apotex and these other companies and charitable foundations and through his personal holdings, Sherman controls 51,975,787 Common Shares, representing approximately 80.8% of Cangene's issued and outstanding Common Shares.

7. Apotex is proposing the Reorganization to allow it to make use of its proportionate share of Cangene's "safe income" for tax planning purposes.

8. The Reorganization entails a number of transactions which may be summarized as follows:

   (a) Apotex will incorporate two new wholly-owned subsidiaries ("Newco1" and "Newco2" and together, the "Newcos"). The authorized share capital of each Newco will consist of an unlimited number of common shares and an unlimited number of preference shares. Apotex will transfer all or a portion of its Common Shares to Newco1 in consideration for common shares of Newco1. Prior to the transfer of the Common Shares, the Newcos will have no material assets and the Newcos will have no liabilities at any time;

   (b) Newco1 will declare and pay a stock dividend to Apotex in the form of preference shares of Newco1, in an amount not to exceed Apotex's estimated portion of safe income attributable to the Common Shares;

(c) Apotex will transfer the Newco1 preference shares to Newco2 in consideration for the issuance of Newco2 common shares;

(d) Apotex will transfer (the "Newco1 Transfer") all of the common shares of Newco1 to Cangene in exchange for newly issued Common Shares;

(e) Newco2 will transfer its Newco1 preference shares to Cangene in exchange for newly issued Common Shares. The aggregate number of Common Shares issued by Cangene pursuant to the transfer of the Newco1 preference shares and the Newco1 Transfer will be equal to the number of Common Shares owned by Newco1; and

(f) Newco1 will then be wound up (the "Wind-up") into Cangene and upon such Wind-up the Common Shares held by Newco1 will be transferred to Cangene and cancelled.

9. The Reorganization will not change the number of Common Shares issued and outstanding, as Cangene will have the same aggregate number of Common Shares outstanding following the Reorganization as it did immediately prior to the Reorganization.

10. Following the Reorganization, each of Apotex, Sherman and the public shareholders of Cangene (the "Public Shareholders") will beneficially own the same aggregate number and same relative percentages of Common Shares that they owned immediately prior to the Reorganization and will have the same rights and benefits in respect of such shares that they currently have.

11. All costs and expenses incurred by Cangene in connection with the Reorganization will be paid for by Apotex and Apotex will indemnify Cangene, the Public Shareholders from time to time, and the present and future directors and officers of each of Cangene and its subsidiaries from any losses which may be incurred by them as a result of the Reorganization.

12. The Reorganization will have no adverse economic effect on, or adverse tax consequences to, or in any way prejudice Cangene or the Public Shareholders.

13. The Reorganization has been approved by the board of directors of Cangene excluding those directors who are also directors, significant shareholders or employees of Apotex.

14. The TSX has accepted notice of the Reorganization subject to receipt of the customary documentation, including a copy of this order and confirmation of the reliance by Cangene and Apotex upon an exemption from the related party requirements of Commission Rule 61-501.

15. Upon the Newco1 Transfer, the offer by Cangene (the "Cangene Offer") to acquire all of the shares of Newco1 will constitute an issuer bid under subsection 89(1) and section 92 of the Act in that it will constitute an indirect offer by Cangene for the Common Shares owned by Newco1 at the time of the Newco1 Transfer. Further, the offer by Cangene (the "Wind-up Offer") to acquire the Common Shares held by Newco1 on the Wind-up will constitute an issuer bid under subsection 89(1) of the Act (the Cangene Offer and the Wind-up Offer are collectively referred to as the "Offers"). The Offers will not be exempt issuer bids under the Act.

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

IT IS ORDERED pursuant to clause 104(2)(c) of the Act that the Offers are exempt from the requirements of sections 95, 96, 97, 98 and 100 of the Act.

January 14, 2005.

"Robert W. Davis" "Suresh Thakrar"

2.2.4 Westport Capital Management Corporation - s. 218 of Reg. 1015

Headnote

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

Applicable Statutes

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

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

AND

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

AND

IN THE MATTER OF
WESTPORT CAPITAL MANAGEMENT CORPORATION

ORDER
(Section 218 of the Regulation)

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

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

AND UPON the Applicant having represented to the Commission that:

1. The Applicant is a corporation formed under the laws of the State of Florida on July 26, 2001.

2. The Applicant is registered in the United States with the U.S. Commodity Futures and Trading Commission (**CFTC**) as a Commodity Pool Operator and is a member of the National Futures Association (**NFA**). John W. Henry & Company, Inc. (**JWH**), an affiliate of the Applicant, is registered as a Commodity Pool Operator with the NFA, and in Ontario is registered as a Non-Resident Commodity Trading Manager.

3. The proposed business to be conducted in Ontario by the Applicant will be restricted to the sale of units of pooled funds of JWH, and its affiliates, pursuant to the registration and prospectus exemptions available under the Act.

4. The Applicant is resident outside of Canada, will not maintain an office in Canada, and will only participate in the distribution of securities in Ontario pursuant to registration and prospectus exemptions contained in the Act and Ontario Securities Commission Rule 45-501 *Exempt Distributions*.

5. Without the relief requested, the Applicant would be required to either: (i) hire an Ontario resident to act as local trading officer, which affords little or no additional protection to Ontario investors and would burden the Applicant with unnecessary additional cost, or (ii) abandon its application and conduct registrable activities only through an Ontario registered dealer at an increased price which would ultimately be passed on to Ontario investors.

AND UPON the Commission being satisfied that to make this order would not be prejudicial to the public interest:

IT IS ORDERED THAT section 213 of the Regulation shall, for a period of three years, not apply to the Applicant, pursuant to section 218 of the Regulation, provided that:

1. The Applicant appoints an agent for service of process in Ontario.

2. The Applicant shall provide to each client resident in Ontario a statement in writing disclosing the non-resident status of the Applicant, the Applicant's jurisdiction of residence, the name and address of the agent for service of process of the Applicant in Ontario, and the nature of risks to clients that legal rights may not be enforceable.

3. The Applicant will not change its agent for service of process in Ontario without giving the Commission 30 days' prior notice of such change by filing a new Submission to Jurisdiction and Appointment of Agent for Service of Process.

4. The Applicant and each of its registered directors, officers or partners, irrevocably and unconditionally submits to the non-exclusive jurisdiction of the judicial, quasi-judicial and administrative tribunals of Ontario and any administrative proceedings in Ontario, in any proceedings arising out of, related to, or

concerning its registration under the Act or its activities in Ontario as a registrant.

5. The Applicant will not have custody of, or maintain customer accounts in relation to, securities, funds, or other assets of clients resident in Ontario.

6. In each of the following situations the Applicant will inform the Director immediately upon the Applicant: (i) ceasing to be registered as a commodity pool operator with the CFTC or NFA, (ii) having its registration in any other jurisdiction not renewed or being suspended or revoked, (iii) becoming aware that it is the subject of an investigation or disciplinary action by any financial services or securities regulatory authority or self-regulatory authority, (iv) that the registration of its salespersons, officers, directors, or partners who are registered in Ontario have not been renewed or have been suspended or revoked in any Canadian or foreign jurisdiction, or (v) that any of its salespersons, officers, directors, or partners who are registered in Ontario are the subject of an investigation or disciplinary action by any financial services or securities regulatory authority or self-regulatory authority in any Canadian or foreign jurisdiction.

7. The Applicant will pay the increased compliance and case assessment costs of the Commission due to the Applicant's location outside of Ontario, including the cost of hiring a third party to perform a compliance review on behalf of the Commission.

8. The Applicant will make its books and records outside Ontario, including electronic records, readily accessible in Ontario, and will produce physical records for the Commission within a reasonable time if requested. If the laws of the jurisdiction in which the Applicant's books and records are located prohibit production of the books and records in Ontario without the consent of the relevant client, the Applicant shall, upon a request by the Commission: (a) so advise the Commission, and (b) use its best efforts to obtain the client's consent to the production of books and records.

9. The Applicant, will have available a person, possibly a third party, to assist the Commission in compliance and enforcement matters.

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

11. The Applicant will maintain appropriate registration and regulatory organization membership, in the jurisdiction of its principal operations and if required, in its jurisdiction of residence.

January 28, 2005.

"David L. Knight" "Robert L. Shirriff"

2.2.5 Morgan Stanley Hedge Fund Partners LP, Morgan Stanley Hedge Fund Partners GP LP and Zebra Capital Management LLC - s. 80 of the CFA

Headnote

Section 80 of the Commodity Futures Act (Ontario) – relief from the adviser registration requirements of subsection 22(1)(b) of the CFA granted to a non-resident adviser in respect of advising certain mutual funds, non-redeemable investment funds and similar investment vehicles related to commodity futures contracts and commodity futures options principally traded on commodity futures exchanges outside Canada and cleared through clearing corporations outside Canada, subject to certain terms and conditions.

Statutes Cited

Commodity Futures Act, R.S.O. 1990, c. C.20, as am., s. 22(1)(b) and s. 80.

Securities Act, R.S.O. 1990, c. S.5, as am. – Rule 35-502 – Non Resident Advisers.

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

AND

IN THE MATTER OF
MORGAN STANLEY HEDGE FUND PARTNERS LP,
MORGAN STANLEY HEDGE FUND PARTNERS GP LP
AND ZEBRA CAPITAL MANAGEMENT LLC

ORDER
(Section 80 of the CFA)

UPON the application (the **Application**) of Morgan Stanley Hedge Fund Partners LP, Morgan Stanley Hedge Fund Partners GP LP and Zebra Capital Management LLC (the **Applicants**) to the Ontario Securities Commission (the **Commission** or the **OSC**) for an order pursuant to section 80 of the CFA that each of the Applicants and its directors, officers, partners, members and employees (the **Representatives**), be exempt, for a period of three years, from the requirements of paragraph 22(1)(b) of the CFA in respect of advising certain mutual funds, non-redeemable investment funds and similar investment vehicles established outside of Canada in respect of trades in commodity futures contracts and commodity futures options principally traded on commodity futures exchanges outside Canada and cleared through clearing corporations outside Canada;

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

AND UPON the Applicants having represented to the Commission that:

1. The Applicants are Morgan Stanley Hedge Fund Partners LP, Morgan Stanley Hedge Fund Partners GP LP and Zebra Capital Management LLC. Each of Morgan Stanley Hedge Fund Partners GP LP and Morgan Stanley Hedge Fund Partners LP is a limited partnership formed under the laws of the State of Delaware. Zebra Capital Management LLC is a limited liability company organized under the laws of the State of Connecticut. The Applicants may also include affiliates of, or entities organized by, the Applicants which may subsequently execute and submit to the Commission a verification certificate in the attached form confirming the truth and accuracy of the information set out in this Order with respect to that particular Applicant.

2. Zebra US Equity Long/Short Fund Onshore LP, a limited partnership formed under the laws of the State of Delaware, Zebra US Equity Long/Short Fund (Cayman) Offshore Ltd., an exempted company formed under the laws of the Cayman Islands, Zebra US Equity Long/Short Fund (Cayman) Offshore II Ltd., an exempted company formed under the laws of the Cayman Islands and any other feeder funds (collectively, the **Feeder Funds**) will co-invest in a "master" fund, Zebra US Equity Long/Short Fund LP, a limited partnership formed under the laws of the State of Delaware (the **Master Fund**). These funds are, or will be, organized in a "master-feeder" structure established outside of Canada. The Master Fund will serve as a master fund in which substantially all of the assets of the Feeder Funds will be invested in return for limited partnership interests of the Master Fund. The Applicants may in the future establish or advise certain other mutual funds, non-redeemable investment funds or similar investment vehicles (collectively, along with the Feeder Funds and the Master Funds, the **Funds**).

3. Securities of the Funds are, or will be, primarily offered outside of Canada to institutional investors and high net worth individuals. Securities of the Funds are or will be offered to a small number of Ontario residents who are institutional investors and high net worth individuals and will be distributed in Ontario through one or more registrants (as defined under the *Securities Act* (Ontario) (the **OSA**)) in reliance on an exemption from the prospectus requirements of the OSA, and in reliance on an exemption from the adviser registration requirement of the OSA under section 7.10 of OSC Rule 35-502 *Non-Resident Advisers* (**Rule 35-502**).

4. The Applicants may provide trading advice to the Master Fund and to certain other Funds, as part of their investment programs, with respect to investments in commodity futures contracts and commodity futures options principally traded on commodity futures exchanges outside Canada and cleared through clearing corporations outside Canada.

5. None of the Funds is or has any current intention of becoming a reporting issuer in Ontario or in any other Canadian jurisdiction.

6. Each of the Applicants, where required, is or will be registered or licensed or is or will be entitled to rely on appropriate exemptions from such registrations or licences to provide advice to the Funds pursuant to the applicable legislation of its principal jurisdiction. In particular:

   (i) Morgan Stanley Hedge Fund Partners LP is registered with the U.S. Securities and Exchange Commission (**SEC**) as an investment adviser under the U.S. Investment Advisers Act of 1940 (**Advisers Act**) and is exempt from registration with the U.S. Commodity Futures Trading Commission (the **CFTC**) and the National Futures Association (the **NFA**).

   (ii) Morgan Stanley Hedge Fund Partners GP LP is registered with the SEC as an investment adviser under the Advisers Act and is exempt from registration as a commodity trading advisor and a commodity pool operator with the CFTC and the NFA pursuant to an exemption under the CFTC rules.

   (iii) Zebra Capital Management LLC is registered with the SEC as an investment adviser under the Advisers Act and is exempt from registration as a commodity trading advisor with the CFTC and the NFA pursuant to an exemption under the CFTC rules.

7. None of the Applicants is registered in any capacity under the CFA or the OSA.

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

AND UPON being satisfied that it would not be prejudicial to the public interest for the Commission to grant the exemption requested on the basis of the terms and conditions proposed,

IT IS ORDERED pursuant to section 80 of the CFA that each of the Applicants and its Representatives responsible for advising the Funds are not subject to the requirements of paragraph 22(1)(b) of the CFA in respect of their advisory activities in connection with the Funds, for a period of three years, provided that at the time that such activities are engaged in:

(a) the Applicants, where required, are or will be, registered or licensed, or are or will be entitled to rely on appropriate exemptions from such registrations or licences, to provide advice to the Funds pursuant to the applicable legislation of its principal jurisdiction;

(b) the Funds invest, or may in the future invest, in commodity futures contracts and commodity futures options principally traded on commodity futures exchanges outside Canada and cleared through clearing corporations outside of Canada;

(c) securities of the Funds will be offered primarily outside of Canada and will only be distributed in Ontario through one or more registrants (as defined under the OSA) in reliance on an exemption from the prospectus requirements of the OSA and upon an exemption from the adviser registration requirement of the OSA under Section 7.10 of Rule 35-502;

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

(e) any Applicant whose name does not specifically appear in this Order and who proposes to rely on the exemption granted under this Order, shall, as a condition to relying on such exemption, have executed and filed with the Commission a verification certificate referencing this Order and confirming the truth and accuracy of the Application with respect to that particular Applicant.

January 28, 2005.

"David L. Knight" "Robert L. Shirriff"

2.2.6 Algonquin Oil & Gas Limited - s. 144

Headnote

Cease trade order revoked where the issuer has remedied its default in respect of disclosure requirements under the Act.

Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 127(1)2, 127(5), 127(8), 144.

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

AND

IN THE MATTER OF
ALGONQUIN OIL & GAS LIMITED

ORDER
(Section 144)

WHEREAS the securities of **Algonquin Oil & Gas Limited** (the "**Corporation**") currently are subject to an order (the "**Temporary Order**") made by the Director on behalf of the Ontario Securities Commission (the "**Commission**"), pursuant to paragraph 2 of subsections 127(1) and 127(5) of the Act on the 16th day of December, 2004, as extended by a further order (the "**Extension Order**") of the Director, made on the 29th day of December, 2004, on behalf of the Commission pursuant to subsection 127(1) of the Act, that trading in the securities of the Corporation cease until the Temporary Order, as extended by the Extension Order is revoked by a further Order of Revocation;

AND WHEREAS the Temporary Order and the Extension Order were each made on the basis that the Corporation was in default of certain filing requirements;

AND WHEREAS the Corporation has represented to the Director that:

1. The Corporation was incorporated under the *Business Corporations Act* (Alberta) on March 31, 1994 and is a reporting issuer in the Provinces of Ontario, British Columbia, Saskatchewan and Alberta.

2. The Temporary Order was issued December 16, 2004 by reason of the failure of the Corporation to file with the Commission its Annual Financial Statements for the year ending June 30, 2004 and Interim Financial Statements for the three-month period ended September 30, 2004, as required by the Act.

3. On December 31, 2004, the Corporation filed its Annual Financial Statements for year ending June 30, 2004.

4. On January 10, 2005, the Corporation filed its interim financial statements for the period ended September 30, 2004 with the Commission through SEDAR.

5. The Corporation has now brought its continuous disclosure filings up-to-date.

AND WHEREAS the undersigned is satisfied that the Corporation has remedied its default in respect of the filing requirements and is of the opinion that it would not be prejudicial to the public interest to revoke the Temporary Order as extended by the Extension Order;

NOW THEREFORE IT IS ORDERED pursuant to section 144 of the Act that the Temporary Order and Extension Order be and they are hereby revoked.

January 31, 2005.

“John Hughes”

2.2.7 Anacle I Corporation - s. 147

Headnote

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

Statutes Cited

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

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
ANACLE I CORPORATION

ORDER
(Section 147 of the Act)

UPON the application (the “Application”) of Anacle I Corporation (“Anacle”), to the Ontario Securities Commission (the “Commission”) for an order pursuant to section 147 of the Act exempting the Non-ASIC Classes (as defined below) from the Financial Statement Filing Requirements (as defined below).

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

AND UPON Anacle having represented to the Commission as follows:

1. Anacle is a corporation amalgamated under the laws of Ontario.

2. In connection with the proposed distribution in Ontario by Anacle of Series A shares of Anacle Short-Term Investment Class (“ASIC”), one of the classes of Anacle shares, Anacle has filed on the System for Electronic Document Analysis and Retrieval (“SEDAR”) a simplified prospectus and an annual information form, each dated November 4, 2004 (the “Ontario prospectus documents”). Anacle has also filed a separate preliminary simplified prospectus and annual information form in respect of the Series A Shares of ASIC in

Manitoba and British Columbia, which are virtually identical to the Ontario prospectus documents, on December 17, 2004.

3. Anacle intends to be a “mutual fund corporation” under the *Income Tax Act* (Canada) after it has distributed Series A shares of ASIC to at least 300 purchasers.

4. There are currently four additional Anacle funds, each of which is a separate class of Anacle shares and a “mutual fund” under subsection 1(1) of the Act (the “Existing Non-ASIC Classes”). From time to time, Anacle may create similar classes for additional funds (together with the Existing Non-ASIC Classes, the “Non-ASIC Classes”). Each Non-ASIC Class has or will have a separate portfolio of assets referable to it.

5. The Existing Non-ASIC Classes are owned entirely by M.R.S. Trust Company (“MRS”). The Non-ASIC Classes have been and will be distributed on a prospectus-exempt basis only to MRS and/or one or more of its affiliates that do not have any direct public shareholders.

6. Accordingly, none of the Non-ASIC Classes is or will be a “reporting issuer” under subsection 1(1) of the Act.

7. However, by virtue of Anacle being organized under the laws of Ontario, each of the Non-ASIC Classes is or will be a “mutual fund in Ontario” under subsection 1(1) of the Act. They will not have a corresponding status in Manitoba or British Columbia.

8. As mutual funds in Ontario, absent the relief requested, each of the Non-ASIC Classes is or will be required to prepare and file semi-annual and audited annual financial statements and send copies of such financial statements to the holder(s) of the Non-ASIC Classes in accordance with subsections 77(2), 78(1), and 79(1) of the Act (the “Financial Statement Requirements”).

9. Absent the relief requested, the filings are or will be required to be posted on SEDAR, pursuant to subsection 2.1(1) of National Instrument 13-101 – System for Electronic Document Analysis and Retrieval (the “SEDAR Rule”).

10. Anacle will prepare semi-annual and audited annual financial statements for ASIC, send such financial statements to the holders of ASIC shares, and file such financial statements for ASIC on SEDAR in accordance with the Financial Statement Requirements and the SEDAR Rule.

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

IT IS HEREBY ORDERED THAT, pursuant to subsection 147 of the Act, the Non-ASIC Classes are exempt from the Financial Statement Requirements provided:

(a) Anacle prepares semi-annual and audited annual financial statements for Anacle on a legal entity basis and in accordance with Canadian generally accepted accounting principles; and

(b) The only shareholders of the Non-ASIC Classes are MRS and affiliates of MRS that do not have any direct public shareholders.

January 18, 2005.

“Robert W. Davis” “Suresh Thakrar”

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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
Azoico Ltd.	02 Feb 05	14 Feb 05		
FirstSmart Sensor Corp.	20 Jan 05	01 Feb 05	01 Feb 05	
Infolink Technologies Ltd.	28 Jan 05	09 Feb 05		
KT Capital Corp.	13 Jan 05	25 Jan 05	25 Jan 05	
SLMSoft Inc.	24 Jan 05	04 Feb 05		
Stone Mountain Holdings Inc.	02 Feb 05	14 Feb 05		

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
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		
Infolink Technologies Ltd.	20 Jan 05	01 Feb 05		28 Jan 05	28 Jan 05
The Jean Coutu Group (PJC) Inc.	20 Jan 05	02 Feb 05		28 Jan 05	
Nortel Networks Corporation	17 May 04	31 May 04	31 May 04		
Nortel Networks Limited	17 May 04	31 May 04	31 May 04		
Straight Forward Marketing Corporation	18 Nov 04	01 Dec 04	01 Dec 04	31 Jan 05	

4.3.1 Issuer CTO's Revoked

Company Name	Date of Revocation
Algonquin Oil & Gas Limited	31 Jan 05

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Chapter 5

Rules and Policies

5.1.1 Revised Notice of Rule National Instrument 31-101 National Registration System, and Form 31-101F1, Form 31-101F2, and National Policy 31-201 National Registration System

REVISED NOTICE OF RULE
NATIONAL INSTRUMENT 31-101 *NATIONAL REGISTRATION SYSTEM*,
AND FORM 31-101F1, FORM 31-101F2, AND
NATIONAL POLICY 31-201 *NATIONAL REGISTRATION SYSTEM*

Introduction

National Instrument 31-101 *National Registration System* and National Policy 31-201 *National Registration System* are an initiative of the Canadian Securities Administrators (the **CSA** or **we**). The CSA has developed the National Registration System (the **NRS**), which may be used by investment dealers, advisers, mutual fund dealers and their sponsored individuals in connection with their application for initial registration, amendments to registration or reinstatement of registration or for the approval or review of certain sponsored individuals. The requirements and procedure under the NRS are set out in National Instrument 31-101 *National Registration System*, Form 31-101F1 *Election to use the NRS and Determination of Principal Regulator*, Form 31-101F2 *Notice of Change* (collectively, the **Instrument**) and National Policy 31-201 *National Registration System* (the **Policy**).

The Instrument has been made or is expected to be made by each member of the CSA, and will be implemented as

- a rule in each of Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario and Prince Edward Island,
- a regulation in Nunavut, Québec and Saskatchewan,
- ~~an exemption~~a blanket order in British Columbia,
- a code in the Northwest Territories, and
- a policy in all other jurisdictions represented by the CSA.

We expect the Policy will be adopted as a policy in all jurisdictions.

The NRS is being implemented pursuant to the Memorandum of Understanding for the Mutual Reliance Review System signed as of October 14, 1999 between members of the CSA (the **MOU**). We expect that all jurisdictions will confirm the inclusion of the Instrument and the Policy in the MOU.

In Ontario, the Instrument and other required materials were delivered to the Chair of Management Board of Cabinet (the **Minister**) in December. The Minister may approve or reject the Instrument or return it for further consideration. If the Minister approves the Instrument or does not take any further action, the Instrument and Policy will come into force on the date indicated below.

In Québec, ~~a~~National Instrument 31-101 *National Registration System* was published as a proposed regulation in January 2004. A regulation made under the *Securities Act* (Québec) (the **QSA**) is adopted by the *Autorité des marchés financiers* and, thereafter, must be approved, with or without amendment, by the Minister of Finance ~~while~~prior to coming into force. In addition, it should be noted that the Autorité des marchés financiers shall adopt a regulation under the ~~an~~ *Act respecting the distribution of financial products and services* (the **LDPSF**) ~~is~~in order to make the NRS applicable to “firms in group-savings-plans brokerage” and their representatives. Furthermore, the Autorité des marchés financiers is currently evaluating whether it should adopt one or more regulations in order to implement the NRS. Prior to coming into force, a regulation adopted by the Autorité des marchés financiers ~~and~~ must~~, thereafter,~~ be approved, with or without amendment, by the ~~government. The Instrument was published for comments under the *Securities Act* in January 2004 and will not need further publication under the QSA Act. Under the LDPSF, the Instrument must be published for a 45-day comment period prior to being submitted for governmental approval. The Instrument will come into force on the date of its publication in the *Gazette officielle du Québec* or on any later~~

~~date specified in the regulations. It must also be published in the Bulletin of the *Autorité des marchés financiers*.~~ Quebec Government or the Minister of Finance.

In Nova Scotia, the Instrument will be delivered to the Minister for non-objection by the Governor in Council in accordance with Nova Scotia securities law after it is adopted as a rule by the Commission. If the Instrument is not objected to by the Governor in Council, it will come into force in ~~on the date indicated below.~~April 2004.

In Nunavut, a Request for Decision to Cabinet will be required to adopt the Instrument as a regulation under the *Securities Act* (Nunavut).

Provided all necessary ministerial or other governmental approvals are obtained, we expect to implement the Instrument on April 4, 2005. We will implement the Policy at the same time as the Instrument.

Substance and Purpose

The purpose of the NRS is to improve the current registration system through a mutual reliance process. Principles of mutual reliance will be applied to the analysis of registration applications or applications for approval or review of investment dealers, advisers and mutual fund dealers and their sponsored individuals in order to reduce unnecessary duplication in the analysis of applications made in multiple jurisdictions or in subsequent jurisdictions.

The Instrument sets out the eligibility requirements for firm filers and individual filers to be able to use the NRS. An eligible firm filer elects to use the NRS by submitting a Form 31-101F1. Eligible individual filers whose sponsoring firm has elected to use the NRS must use the NRS when submitting an application to a non-principal regulator.

The Instrument provides exemptive relief so that filers under the NRS only have to satisfy or comply with the fit and proper requirements, notice requirements and filing requirements applicable in their principal jurisdiction. Fit and proper requirements relate to a filer's suitability to be registered or to be approved. Filers will continue to be subject to the conduct rules applicable in each jurisdiction where they are registered. The Instrument and Policy contain further description of fit and proper requirements and of conduct rules.

The Policy sets out the procedure to be followed by filers who are submitting applications under the NRS. A filer's principal regulator is generally the securities regulatory authority or regulator of the jurisdiction where the firm filer's head office and directing mind and management is located and where the individual filer's working office is located.

Generally, when submitting an application under the NRS, filers will only file the materials required by their principal regulator. Further, filers will normally only deal with their principal regulator on their initial application and when seeking to register in additional jurisdictions. Once the principal regulator has reached a decision on the application, non-principal regulators may opt in or opt out of the NRS in connection with that application. Opting out is expected to happen on an exceptional basis.

Application for registration or approval of individual filers will be made through the National Registration Database (the **NRD**) implemented under Multilateral Instrument 31-102 *National Registration Database* and Multilateral Instrument ~~31~~33-109 *Registration Information*. In order to allow efficient implementation and application of the NRS, three key changes will be made to technology underlying the NRD. These changes relate to the selection of principal regulator, opt in / opt out function and unique designation of the NRS submissions.

~~Québec anticipates adopting~~In Québec, NRD implementation is principally governed by *Regulation 31-102Q respecting National Registration Database* and *Regulation 33-109Q respecting Registration Information*~~, which reflect the equivalent Multilateral Instruments, on or before the effective date of the Instrument. However, if for any reason, the technology underlying the NRD is not available in Québec as of the effective date or if the Regulations have not been adopted, the Instrument provides for transitional measures with respect to the filing of material in and outside of Québec.~~. Those regulations came into force on January 1st, 2005.

The NRS does not apply to renewals of registrations as the CSA feels that processing renewals under current legislation through the NRS could be lengthier than the current process.

Background

The Instrument and Policy were published for comment in January and February, 2004. The comment period expired in April, 2004.

Summary of Written Comments Received by the CSA

During the comment period, the CSA received submissions from nine commentors on the Instrument and Policy. We have considered the comments received and thank all the commentors. The names of the nine commentors and a summary of the comments on the Instrument and Policy, together with our responses, are contained in Appendix A and Appendix B to this Notice.

After considering the comments, we have made amendments to the Instrument and Policy to improve the clarity and consistency of the Instrument and Policy. However, as these changes are not material, we are not republishing the Instrument or Policy for a further comment period.

Summary of Changes to the Proposed Instrument and Policy

See Appendix C to this Notice for a description of the changes made to the versions of the Instrument and Policy since they were published.

Local Amendments

We are amending or repealing elements of local securities legislation and securities directions in conjunction with implementing the NRS. The provincial and territorial securities regulatory authorities may publish, or may have published, these local changes or proposed changes separately in their local jurisdiction.

Questions

Please refer your questions to any of:

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Instrument and Policy

The text of the Instrument and Policy follow. or can be found elsewhere on a CSA member website.

January 7, February 4, 2005

REVISED NOTICE OF RULE
NATIONAL INSTRUMENT 31-101 *NATIONAL REGISTRATION SYSTEM*,
AND FORM 31-101F1, FORM 31-101F2, AND
NATIONAL POLICY 31-201 *NATIONAL REGISTRATION SYSTEM*

Introduction

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- a regulation in Nunavut, Québec and Saskatchewan,
- a blanket order in British Columbia,
- a code in the Northwest Territories, and
- a policy in all other jurisdictions represented by the CSA.

We expect the Policy will be adopted as a policy in all jurisdictions.

The NRS is being implemented pursuant to the Memorandum of Understanding for the Mutual Reliance Review System signed as of October 14, 1999 between members of the CSA (the **MOU**). We expect that all jurisdictions will confirm the inclusion of the Instrument and the Policy in the MOU.

In Ontario, the Instrument and other required materials were delivered to the Chair of Management Board of Cabinet (the **Minister**) in December. The Minister may approve or reject the Instrument or return it for further consideration. If the Minister approves the Instrument or does not take any further action, the Instrument and Policy will come into force on the date indicated below.

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In Nova Scotia, the Instrument will be delivered to the Minister for non-objection by the Governor in Council in accordance with Nova Scotia securities law after it is adopted as a rule by the Commission. If the Instrument is not objected to by the Governor in Council, it will come into force in April 2004.

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The purpose of the NRS is to improve the current registration system through a mutual reliance process. Principles of mutual reliance will be applied to the analysis of registration applications or applications for approval or review of investment dealers,

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In Québec, NRD implementation is principally governed by *Regulation 31-102Q respecting National Registration Database* and *Regulation 33-109Q respecting Registration Information*. Those regulations came into force on January 1st, 2005.

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Instrument and Policy

The text of the Instrument and Policy follow or can be found elsewhere on a CSA member website.

February 4, 2005

Chapter 6

Request for Comments

6.1.1 Request for Comment - Proposed Multilateral Instrument 52-111 and Companion Policy 52-111CP Reporting on Internal Control over Financial Reporting and Proposed Repeal and Replacement of Multilateral Instrument 52-109, Forms 52-109F1, 52-109FT1, 52-109F2 and 52-109FT2 and Companion Policy 52-109CP Certification of Disclosure in Issuers' Annual And Interim Filings

REQUEST FOR COMMENTS

PROPOSED MULTILATERAL INSTRUMENT 52-111
AND COMPANION POLICY 52-111CP
REPORTING ON INTERNAL CONTROL OVER FINANCIAL REPORTING

AND

PROPOSED REPEAL AND REPLACEMENT OF
MULTILATERAL INSTRUMENT 52-109,
FORMS 52-109F1, 52-109FT1, 52-109F2 AND 52-109FT2
AND COMPANION POLICY 52-109CP
CERTIFICATION OF DISCLOSURE IN ISSUERS' ANNUAL AND INTERIM FILINGS

1. REQUEST FOR PUBLIC COMMENT

Members of the Canadian Securities Administrators (the CSA), other than British Columbia (together the Publishing Jurisdictions), are publishing for a 120-day comment period the following documents:

- Multilateral Instrument 52-111 *Reporting on Internal Control over Financial Reporting* (the Proposed Internal Control Instrument);
- Companion Policy 52-111CP (the Proposed Internal Control Policy and together with the Proposed Internal Control Instrument, the Proposed Internal Control Materials);
- Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (the Revised Certification Instrument);
- Forms 52-109F1, 52-109FVT1, 52-109FM1, 52-109F1R, 52-109F1R – AIF, 52-109F2, 52-109FT2, 52-109FM2 and 52-109F2R (together, the Revised Certification Forms); and
- Companion Policy 52-109CP (the Revised Certification Policy and together with the Revised Certification Instrument and the Revised Certification Forms, the Revised Certification Materials).

The Revised Certification Materials are intended to replace the current Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (the Current Certification Instrument), Forms 52-109F1, 52-109FT1, 52-109F2 and 52-109FT2 (the Current Certification Forms) and the Companion Policy to the Current Certification Instrument (the Current Certification Policy and together with the Current Certification Instrument and Current Certification Forms, the Current Certification Materials). The Current Certification Materials came into effect in all CSA jurisdictions, except British Columbia and Québec, on March 30, 2004.

In Québec, the Current Certification Instrument will be adopted as a regulation made under section 331.1 of *The Securities Act* (Québec) once it is approved, with or without amendment, by the Minister of Finance, and will come into force on the date of its publication in the *Gazette officielle du Québec* or on any later date specified in the regulation. The Current Certification Policy will be implemented as a policy.

New Brunswick is in the process of publishing the Current Certification Materials and the proposed amendments to the Current Certification Instrument and the Current Certification Policy that were published by the other Publishing Jurisdictions on November 26, 2004. Both the Current Certification Materials and the proposed amendments will be adopted in New Brunswick

by implementing instruments. It is expected that the Current Certification Instrument and the Current Certification Forms will be adopted as a rule and the Current Certification Policy will be adopted as a policy.

We invite comment on these materials generally. In addition, we have a raised a number of questions for your specific consideration.

In determining whether to adopt the Proposed Internal Control Materials and the Revised Certification Materials, we will consider comments received in response to this Notice.

In the course of developing the Proposed Internal Control Materials, several of the Publishing Jurisdictions, including Alberta and Ontario, conducted consultations with market participants. Although the Alberta Securities Commission (the ASC) supports the objectives of the Proposed Internal Control Materials, because of feedback it received from issuers and investors, the ASC is still considering whether adoption of the Proposed Internal Control Materials is appropriate and whether any of the alternatives outlined under "7. Alternatives considered – Proposed Internal Control Materials" might sufficiently address the proposed objectives in a more cost-effective manner. The Manitoba Securities Commission shares the concerns expressed by the ASC with respect to the adoption of the Proposed Internal Control Materials.

2. OUTLINE OF NOTICE

1. Request for public comment
2. Outline of notice
3. Introduction
   - Publishing Jurisdictions
   - Purpose of Proposed Internal Control Materials and Revised Certification Materials
4. Background
   - Sarbanes-Oxley Act of 2002
   - Canadian initiatives
   - Previously published proposed amendments to the Current Certification Materials
5. Summary of Proposed Internal Control Materials
   - Scope of application
   - Management's assessment of internal control over financial reporting
   - Internal control report
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   - Refiled internal control reports and internal control audit reports
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   - Language of internal control reports and internal control audit reports
   - Exemptions
   - Effective date and transition
   - Proposed Internal Control Policy
6. Anticipated costs and benefits – Proposed Internal Control Materials
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8. Summary of changes to Current Certification Materials
   - Significant changes to Current Certification Instrument and Current Certification Forms
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9. Summary of Revised Certification Materials
   - Revised Certification Instrument
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   - Revised Certification Policy
10. Anticipated costs and benefits – Revised Certification Materials
11. Alternatives considered – Revised Certification Materials
12. Consequential amendments
13. Related instruments
14. Reliance on unpublished studies, etc.
15. Authority - Ontario
16. Comments
17. Questions
18. Text of Proposed Internal Control Materials and Revised Certification Materials

3. INTRODUCTION

Publishing Jurisdictions

The Proposed Internal Control Materials and the Revised Certification Materials are initiatives of the Publishing Jurisdictions. If adopted, the Proposed Internal Control Instrument, the Revised Certification Instrument and the Revised Certification Forms are expected to be adopted as:

- a rule in each of Alberta, Manitoba, Ontario, Québec, New Brunswick, Nova Scotia and Newfoundland and Labrador;
- a Commission regulation in Saskatchewan;
- a policy in each of Prince Edward Island and Yukon; and
- a code in each of the Northwest Territories and Nunavut.

It is expected that the Proposed Internal Control Policy and the Revised Certification Policy, if adopted, will be adopted as a policy in each of Alberta, Saskatchewan, Manitoba, Ontario, Québec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, Yukon, the Northwest Territories and Nunavut.

Purpose of Proposed Internal Control Materials and Revised Certification Materials

The objective of the proposals set out in the Proposed Internal Control Materials and the Revised Certification Materials is to improve the quality and reliability of financial and other continuous disclosure reporting by reporting issuers. We believe that this in turn will help to maintain and enhance investor confidence in the integrity of our capital markets.

The Proposed Internal Control Materials and the Revised Certification Materials will also lend support to various other initiatives developed by the CSA by requiring issuers to develop appropriate systems that provide reasonable assurance regarding the reliability of disclosure made by issuers. These other initiatives include:

- a harmonized continuous disclosure rule that, among other things, mandates specific and expanded content for issuers' MD&A (National Instrument 51-102 *Continuous Disclosure Obligations)*;
- an audit committee rule that mandates the establishment of an independent and financially literate audit committee (Multilateral Instrument 52-110 *Audit Committees*); and
- a proposed rule that requires issuers to disclose their corporate governance practices (National Instrument 58-101 *Corporate Governance Disclosure* and National Policy 58-201 *Corporate Governance Guidelines*).

The anticipated costs and benefits associated with the Proposed Internal Control Materials and the Revised Certification Materials are discussed below under "6. Anticipated costs and benefits – Proposed Internal Control Materials" and "10. Anticipated costs and benefits – Revised Certification Materials".

Alternatives to the Proposed Internal Control Materials and the Revised Certification Materials considered are discussed below under "7. Alternatives considered – Proposed Internal Control Materials" and "11. Alternatives considered – Revised Certification Materials".

4. BACKGROUND

Sarbanes-Oxley Act of 2002

In July 2002, the *Sarbanes-Oxley Act of 2002* (SOX) was enacted in the U.S. SOX prescribes a broad range of measures designed to restore the public's faith in the U.S. capital markets in the wake of several U.S. financial reporting scandals. These measures include:

- CEO and CFO certification of financial and other disclosure requirements implementing section 302 of SOX (the SOX 302 Rules); and
- internal control reporting requirements implementing section 404 of SOX (the SOX 404 Rules).

Canadian initiatives

Since our markets are connected to and affected by the U.S. markets, they are not immune from real or perceived erosion of investor confidence in the U.S. Therefore, we initiated domestic measures to address the issue of investor confidence and to maintain the reputation of our markets internationally.

On March 30, 2004, the Current Certification Materials came into force in the Publishing Jurisdictions (other than Québec). The Current Certification Materials are similar to the SOX 302 Rules and require a CEO and a CFO (or persons performing similar functions to a CEO or CFO) (certifying officers) to personally certify that, among other things:

- the issuer's annual filings and interim filings do not contain any misrepresentations;
- the financial statements and other financial information in the annual filings and interim filings fairly present the financial condition, results of operations and cash flows of the issuer;
- they have designed disclosure controls and procedures and internal control over financial reporting (or caused them to be designed under their supervision);
- they have evaluated the effectiveness of the issuer's disclosure controls and procedures and caused the issuer to disclose their conclusions regarding their evaluation; and
- they have caused the issuer to disclose certain changes in internal control over financial reporting.

Unlike the SOX 302 Rules, the Current Certification Materials do not require certifying officers to certify that they have disclosed to their audit committees and auditors significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting and certain fraud. The requirement for this representation under the SOX 302 Rules is based upon an evaluation of the effectiveness of internal control over financial reporting.

At the time that the Current Certification Materials came into force, the Publishing Jurisdictions indicated that they were developing, as a separate CSA initiative, an instrument which would require a report on management's assessment of an issuer's internal control over financial reporting. They also indicated that they were evaluating the extent to which auditor attestation of that report should be required.

The Proposed Internal Control Instrument will impose the following requirements in addition to the requirements of the Revised Certification Materials:

- an evaluation of the effectiveness of internal control over financial reporting against a suitable control framework;
- maintenance of evidence providing reasonable support for the evaluation of the effectiveness of internal control over financial reporting;
- reporting of material weaknesses in internal control over financial reporting; and
- an audit of internal control over financial reporting.

These requirements are similar to those under the SOX 404 Rules.

The Revised Certification Instrument will harmonize our certification requirements with those imposed by the SOX 302 Rules for all reporting issuers that are subject to the Proposed Internal Control Instrument.

Previously published proposed amendments to the Current Certification Materials

On November 26, 2004, the Publishing Jurisdictions published for comment proposed amendments to the Current Certification Materials (the Interim Certification Amendments). It is intended that the Interim Certification Amendments come into effect before the Revised Certification Materials come into effect. The Revised Certification Materials incorporate the Interim Certification Amendments. Please see the discussion of transition periods under "8. Summary of changes to Current Certification Materials – Significant changes to Current Certification Instrument and Current Certification Forms" for a summary of these amendments.

5. SUMMARY OF PROPOSED INTERNAL CONTROL MATERIALS

Scope of Application

Part 1 of the Proposed Internal Control Instrument establishes the scope of the Proposed Internal Control Instrument. It applies to all reporting issuers other than investment funds and venture issuers. In contrast, the Revised Certification Instrument applies to all reporting issuers other than investment funds. As a result, venture issuers are subject to the requirements of the Revised Certification Instrument, but are not required to comply with the Proposed Internal Control Instrument.

Under the Proposed Internal Control Instrument, a venture issuer is an issuer that, as at the applicable time, does not have any of its securities listed or quoted on any of the Toronto Stock Exchange, the New York Stock Exchange, the American Stock Exchange, the Nasdaq National Market, the Nasdaq SmallCap Market, the Pacific Exchange or a marketplace outside of Canada or the U.S.

Specific Request for Comment

1. Do you agree that the Proposed Internal Control Instrument should apply to all reporting issuers other than investment funds and venture issuers? If not, which issuers do you believe should be subject to the Proposed Internal Control Instrument?

   The table set out below under "5. Summary of Proposed Internal Control Materials – Effective date and transition" provides a breakdown of issuers by market capitalization, which may be helpful in preparing your response to this question.

2. Do you believe that venture issuers should be subject to different requirements relating to internal control over financial reporting beyond what is required by the Revised Certification Materials? If so, what should be the nature of any different requirements?

Management's assessment of internal control over financial reporting

Part 2 of the Proposed Internal Control Instrument requires management of every issuer, with the participation of the certifying officers, to evaluate the effectiveness of the issuer's internal control over financial reporting as of the end of the issuer's financial year.

Management
The Proposed Internal Control Instrument does not define "management". This is intentional. The Proposed Internal Control Policy clarifies that we expect management to include at a minimum the issuer's certifying officers. We believe, however, that it should be left to the discretion of the certifying officers, acting reasonably, to determine the other members of management for the purposes of the Proposed Internal Control Instrument.

Specific Request for Comment

3. Should the term "management" be formally defined? If so, what would be an appropriate definition?

4. If "management" is not defined, is the guidance in the Proposed Internal Control Policy adequate and appropriate?

Scope of evaluation
The Proposed Internal Control Instrument does not prescribe the scope of the evaluation of internal control over financial reporting. We believe that the scope of the evaluation should be left to the judgment of management, acting reasonably. This will allow management to tailor its evaluation to the particular circumstances of the issuer, taking into account the issuer's size, nature of business and complexity of operations.

The Proposed Internal Control Policy, however, clarifies our expectations of the scope of the evaluation if the issuer has any of the following interests:

- an interest in an entity that is consolidated because the issuer controls that entity (a subsidiary);
- an interest in an entity that is consolidated because it is a variable interest entity (a VIE);
- an interest in an entity that is proportionately consolidated because the issuer jointly controls that entity (a joint venture);

- an interest in an entity that is accounted for using the equity method because the issuer has significant influence over that entity (an equity investment);
- an interest in an entity that is carried at cost because the issuer has neither control nor significant influence over that entity (a portfolio investment); or
- an interest in a business that the issuer acquired during the financial year.

Specific Request for Comment

5. Is the guidance set out in the Proposed Internal Control Policy with respect to the scope of the evaluation of internal control over financial reporting in relation to each of the circumstances set out above adequate and appropriate?

Suitable control framework
The evaluation must be based upon a suitable control framework. The Proposed Internal Control Instrument does not prescribe the control framework that must be used. Instead the Proposed Internal Control Instrument requires management to use a suitable control framework established by a body or group that has followed an open and transparent process, including providing the public with an opportunity to provide comments, when developing the control framework.

The Proposed Internal Control Policy provides additional guidance on what constitutes a "suitable control framework". In particular, it confirms that the following control frameworks satisfy the criteria of a suitable control framework:

- the *Risk Management and Governance/Guidance on Control* published by The Canadian Institute of Chartered Accountants' Criteria of Control Board (CoCo);
- the *Internal Control – Integrated Framework* published by The Committee of Sponsoring Organizations of the Treadway Commission (COSO); and
- the *Turnbull Report* published by The Institute of Chartered Accountants in England and Wales.

This list is not intended to be exhaustive.

Specific Request for Comment

6. Are there any other control frameworks that should be identified in the Proposed Internal Control Policy as satisfying the criteria for a suitable control framework?

7. Are there any specific aspects of the identified control frameworks on which additional guidance is required to assist in their application by issuers that have limited formal structures for internal control over financial reporting?

Evidence
Part 2 of the Proposed Internal Control Instrument requires every issuer to maintain evidence to provide reasonable support for management's assessment of the effectiveness of the issuer's internal control over financial reporting.

The Proposed Internal Control Instrument does not prescribe the content of the evidence as we believe that it may vary depending on the issuer's size, nature of business and complexity of operations. The Proposed Internal Control Policy provides guidance on our minimum expectations for the content of the evidence.

The evidence must be maintained in a manner that ensures the trustworthiness and readability of the information recorded. The Proposed Internal Control Policy clarifies that the evidence may be maintained in a variety of formats.

In addition, the evidence must be maintained for the same period that the accounting records for the financial year to which the evidence relates are maintained in accordance with the *Income Tax Act* (Canada).

Specific Request for Comment

8. Is the guidance in the Proposed Internal Control Policy regarding the content of the evidence adequate and appropriate?

9. Are the requirements in the Proposed Internal Control Instrument regarding the manner in which the evidence must be maintained adequate and appropriate? Is the guidance in the Proposed Internal Control Policy regarding the manner in which the evidence may be maintained adequate and appropriate?

10. Is the requirement in the Proposed Internal Control Instrument on the period of time during which the evidence must be maintained adequate and appropriate?

Internal control report

Part 2 of the Proposed Internal Control Instrument also requires every issuer to file a report of management that describes management's assessment of the effectiveness of the issuer's internal control over financial reporting (an internal control report). An internal control report must be filed separately, but concurrently, with the issuer's annual financial statements and annual MD&A.

An internal control report must include:

- a statement of management's responsibility for establishing and maintaining adequate internal control over financial reporting for the issuer;
- a statement identifying the control framework used by management to evaluate the effectiveness of the issuer's internal control over financial reporting;
- management's assessment of the effectiveness of the issuer's internal control over financial reporting as of the end of the issuer's financial year, including a statement as to whether the internal control over financial reporting is effective;
- disclosure of any material weaknesses in the issuer's internal control over financial reporting identified by management;
- a statement that the auditors that audited the issuer's annual financial statements have issued an internal control audit report;
- disclosure of any limitations in management's assessment of the effectiveness of the issuer's internal control over financial reporting extending into a joint venture or a VIE in which the issuer has a material interest; and
- disclosure of any limitations in management's assessment of the effectiveness of the issuer's internal control over financial reporting extending into a business that was acquired by the issuer during the financial year.

The internal control report must be approved by the issuer's board of directors before it is filed.

Specific Request for Comment

11. Is it appropriate to require disclosure of any limitations in management's assessment of the effectiveness of an issuer's internal control over financial reporting extending into a joint venture, VIE or acquired business? If not, are there alternative ways of providing transparency with respect to any limitations in management's assessment?

12. Are there any other circumstances under which management may reasonably limit its assessment? Should disclosure of these circumstances be required?

Internal control audit report

Part 3 of the Proposed Internal Control Instrument requires every issuer to file a report in which the issuer's auditor expresses an opinion, or states that an opinion cannot be expressed, concerning management's assessment of the effectiveness of the issuer's internal control over financial reporting (an internal control audit report). The internal control audit report must be filed together with the internal control report.

An internal control audit report must:

- be prepared in accordance with the standard (the CICA Standard) for an audit of internal control over financial reporting performed in conjunction with an audit of financial statements established by the Auditing and Assurance Standards Board of The Canadian Institute of Chartered Accountants (the CICA);
- be dated the same date as the audit report on the annual financial statements;
- be signed by the auditor; and
- identify the internal control report in respect of which the internal control audit report has been prepared.

Auditing standard
As noted above, the internal control audit report must be prepared in accordance with the CICA Standard. In October 2004, the Auditing and Assurance Standards Board of the CICA (the AASB) issued for public comment an exposure draft of the proposed CICA Standard. The proposed CICA Standard is substantially the same as the Public Company Accounting Oversight Board's (the PCAOB) Auditing Standard No. 2, An Audit of Internal Control over Financial Reporting Performed in Conjunction with an Audit of Financial Statements (the PCAOB Standard). The exposure draft, together with background information about the project and the current status of the AASB's deliberations, is available on the CICA's website (www.cica.ca). The nature and scope of the audit engagement proposed in the exposure draft is an important element to be considered in assessing the implications of the Proposed Internal Control Materials. We therefore encourage you to review the Proposed Internal Control Materials in conjunction with the exposure draft.

Despite the preceding paragraph, auditors of foreign issuers may perform their audit and prepare their audit report in accordance with the PCAOB Standard. The term “foreign issuer” is defined in the Proposed Internal Control Instrument. The PCAOB Standard is available on the PCAOB’s website (www.pcaobus.org).

No separate engagement
The internal control audit report and the audit report on the annual financial statements must be prepared by the same auditor. We believe that the audit of internal control over financial reporting and the audit of financial statements are interrelated and as a result, should be performed by the same auditor.

Auditor independence
Under the rules of professional conduct of the provincial and territorial institutes of Chartered Accountants, auditors are prohibited from providing certain non-audit services to issuers above a specified size threshold. Among other things, this permits an auditor expressing an opinion on financial statements of an issuer to provide certain non-audit services such as accounting, bookkeeping and internal audit so long as any resulting self-review threat is reduced to an acceptable level. The Proposed Internal Control Policy confirms that, if such services are provided to an issuer, the issuer’s audit committee and the auditor should evaluate carefully whether the auditor's independence will be impaired for purposes of signing an internal control audit report.

Refiled internal control reports and internal control audit reports

Part 4 of the Proposed Internal Control Instrument requires an issuer to refile its internal control report and internal control audit report if it refiles its annual financial statements. The Proposed Internal Control Policy clarifies that if the annual MD&A is refiled but the annual financial statements are not refiled, it will not be necessary to refile the internal control report and internal control audit report.

Delivery of internal control reports and internal control audit reports

Part 5 of the Proposed Internal Control Instrument sets out the delivery requirement for internal control reports and internal control audit reports.

Language of internal control reports and internal control audit reports

Part 6 of the Proposed Internal Control Instrument specifies the language requirements for internal control reports and internal control audit reports.

Exemptions

Part 7 of the Proposed Internal Control Instrument provides for a number of exemptions.

52-111 transition issuers
We have included three exemptions for 52-111 transition issuers which have the effect of delaying the implementation of the reporting requirements of the Proposed Internal Control Instrument for these issuers. Please see “5. Summary of Proposed Internal Control Materials - Effective date and transition” for a further discussion of these exemptions.

Issuers that comply with SOX 404 Rules
Issuers that comply with the SOX 404 Rules are exempt from the Proposed Internal Control Instrument provided that they file with the securities regulatory authorities management’s annual report on internal control over financial reporting and the attestation report on management’s assessment of internal control over financial reporting prepared in accordance with the PCAOB Standard.

We believe that issuers that comply with the SOX 404 Rules should be exempt from the Proposed Internal Control Instrument because the requirements of the Proposed Internal Control Instrument and the SOX 404 Rules are substantially similar.

Foreign issuers
Certain foreign issuers are exempt from the Proposed Internal Control Instrument. We have included this exemption in order to be consistent with the basic scheme contemplated by National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers*.

Exchangeable security issuers and credit support issuers
Certain issuers of exchangeable securities and guaranteed debt securities are exempt from the Proposed Internal Control Instrument provided that they are exempt from National Instrument 51-102 *Continuous Disclosure Obligations*.

Asset-backed securities issuers
Certain issuers of asset-backed securities (ABS issuers) are exempt from the Proposed Internal Control Instrument. The term “asset-backed security” is defined in the Proposed Internal Control Instrument. ABS issuers are similarly exempt from the requirements of the SOX 404 Rules.

We are currently examining the continuous disclosure requirements imposed on ABS issuers as a separate initiative. Upon completing this review, we may consider imposing the requirements of the Proposed Internal Control Instrument or alternative requirements on ABS issuers.

Part 7 of the Proposed Internal Control Instrument also provides that exemptions from the Proposed Internal Control Instrument may be granted by the securities regulatory authority or regulator.

Specific Request for Comment

13. Are the exemptions from the Proposed Internal Control Instrument appropriate?

14. Are there any other classes of issuers that should be exempt from the Proposed Internal Control Instrument?

Effective date and transition

Part 8 of the Proposed Internal Control Instrument establishes the date that the Proposed Internal Control Instrument comes into force.

The provisions regarding internal control reports and internal control audit reports will apply for financial years ending on or after June 30, 2006. There are three exemptions from this implementation date which result in implementation of the Proposed Internal Control Instrument being phased-in over four years:

Exemption for 52-111 transition 1 issuers
Issuers with a market capitalization of $250,000,000 or more but less than $500,000,000 are exempt from the reporting requirements for financial years ending on or before June 29, 2007 provided that they file a notice of the exemption in the prescribed form with the securities regulatory authorities.

Exemption for 52-111 transition 2 issuers
Issuers with a market capitalization of $75,000,000 or more but less than $250,000,000 are exempt from the reporting requirements for financial years ending on or before June 29, 2008 provided that they file a notice of the exemption in the prescribed form with the securities regulatory authorities.

Exemption for 52-111 transition 3 issuers
Issuers with a market capitalization of less than $75,000,000 are exempt from the reporting requirements for financial years ending on or before June 29, 2009 provided that they file a notice of the exemption in the prescribed form with the securities regulatory authorities.

Market capitalization will be calculated on the basis of a 20 trading-day weighted average as of June 30, 2005 (with an exception for an issuer who becomes a reporting issuer or ceases to be a venture issuer after that date). The manner in which market capitalization is calculated is set out in the Proposed Internal Control Instrument.

The following table summarizes the implementation of the reporting requirements for reporting issuers in Canada:[1, 2]

Category of reporting issuers[3]	**Number of issuers**	**Approximate % of issuers**	**Approximate % of market capitalization**[4]	**First year-ends to which reporting requirements apply (either under the SOX 404 Rules or the Proposed Internal Control Instrument)**
SEC registrants[5]	175	13%	61%	November 15, 2004 or July 15, 2005 (if foreign private issuer or non-accelerated filer)
Non-venture issuers[6] with a market capitalization of greater than $500,000,000	186	14%	31%	June 30, 2006
Non-venture issuers with a market capitalization of $250,000,000 or more but less than $500,000,000	127	10%	3%	June 30, 2007
Non-venture issuers with a market capitalization of $75,000,000 or more but less than $250,000,000	355	27%	4%	June 30, 2008
Non-venture issuers with a market capitalization of less than $75,000,000	475	36%	1%	June 30, 2009
Total	1,318	100%	100%	
Venture issuers[7]	2,317	-	-	Not applicable

[1] All values are as of October 2004.

[2] Please see Specific Request for Comment #1 under "5. Summary of Proposed Internal Control Materials – Scope of Application" and Alternative #3 – More limited scope of application under "7. Alternatives considered – Proposed Internal Control Materials", both of which refer to this table.

[3] We have removed foreign issuers from this analysis because they would otherwise distort the numbers due to the size of the market capitalization of these issuers that have listings on the TSX but are very thinly traded there. As a result, "% of issuers" is calculated as the percent of Canadian-based issuers and "% of market capitalization" is calculated as the percent of domestic quoted market value.

[4] Subject to footnote 2, the approximate percentage of market capitalization is calculated using the total TSX Quoted Market Value at the end of October 2004 ($1,308 billion).

[5] We have used interlisted issuers identified by the TSX as an approximation for SEC registrants. These issuers are not venture issuers; however, they are not included in the groups of non-venture issuers in the table above.

[6] We have used TSX-listed issuers as an approximation for non-venture issuers.

[7] We have used TSX Venture-listed issuers and NEX-listed issuers as an approximation for venture issuers.

We are proposing the phased-in implementation as we are conscious of the need to provide adequate time for an orderly implementation that achieves the objectives of the Proposed Internal Control Instrument, while taking into account concerns about the cost and limited availability of appropriate expertise, both within reporting issuers and among external advisors and auditors.

Specific Request for Comment

15. Is the phased-in implementation of the Proposed Internal Control Instrument appropriate?

16. Does the phased-in implementation adequately address the concerns regarding the cost and limited availability of appropriate expertise within reporting issuers and among external advisors and auditors? If not, how can these concerns be addressed?

Proposed Internal Control Policy

The purpose of the Proposed Internal Control Policy is to help users understand how the securities regulatory authorities interpret or apply certain provisions of the Proposed Internal Control Instrument. It also includes a discussion on the consequences of filing internal control reports and internal control audit reports containing misrepresentations.

6. ANTICIPATED COSTS AND BENEFITS – PROPOSED INTERNAL CONTROL MATERIALS

As with all regulatory initiatives, it is important to consider the costs and benefits (both quantifiable and unquantifiable) associated with the Proposed Internal Control Materials.

Adoption of the Proposed Internal Control Materials may have a number of potential implications. These include:

- promotion of an enhanced focus on internal control over financial reporting among reporting issuers in Canada;
- improvement in the quality and reliability of financial reporting;
- enhanced investor confidence in our capital markets, potential increase in capital investment in Canada and potential lower cost of capital for reporting issuers in Canada;
- the alignment of our regulatory system with the regulatory system in the U.S.;
- potential adverse effect on issuers' profitability and growth prospects as a result of the costs of compliance;
- potential decrease in the number of reporting issuers in Canada; and
- misconceptions regarding the objectives of the Proposed Internal Control Instrument, which is not designed to legislate against fraud, resulting in a false sense of security in investors.

The anticipated costs and benefits of implementing the Proposed Internal Control Materials are discussed in the paper entitled *The Cost and Benefits of Management Reporting and Auditor Attestation on Internal Controls over Financial Reporting* (the Internal Control CBA), which has been published together with this Notice, and is incorporated by reference into this Notice. The Internal Control CBA identifies both quantifiable and unquantifiable costs and benefits associated with the Proposed Internal Control Materials. The Internal Control CBA is available on the Ontario Securities Commission's website (at www.osc.gov.on.ca under "Policy & Regulation" – "Rules, Policies & Notices" – "Category 5 – Ongoing Requirements for Issuers and Insiders" - "52-111 – Reporting on Internal Control over Financial Reporting").

There has also been a significant amount of commentary emanating from the U.S. regarding the costs of compliance with the SOX 404 Rules. This commentary has indicated that:

- Compliance with the SOX 404 Rules is both time-consuming and costly and in some cases, diverting human and capital resources away from the core business.

- The costs of compliance with the SOX 404 Rules may be disproportionately higher for smaller issuers or issuers with complex or decentralized operations.

- Compliance with the SOX 404 Rules has increased the demand for internal accounting staff, auditors and consultants. This has led to, in certain markets, a shortage of such persons and an increase in the costs of the services provided by such persons.

Specific Request for Comment

17. Are there any costs or benefits associated with the Proposed Internal Control Materials that have not been identified in the Internal Control CBA? If so, what are they?

18. Do you believe that the benefits (both quantifiable and unquantifiable) justify the costs of compliance (both quantifiable and unquantifiable) for:

    (a) issuers with a market capitalization of less than $75 million?
    (b) issuers with a market capitalization of $75 million or more but less than $250 million?
    (c) issuers with a market capitalization of $250 million or more but less than $500 million?
    (d) issuers with a market capitalization of greater than $500 million?
    (e) all issuers?

    Why?

7. ALTERNATIVES CONSIDERED - PROPOSED INTERNAL CONTROL MATERIALS

We did consider proposing alternative instruments or policies which would contain less onerous or different requirements than those found in the Proposed Internal Control Materials.

In evaluating each of these alternatives, we considered its potential to achieve the following objectives: (i) improvement in the quality and reliability of financial reporting in Canada; (ii) promotion of an “internal control culture” through an enhanced focus on internal control over financial reporting in Canada; and (iii) maintenance and enhancement of the reputation of our markets. We also balanced these objectives with the transparency of the alternative to the marketplace, the costs of compliance for issuers and the practicality of the alternative from the perspective of issuers, their auditors and the securities regulatory authorities.

We did not identify any alternatives that we believed met all of the objectives discussed above to the same extent as the Proposed Internal Control Materials. Some of the alternatives considered are briefly discussed below.

Alternative #1 - No internal control audit report

This alternative would require issuers to comply with the requirements of the Proposed Internal Control Instrument other than the requirement to file an internal control audit report.

The costs of compliance with this alternative would be lower than the costs of compliance with the Proposed Internal Control Instrument.

While this alternative would enhance the focus on internal control over financial reporting to some extent, the depth to which management would evaluate the effectiveness of internal control over financial reporting would potentially vary significantly without the internal control audit. We believe that the audit provides greater assurance regarding the consistency in the quality and appropriateness of management’s evaluation. Without the audit requirement, it would be difficult for investors to assess and compare the quality and results of management’s evaluation of internal control over financial reporting. As a result, investors may assign a lower value to the internal control reports filed in accordance with this alternative as compared to those filed in accordance with the SOX 404 Rules. This in turn may affect the reputation of our markets.

Alternative #2 - Less prescriptive auditing standard

This alternative would require issuers to comply with the requirements of the Proposed Internal Control Instrument except that internal control audit reports would be required to be prepared in accordance with an alternative auditing standard that would be less prescriptive than the proposed CICA Standard and the PCAOB Standard.

The costs of compliance with this alternative may be lower than the costs of compliance with the Proposed Internal Control Instrument.

While this alternative would enhance the focus on internal control over financial reporting to some extent, it poses practical implementation problems for issuers, auditors and securities regulatory authorities. It would reduce the ability of issuers and auditors to learn from the experience of issuers and auditors complying with the SOX 404 Rules. Auditors may have to apply audit procedures in Canada that are different from those applied in the United States. This alternative would not enable us to implement internal control reporting requirements in a timely manner as a new auditing standard would have to be developed.

In addition, it may be difficult for investors to compare the internal control audit reports filed in accordance with this alternative with those filed in accordance with the SOX 404 Rules and to assign the appropriate value to each type of report. It is difficult to assess the effect this may have on the reputation of our markets.

Alternative #3 - More limited scope of application

This alternative would exempt non-venture issuers with a market capitalization of less than a specified amount (e.g. $75 million, $250 million or $500 million) from the requirements of the Proposed Internal Control Instrument.

There is some evidence that the costs of compliance with the Proposed Internal Control Instrument may be disproportionately higher for smaller issuers. As a result, this alternative would eliminate the cost burden for smaller issuers, while issuers representing a significant percentage of the total TSX Quoted Market Value would still be subject to the Proposed Internal Control Instrument. Please see the table set out under “5. Summary of Proposed Internal Control Materials – Effective date and transition” which provides a breakdown of issuers by market capitalization.

This alternative, however, would create two levels of regulation among issuers listed on the TSX, Canada’s senior exchange: issuers listed on the TSX with a market capitalization of greater than the specified amount would be subject to the Proposed Internal Control Instrument in addition to the Revised Certification Instrument and issuers listed on the TSX with a market capitalization of less than the specified amount would only be subject to the Revised Certification Instrument.

This alternative poses practical and transparency concerns. A mechanism to address issuers’ market capitalization fluctuating above and below the specified amount would have to be developed. It would be more difficult for both issuers and investors to predict which issuers would be subject to the requirements of the Proposed Internal Control Instrument in any given year. In addition, it may be less transparent to investors which issuers have complied with the Proposed Internal Control Instrument in any given year.

It also would not necessarily enhance the focus on internal control over financial reporting among smaller issuers listed on the TSX. This approach may affect the reputation of our senior exchange as not all of its listed issuers would be subject to requirements similar to the SOX 404 Rules.

Alternative #4 – Evaluation of entity-level controls only

This alternative would require management to evaluate only entity-level controls relating to financial reporting as at the end of the issuer’s financial year and require the issuer to file a report of management’s assessment of such controls and auditor attestation to that report. Entity-level controls include ethics, code of conduct and “tone at the top”.

This alternative would enhance the focus on internal control over financial reporting with management and auditors concentrating on the “big picture” components of internal control over financial reporting.

It may also involve less work by management and auditors than the Proposed Internal Control Instrument, resulting in lower costs of compliance. It is difficult to estimate the extent of the cost reductions as management and auditors would still be required to perform a significant amount of work to support their assessment of the effectiveness of the entity-level controls. This work may include evaluating operating controls that support the entity-level controls.

This alternative, however, poses practical implementation problems for issuers, auditors and securities regulatory authorities. It would reduce the ability of issuers and auditors to learn from the experience of issuers and auditors complying with the SOX 404 Rules. Auditors may have to apply audit procedures in Canada that are different from those applied in the United States. This alternative would not enable us to implement internal control reporting requirements in a timely manner as a new auditing standard would have to be developed.

This alternative would also result in a significantly different scope of evaluation of internal control over financial reporting than the scope required under the SOX 404 Rules. It may be difficult for investors to compare the internal control audit reports filed in accordance with this alternative with those filed in accordance with the SOX 404 Rules and to assign the appropriate value to each type of report. Given the more limited scope of the entity-level control evaluation, investors may assign a lower value to internal control reports filed in accordance with this alternative. This in turn may affect the reputation of our markets.

Alternative #5 – Voluntary compliance

This alternative would implement the Proposed Internal Control Instrument as a recommended practice. Issuers would have the option of either complying with the internal control reporting requirements or explaining why it is appropriate that they did not comply. The market would be able to respond accordingly.

This alternative would eliminate the cost burden for issuers who chose not to comply with the internal control reporting requirements.

This alternative, however, would not necessarily enhance the focus on internal control over financial reporting in Canada. This in turn may affect the reputation of our markets.

In addition, this alternative poses practical and transparency concerns. It would be more difficult to predict which issuers would be complying with the requirements of the Proposed Internal Control Instrument in any given year. In addition, it may be less transparent to investors which issuers have complied with the Proposed Internal Control Instrument in any given year.

Issuers may also not choose to obtain an internal control audit report, which may raise concerns regarding the quality and appropriateness of management's evaluation.

Alternative #6 - Status quo

This alternative would not impose the requirements regarding internal control over financial reporting set out in the Proposed Internal Control Instrument. As a result, issuers would only be subject to the requirements regarding internal control over financial reporting set out in the Revised Certification Materials.

There would be no incremental costs of compliance associated with this alternative.

While this alternative would enhance the focus on internal control over financial reporting to some extent, the extent to which management would design internal control over financial reporting would potentially vary significantly without the formal requirement to evaluate internal control over financial reporting and obtain an internal control audit. We believe that the audit provides greater assurance regarding the consistency in the quality and appropriateness of management's design and evaluation of internal control over financial reporting.

As a result, we do not believe that the Revised Certification Materials alone achieve the objectives identified above to the same extent as the Revised Certification Materials combined with the Proposed Internal Control Materials.

Specific Request for Comment

19. Do you agree with our assessment of the identified alternatives?

20. What other alternatives, if any, would achieve the objectives identified above?

8. SUMMARY OF CHANGES TO CURRENT CERTIFICATION MATERIALS

The Current Certification Materials continue to be in force in all jurisdictions, except British Columbia and Québec. If the Revised Certification Materials are adopted, they will replace the Current Certification Materials.

Significant changes to Current Certification Instrument and Current Certification Forms

The most significant changes to the Current Certification Instrument and the Current Certification Forms are summarized below:

Requirement for disclosure controls and procedures and internal control over financial reporting
A new section has been added to clarify that every issuer must have disclosure controls and procedures and internal control over financial reporting.

Annual certificates

(i) *Transition periods*

Under the Current Certification Materials, issuers are permitted to file annual certificates in Form 52-109FT1 (a bare annual certificate) for financial years ending on or before March 30, 2005.

An additional transition period has been added during which issuers will be permitted to file annual certificates in Form 52-109FM1 (a modified annual certificate). The modified annual certificates are permitted for financial years ending on or before June 29, 2006 and do not require the certifying officers to represent that:

- they are responsible for establishing and maintaining internal control over financial reporting;
- they have designed internal control over financial reporting, or caused it to be designed under their supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with GAAP; and
- they have caused the issuer to disclose in the issuer's MD&A any change in the issuer's internal control over financial reporting that occurred during the period between the end of the most recent interim period and the end of the issuer's financial year that materially affected, or is reasonably likely to materially affect, the issuer's internal control over financial reporting.

(ii) *Required form of full annual certificates*

Following the transition periods discussed above:

- An issuer that is not a 52-109 transition issuer or a venture issuer must file annual certificates in Form 52-109F1 (a full annual certificate for issuers required to comply with the Proposed Internal Control Instrument).
- A venture issuer must file annual certificates in Form 52-109FVT1 (a full annual certificate for issuers not required to comply with the Proposed Internal Control Instrument).
- A 52-109 transition issuer may file annual certificates in Form 52-109FVT1 for the financial years in respect of which it is not required to comply with the reporting requirements of the Proposed Internal Control Instrument, following which it must file annual certificates in Form 52-109F1.

Under the Revised Certification Instrument, a venture issuer is an issuer that, as at the applicable time, does not have any of its securities listed or quoted on any of the Toronto Stock Exchange, the New York Stock Exchange, the American Stock Exchange, the Nasdaq National Market, the Nasdaq SmallCap Market, the Pacific Exchange or a marketplace outside of Canada or the U.S.

There are three classes of 52-109 transition issuers which are defined in the Revised Certification Instrument. Generally speaking, 52-109 transition issuers are issuers with a market capitalization of less than $500,000,000.

(iii) *Differences between forms of full annual certificates*

There are two primary differences between Form 52-109F1 and Form 52-109FVT1. First, Form 52-109F1 includes a representation that an issuer's certifying officers have disclosed, based on their most recent evaluation of internal control over financial reporting, to the issuer's auditors and audit committee:

- all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the issuer's ability to record, process, summarize and report financial information; and
- any fraud, whether or not material, that involves management or other employees who have a significant role in the issuer's internal control over financial reporting.

"Significant deficiency", "material weakness" and "audit committee" are defined in the Revised Certification Instrument. This representation is contained in the form of certificate required under the SOX 302 Rules. It is based upon an evaluation of internal control over financial reporting, which is a requirement of the Proposed Internal Control Instrument. As issuers who are permitted or required to file annual certificates in Form 52-109FVT1 for a financial year are not subject to the requirements of the Proposed Internal Control Instrument for that financial year, this representation has not been included in Form 52-109FVT1.

Second, Form 52-109FVT1 contains a representation that the issuer is not required to comply with the requirements of the Proposed Internal Control Instrument.

(iv) *Summary of annual certificate filing requirements*

The annual certificate filing requirements (as amended by the Revised Certification Instrument) are summarized in the table below and are illustrated in Appendix A:

Implementation date	Type of certificate	Summary of representations of certifying officers [1]
Financial years ending on or before March 30, 2005	Bare *Form 52-109FT1*	• The certifying officers have reviewed the annual filings. • Based on the certifying officers' knowledge, the issuer's annual filings do not contain any misrepresentations. • Based on the certifying officers' knowledge, the financial statements and other financial information in the annual filings fairly present the financial condition, results of operations and cash flows of the issuer.

Financial years ending after March 30, 2005 but on or before June 29, 2006	Modified
	Form 52-109FM1
		• The representations in the bare certificate plus the following:
		  • The certifying officers are responsible for establishing and maintaining disclosure controls and procedures and have designed (or caused to be designed) such disclosure controls and procedures.
		  • The certifying officers have evaluated the effectiveness of disclosure controls and procedures and caused the issuer to disclose their conclusions.

Financial years ending after June 29, 2006	Full – subject to the Proposed Internal Control Instrument
	Form 52-109F1
		If the issuer is required to comply with the Proposed Internal Control Instrument:
		• The representations in the modified certificate plus the following:
		  • The certifying officers are responsible for establishing and maintaining internal control over financial reporting and have designed (or caused to be designed) such internal control over financial reporting.
		  • The certifying officers have caused the issuer to disclose certain changes in internal control over financial reporting.
		  • Based on their evaluation of internal control over financial reporting, the certifying officers have disclosed to the issuer's auditors and the audit committee certain significant deficiencies in internal control over financial reporting and fraud.

	Full – not subject to the Proposed Internal Control Instrument
	Form 52-109FVT1
		If the issuer is not required to comply with the Proposed Internal Control Instrument:
		• The representations in the modified certificate plus the following:
		  • The certifying officers are responsible for establishing and maintaining internal control over financial reporting and have designed (or caused to be designed) such internal control over financial reporting.
		  • The certifying officers have caused the issuer to disclose certain changes in internal control over financial reporting.

Implementation date	Type of certificate	Summary of representations of certifying officers [1]
		• The issuer is not required to comply with the requirements of the Proposed Internal Control Instrument.

1 Please see the Revised Certification Forms for the prescribed wording of the required representations.

Interim certificates

(i) *Transition periods*

Under the Current Certification Materials, issuers are not required to file interim certificates in Form 52-109F2 (a full interim certificate) until they are required to file full annual certificates.

An additional transition period for interim certificates has been added. Under the Revised Certification Instrument, issuers are permitted to file interim certificates in Form 52-109FM2 (a modified interim certificate) for permitted interim periods. As in the case of the modified annual certificates, the modified interim certificates do not require the certifying officers to represent that:

- they are responsible for establishing and maintaining internal control over financial reporting;
- they have designed internal control over financial reporting, or caused it to be designed under their supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with GAAP; and
- they have caused the issuer to disclose in the issuer's MD&A any change in the issuer's internal control over financial reporting that occurred during the issuer's most recent period that materially affected, or is reasonably likely to materially affect, the issuer's internal control over financial reporting.

Permitted interim periods are those interim periods that occur before the first financial year in respect of which an issuer is required to file full annual certificates.

(ii) *Summary of interim certificate filing requirements*

The interim certificate filing requirements (as amended by the Revised Certification Instrument) are summarized in the table below and are illustrated in Appendix B:

Implementation date	Type of certificate	Summary of representations of certifying officers [1]
Interim periods occurring before the first financial year in respect of which modified annual certificates are required	Bare *Form 52-109FT2*	• The certifying officers have reviewed the interim filings. • Based on the certifying officers' knowledge, the issuer's interim filings do not contain any misrepresentations. • Based on the certifying officers' knowledge, the financial statements and other financial information in the interim filings fairly present the financial condition, results of operations and cash flows of the issuer.
Interim periods occurring before the first financial year in respect of which full annual certificates are required	Modified *Form 52-109FM2*	• The representations in the bare certificate plus the following: • The certifying officers are responsible for establishing and maintaining disclosure controls and procedures and have designed (or caused to be designed) such disclosure controls and procedures.

Implementation date	Type of certificate	Summary of representations of certifying officers [1]
Interim periods occurring after the first financial year in respect of which full annual certificates are required	Full *Form 52-109F2*	• The representations in the modified certificate plus the following: • The certifying officers are responsible for establishing and maintaining internal control over financial reporting and have designed (or caused to be designed) such internal control over financial reporting. • The certifying officers have caused the issuer to disclose certain changes in internal control over financial reporting.

[1] Please see the Revised Certification Forms for the prescribed wording of the required representations.

Definition of "annual filings"
The definition of "annual filings" has been amended to include the issuer's internal control report, if any. A definition of "internal control report" has also been added. As a result of these amendments, certifying officers will be required to certify the issuer's internal control reports. This requirement is consistent with the SOX 302 Rules.

Refiled financial statements, MD&A and AIFs
New sections have been added to clarify that:

- an issuer must refile its annual certificates for a financial year if the issuer refiles its annual financial statements, annual MD&A or AIF for that financial year; and

- an issuer must refile its interim certificates for an interim period if the issuer refiles its interim financial statements or interim MD&A for that interim period.

The required form for the refiled certificates is Form 52-109F1R or Form 52-109F2R, as applicable.

Voluntarily filed AIFs
A new section has been added to clarify that a venture issuer must refile its annual certificates for a financial year if the issuer voluntarily files an AIF for that financial year after the issuer has filed its annual financial statements, annual MD&A and annual certificates for that financial year. The required form for the refiled certificates is Form 52-109F1R-AIF.

Specific Request for Comment

21. Is it necessary or appropriate to require a venture issuer to refile its annual certificates for a financial year when it voluntarily files an AIF for that financial year after it has filed its annual financial statements, annual MD&A and annual certificates for that financial year?

22. Since the AIF may be voluntarily filed several months after the issuer's annual financial statements and annual MD&A, there may be a significant gap between the time that the annual financial statements and annual MD&A are filed and the time that the annual certificates are refiled. Is this timing gap problematic?

Language of certificates
A new part has been added to clarify the language requirements for annual certificates and interim certificates.

Significant changes to Current Certification Policy

The most significant changes to the Current Certification Policy are summarized below:

Non-corporate entities
A new section has been added to provide guidance on the application of the Revised Certification Materials to non-corporate entities.

Prescribed form
A new section has been added to remind issuers that the language of annual certificates and interim certificates is prescribed.

Paper copies of the signed certificates
A new section has been added to clarify the filing requirements for annual certificates and interim certificates.

One person acting as CEO and CFO
A new section has been added to provide guidance on the filing requirements of an issuer that has one person acting as CEO and CFO.

Guidance regarding certification extending into underlying entities
A new section has been added to provide guidance on the procedures to be undertaken by certifying officers of an issuer that has an interest in certain underlying entities such as a subsidiary, a VIE, a joint venture, an equity investment or a portfolio investment.

Specific Request for Comment

23. Is the guidance regarding the treatment of underlying entities set out in the Revised Certification Policy adequate and appropriate?

9. SUMMARY OF REVISED CERTIFICATION MATERIALS

Revised Certification Instrument

Part 1 contains definitions of certain terms and phrases used in the Revised Certification Materials. It also establishes the scope of application of the Revised Certification Instrument.

Part 2 contains the requirement of every issuer to have disclosure controls and procedures and internal control over financial reporting.

Part 3 deals with the annual certificate requirements.

Part 4 deals with the interim certificate requirements.

Part 5 deals with the requirement to refile annual certificates and interim certificates upon the refiling of annual or interim financial statements, annual or interim MD&A or AIFs and upon the voluntary filing of an AIF subsequent to the filing of the issuer's annual financial statements, annual MD&A and annual certificates.

Part 6 deals with the language requirements of the annual certificates and interim certificates.

Part 7 provides for a number of exemptions, including exemptions for certain issuers that comply with the SOX 302 Rules, certain foreign issuers, certain exchangeable security issuers and certain credit support issuers. It also provides that exemptions from the Revised Certification Instrument may be granted by the securities regulatory authority or regulator.

Part 8 deals with the coming into force of the Revised Certification Instrument. Section 8.1 provides for the revocation of the Current Certification Instrument while section 8.2 establishes the date that the Revised Certification Instrument comes into force.

Revised Certification Forms

The Revised Certification Forms are the required forms of annual certificates and interim certificates.

Revised Certification Policy

The purpose of the Revised Certification Policy is to help users understand how the securities regulatory authorities interpret or apply certain provisions of the Revised Certification Instrument. It also includes a discussion on the consequences of filing annual certificates and interim certificates containing misrepresentations.

10. ANTICIPATED COSTS AND BENEFITS – REVISED CERTIFICATION MATERIALS

As with all regulatory initiatives, it is important to consider the costs and benefits (both quantifiable and unquantifiable) associated with the Revised Certification Materials.

The anticipated costs and benefits of implementing the Current Certification Materials are discussed in the paper entitled *Investor Confidence Initiatives: A Cost-Benefit Analysis* published on June 27, 2003. The Revised Certification Materials are meant to address the implementation of the Proposed Internal Control Materials and to improve the effectiveness of the Current

Certification Materials. We believe that any incremental costs associated with the Revised Certification Materials have been addressed in the Internal Control CBA.

11. ALTERNATIVES CONSIDERED – REVISED CERTIFICATION MATERIALS

The proposed amendments to the Current Certification Materials are intended to improve the effectiveness of this instrument which we believe will better serve issuers, investors and other market participants. The proposed amendments to the Current Certification Materials also address consequential amendments resulting from the Proposed Internal Control Materials. No other alternatives were considered.

12. CONSEQUENTIAL AMENDMENTS

We are considering amending the prospectus rules to require internal control reports and internal control audit reports to be included or incorporated by reference in certain prospectuses. Any such amendments will be published for public comment.

13. RELATED INSTRUMENTS

The Proposed Internal Control Materials and the Revised Certification Instrument are related to:

- National Instrument 51-102 *Continuous Disclosure Obligations*;
- National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers*;
- National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency*;
- National Instrument 52-108 *Auditor Oversight*; and
- Multilateral Instrument 52-110 *Audit Committees*.

14. RELIANCE ON UNPUBLISHED STUDIES, ETC.

In developing the Proposed Internal Control Materials and the Revised Certification Materials, we did not rely upon any significant unpublished study, report or other written materials.

15. AUTHORITY – ONTARIO

The following provisions of the *Securities Act* (Ontario) (the Act) provide the Ontario Securities Commission (the Commission) with authority to adopt the Proposed Internal Control Materials and the Revised Certification Materials:

- Paragraph 143(1) 10 authorizes the Commission to make rules prescribing requirements in respect of the books, records and other documents required by subsection 19(1) of the Act to be kept by market participants, including the form in which and the period for which the books, records and other documents are to be kept.
- Paragraph 143(1) 22 authorizes the Commission to make rules prescribing requirements in respect of the preparation and dissemination and other use, by reporting issuers, of documents providing for continuous disclosure that are in addition to the requirements under the Act.
- Paragraph 143(1) 24 authorizes the Commission make rules requiring issuers or other persons to comply, in whole or in part, with the continuous disclosure filing requirements.
- Paragraph 143(1) 25 authorizes the Commission to make rules prescribing requirements in respect of financial accounting, reporting and auditing for the purposes of the Act, the regulations and the rules.
- Paragraph 143(1) 39 authorizes the Commission to make rules requiring or respecting the media, format, preparation, form, content, execution, certification, dissemination and other use, filing and review of all documents required under or governed by the Act, the regulations or the rules and all documents determined by the regulations or the rules to be ancillary to the documents, including financial statements, proxies and information circulars.
- Paragraph 143(1) 39.1 authorizes the Commission to make rules governing the approval of any document described in paragraph 143(1) 39 of the Act.

- Paragraphs 143(1) 58 and 59 authorize the Commission to make rules requiring reporting issuers to devise and maintain systems of disclosure controls and procedures and internal controls, the effectiveness and efficiency of their operations, including financial reporting and assets control.

- Paragraphs 143(1) 60 and 61 authorize the Commission to make rules requiring chief executive officers and chief financial officers of reporting issuers to provide certification relating to the establishment, maintenance and evaluation of the systems of disclosure controls and procedures and internal controls.

16. COMMENTS

Interested parties are invited to make written submissions on the Proposed Internal Control Materials and the Revised Certification Materials. Submissions received by June 6, 2005 will be considered. Due to timing concerns, comments received after the deadline will not be considered.

Submissions should be addressed to the following securities regulatory authorities:

Alberta Securities Commission
Saskatchewan Securities Commission
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
Nova Scotia Securities Commission
New Brunswick Securities Commission
Office of the Attorney General, Prince Edward Island
Securities Commission of Newfoundland and Labrador
Registrar of Securities, Government of Yukon
Registrar of Securities, Department of Justice, Government of the Northwest Territories
Registrar of Securities, Legal Registries Division, Department of Justice, Government of Nunavut

Please deliver your comments to the addresses below. Your comments will be distributed to the other participating CSA members.

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A diskette containing the submissions (in Windows format, preferably Word) should also be submitted.

Comment letters submitted in response to requests for comments are placed on the public file in certain jurisdictions and form part of the public record, unless confidentiality is requested. Comment letters will be circulated among the securities regulatory authorities, whether or not confidentiality is requested. Although comment letters requesting confidentiality will not be placed in the public file, freedom of information legislation in certain jurisdictions may require securities regulatory authorities in those jurisdictions to make comment letters available. Persons submitting comment letters should therefore be aware that the press and members of the public may be able to obtain access to any comment letters.

17. QUESTIONS

Questions may be referred to:

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18. TEXT OF PROPOSED INTERNAL CONTROL MATERIALS AND REVISED CERTIFICATION MATERIALS

The text of the Proposed Internal Control Materials and the Revised Certification Materials follows.

February 4, 2005

APPENDIX A

SAMPLE FORM OF ANNUAL CERTIFICATE

Legend		
For financial years ending on or before March 30, 2005	Bare certificate	Plain text
For financial years ending after March 30, 2005 but on or before June 29, 2006	Modified certificate	Plain text + bold text
For financial years ending after June 29, 2006	Full certificate – subject to the Proposed Internal Control Instrument	*If the issuer is required to comply with the Proposed Internal Control Instrument:* Plain text + bold text + single-underlined text + shaded text
	Full certificate - not subject to the Proposed Internal Control Instrument	*If the issuer is not required to comply with the Proposed Internal Control Instrument:* Plain text + bold text + single-underlined text + double-underlined text

I, *‹identify (i) the certifying officer, (ii) his or her position at the issuer, (iii) the name of the issuer and (iv) if the certifying officer's title is not "chief executive officer" or "chief financial officer" of the issuer, whether the certifying officer is providing the certificate in the capacity of a chief executive officer or a chief financial officer›*, certify that:

1. I have reviewed the annual filings (as this term is defined in Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*) of *‹identify issuer›* (the issuer) for the financial year ended *‹state the relevant date›*;

2. Based on my knowledge, the annual filings do not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that is necessary to make a statement not misleading in light of the circumstances under which it was made, with respect to the period covered by the annual filings;

3. Based on my knowledge, the annual financial statements together with the other financial information included in the annual filings fairly present in all material respects the financial condition, results of operations and cash flows of the issuer, as of the date and for the periods presented in the annual filings;

4. **The issuer's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures** and internal control over financial reporting **for the issuer, and we have:**

   (a) designed such disclosure controls and procedures, or caused them to be designed under our supervision, to provide reasonable assurance that material information relating to the issuer, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which the annual filings are being prepared;

   (b) designed such internal control over financial reporting, or caused it to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with the issuer's GAAP;

   (c) evaluated the effectiveness of the issuer's disclosure controls and procedures as of the end of the period covered by the annual filings and have caused the issuer to disclose in the annual MD&A our conclusions about the effectiveness of the disclosure controls and procedures as of the end of the period covered by the annual filings based on such evaluation; and

   (d) caused the issuer to disclose in the annual MD&A any change in the issuer's internal control over financial reporting that occurred during the period beginning on <*insert the date immediately following the end of the most recent interim period*> and ended <*insert financial year end*> that has materially affected, or is reasonably likely to materially affect, the issuer's internal control over financial reporting; and

5. The issuer's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the issuer's auditors and the audit committee (or persons performing the equivalent functions):

(a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the issuer's ability to record, process, summarize and report financial information; and

(b) any fraud, whether or not material, that involves management or other employees who have a significant role in the issuer's internal control over financial reporting.

5. The issuer is not required to comply with the requirements of Multilateral Instrument 52-111 *Reporting on Internal Control over Financial Reporting* for the financial year ended *‹state the relevant date›*.

Date: <*insert date of filing*>

____

[Signature]
[Title]
<if the certifying officer's title is not "chief executive officer" or "chief financial officer", indicate whether the certifying officer is providing the certificate in the capacity of a chief executive officer or chief financial officer>

APPENDIX B

SAMPLE FORM OF INTERIM CERTIFICATE

Legend		
Interim periods occurring before the first financial year in respect of which modified annual certificates are required	Bare certificate *Form 52-109FT2*	Plain text
Interim periods occurring before the first financial year in respect of which full annual certificates are required	Modified certificate *Form 52-109FM2*	Plain text + bold text
Interim periods occurring after the first financial year in respect of which full annual certificates are required	Full certificate *Form 52-109F2*	Plain text + bold text + single-underlined text

I, *‹identify (i) the certifying officer, (ii) his or her position at the issuer, (iii) the name of the issuer and (iv) if the certifying officer's title is not "chief executive officer" or "chief financial officer" of the issuer, whether the certifying officer is providing the certificate in the capacity of a chief executive officer or a chief financial officer›*, certify that:

1. I have reviewed the interim filings (as this term is defined in Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*) of *‹identify the issuer›*, (the issuer) for the interim period ended *‹state the relevant date›*;

2. Based on my knowledge, the interim filings do not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that is necessary to make a statement not misleading in light of the circumstances under which it was made, with respect to the period covered by the interim filings;

3. Based on my knowledge, the interim financial statements together with the other financial information included in the interim filings fairly present in all material respects the financial condition, results of operations and cash flows of the issuer, as of the date and for the periods presented in the interim filings;

4. **The issuer's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures** and internal control over financial reporting **for the issuer, and we have:**

   (a) designed such disclosure controls and procedures, or caused them to be designed under our supervision, to provide reasonable assurance that material information relating to the issuer, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which the interim filings are being prepared;

   (b) designed such internal control over financial reporting, or caused it to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with the issuer's GAAP; and

   (c) caused the issuer to disclose in the interim MD&A any change in the issuer's internal control over financial reporting that occurred during the three months ended <*insert end of interim period*>that has materially affected, or is reasonably likely to materially affect, the issuer's internal control over financial reporting.

Date: <*insert date of filing*>

____
[Signature]
[Title]
<if the certifying officer's title is not "chief executive officer" or "chief financial officer", indicate whether the certifying officer is providing the certificate in the capacity of a chief executive officer or chief financial officer>

6.1.2 Multilateral Instrument 52-111 - Reporting on Internal Control over Financial Reporting

MULTILATERAL INSTRUMENT 52-111 - REPORTING ON INTERNAL CONTROL OVER FINANCIAL REPORTING

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PART 1 – DEFINITIONS, INTERPRETATION AND APPLICATION

1.1 **Definitions** - In this Instrument,

“52-111 transition 1 issuer” means an issuer whose listed equity securities have an aggregate market value of $250,000,000 or more but less than $500,000,000 on the market capitalization date;

“52-111 transition 2 issuer” means an issuer whose listed equity securities have an aggregate market value of $75,000,000 or more but less than $250,000,000 on the market capitalization date;

“52-111 transition 3 issuer” means an issuer whose listed equity securities have an aggregate market value of less than $75,000,000 on the market capitalization date;

“52-111 transition issuers” means a 52-111 transition 1 issuer, a 52-111 transition 2 issuer or a 52-111 transition 3 issuer;

“asset-backed security” has the meaning ascribed to it in NI 51-102;[1]

“annual financial statements” means the annual financial statements required to be filed under NI 51-102;

“CICA Standard” means the standard, established by the Auditing and Assurance Standards Board of The Canadian Institute of Chartered Accountants, for an audit of internal control over financial reporting performed in conjunction with an audit of financial statements, as amended from time to time;

“foreign issuer” has the meaning ascribed to it in NI 52-107;[2]

“interim financial statements” means the interim financial statements required to be filed under NI 51-102;

“internal control audit report” means a report in which a participating audit firm expresses an opinion, or states that an opinion cannot be expressed, concerning management’s assessment of the effectiveness of an issuer’s internal control over financial reporting;[3]

“internal control over financial reporting” means a process designed by, or under the supervision of, the issuer’s chief executive officer and chief financial officer, or persons performing similar functions, and effected by the issuer’s board of directors, management and other personnel, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with the issuer’s GAAP and includes those policies and procedures that:

(a) pertain to the maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of the assets of the issuer,

(b) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with the issuer’s GAAP, and that receipts and expenditures of the issuer are being made only in accordance with authorizations of management and directors of the issuer, and

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1 “Asset-backed security” is defined in NI 51-102 as a security that is primarily serviced by the cash flows of a discrete pool of mortgages, receivables or other financial assets, fixed or revolving, that by their terms convert into cash within a finite period and any rights or other assets designed to assure the servicing or the timely distribution of proceeds to securityholders.

2 “Foreign issuer” is defined in NI 52-107 as an issuer, other than an investment fund, that is incorporated or organized under the laws of a foreign jurisdiction, unless
(a) outstanding voting securities of the issuer carrying more than 50 per cent of the votes for the election of directors are owned, directly or indirectly, by residents of Canada; and
(b) any of the following apply:
(i) the majority of the executive officers or directors of the issuer are residents of Canada;
(ii) more than 50 per cent of the consolidated assets of the issuer are located in Canada; or
(iii) the business of the issuer is administered principally in Canada.

3 This definition is derived from 17 CFR 210.1-02(a)(2) (*Definitions of terms used in Regulation S-X*); however, the term has been changed to “internal control audit report” rather than “attestation report on management’s assessment of internal control over financial reporting” to conform to the wording in the proposed CICA Standard.

(c) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the issuer's assets that could have a material effect on the annual financial statements or interim financial statements;[4]

"internal control report" means a report of management that describes management's assessment of the effectiveness of an issuer's internal control over financial reporting;

"investment fund" has the meaning ascribed to it in NI 51-102;[5]

"issuer's GAAP" has the meaning ascribed to it in NI 52-107;[6]

"joint venture" has the meaning ascribed to it in the Handbook;

"listed equity securities" means equity securities listed or quoted on an exchange or marketplace;

"market capitalization date" means:

(a) June 30, 2005;

(b) in the case of an issuer that becomes a reporting issuer after June 30, 2005, the date on which the issuer becomes a reporting issuer; or

(c) in the case of a reporting issuer that ceases to be a venture issuer after June 30, 2005, the date on which the reporting issuer ceased to be a venture issuer;

"marketplace" has the meaning ascribed to it in National Instrument 21-101 *Marketplace Operation*;[7]

"material weakness" has the meaning ascribed to it in the CICA Standard;[8]

"MD&A" has the meaning ascribed to it in NI 51-102;[9]

"NI 51-102" means National Instrument 51-102 *Continuous Disclosure Obligations*;

"NI 52-107" means National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency*;

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4 This is the same as the definition of "internal control over financial reporting" set out in Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (MI 52-109).

5 "Investment fund" is defined in NI 51-102 as a mutual fund or non-redeemable investment fund.

6 "Issuer's GAAP" is defined in NI 52-107 as the accounting principles used to prepare an issuer's financial statements, as permitted by NI 52-107.

7 "Marketplace" is defined in National Instrument 21-101 *Marketplace Operation* to mean:
(a) an exchange,
(b) a quotation and trade reporting system,
(c) a person or company not included in paragraph (a) or (b) that
(i) constitutes, maintains or provides a market or facility for bringing together buyers and sellers of securities;
(ii) brings together the orders for securities of multiple buyers and sellers, and
(iii) uses established, non-discretionary methods under which the orders interact with each other, and the buyers and sellers entering the orders agree to the terms of the trade, or
(d) a dealer that executes a trade of an exchange-traded security outside of a marketplace,
but does not include an inter-dealer bond broker.

8 The definition in the proposed CICA Standard is:

""Material weakness" means a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the annual or interim financial statements will not be prevented or detected."

9 "MD&A" is defined in NI 51-102 as a completed Form 51-102F1 *Management's Discussion & Analysis* or, in the case of an SEC issuer, a completed Form 51-102F1 or management's discussion and analysis prepared in accordance with Item 303 of Regulation S-K or item 303 of Regulation S-B under the 1934 Act.

"notice of 52-111 exemption" means a notice that includes:

(a) the financial year for which the notice is being filed;

(b) a statement that the issuer is a 52-111 transition issuer;

(c) the calculation of the aggregate market value of the issuer's listed equity securities on the market capitalization date; and

(d) a statement that the issuer is not required to file an internal control report and internal control audit report for the identified financial year;

"participating audit firm" has the meaning ascribed to it in National Instrument 52-108 *Auditor Oversight*;[10]

"PCAOB Standard" means Auditing Standard No. 2, An Audit of Internal Control Over Financial Reporting Performed in Conjunction With an Audit of Financial Statements adopted by the Public Company Accounting Oversight Board, as amended from time to time;

"Sarbanes-Oxley Act" means the Sarbanes-Oxley Act of 2002, Pub.L. 107-204, 116 Stat. 745 (2002), as amended from time to time;

"significant deficiency" has the meaning ascribed to it in the CICA Standard;[11]

"U.S. marketplace" has the meaning ascribed to it in NI 51-102;[12]

"variable interest entity" has the meaning ascribed to it in the Handbook; and

"venture issuer" means an issuer that, as at the applicable time, did not have any of its securities listed or quoted on any of the Toronto Stock Exchange, a U.S. marketplace, or a marketplace outside of Canada or the United States of America; where the "applicable time" in respect of:

(a) the Instrument other than paragraph (c) of the definition of market capitalization date in section 1.1, is the end of the applicable financial year; and

(b) paragraph (c) of the definition of market capitalization date in section 1.1, is the date on which securities of an issuer are listed or quoted on any of the Toronto Stock Exchange, a U.S. marketplace, or a marketplace outside of Canada or the United States of America.

1.2 **Application** – This Instrument applies to all reporting issuers other than investment funds and venture issuers.

1.3 **Calculation of the aggregate market value of an issuer's listed equity securities –** For the purposes of this Instrument, the aggregate market value of the listed equity securities of an issuer is the aggregate of the market value of each class of its listed equity securities outstanding on the market capitalization date, calculated by multiplying

1. the total number of listed equity securities of the class outstanding on the market capitalization date, by

2. the weighted average of the market price for the listed equity securities of the class outstanding on the exchange or marketplace on which that class of listed equity securities is principally traded for each of the 20 trading days immediately following the market capitalization date.

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[10] "Participating audit firm" is defined in National Instrument 52-108 *Auditor Oversight* as a public accounting firm that has entered into a participation agreement and that has not had its participation status terminated, or, if its participation status was terminated, has been reinstated in accordance with CPAB by-laws.

[11] The definition in the proposed CICA Standard is:

> ""Significant deficiency" means a control deficiency, or combination of control deficiencies, that adversely affects an issuer's ability to initiate, authorize, record, process or report external financial data reliably in accordance with generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of the entity's annual or interim financial statements that is more than inconsequential will not be prevented or detected."

[12] "U.S. marketplace" is defined in NI 51-102 as an exchange registered as a 'national securities exchange' under section 6 of the 1934 Act, or the Nasdaq Stock Market.

PART 2 – MANAGEMENT'S ASSESSMENT OF INTERNAL CONTROL OVER FINANCIAL REPORTING

2.1 **Annual evaluation of effectiveness of internal control over financial reporting** – The management of an issuer must evaluate, with the participation of the issuer's chief executive officer and chief financial officer, or in the case of an issuer that does not have a chief executive officer or a chief financial officer, persons performing similar functions to a chief executive officer or chief financial officer, the effectiveness of the issuer's internal control over financial reporting as of the end of a financial year.[13]

2.2 **Control framework for evaluation** –

(1) Management must base its evaluation of the effectiveness of an issuer's internal control over financial reporting on a suitable control framework.

(2) A suitable control framework must be established by a body or group that has followed an open and transparent process, including providing the public with an opportunity to provide comments, when developing the control framework.[14]

2.3 **Evidence** –

(1) An issuer must maintain evidence to provide reasonable support for management's assessment of the effectiveness of the issuer's internal control over financial reporting.[15]

(2) An issuer must maintain the evidence required under subsection (1) in a manner that will ensure the trustworthiness and readability of the information recorded.[16]

(3) The evidence required under subsection (1) must be maintained for the same period that the accounting records for the financial year to which the evidence relates are maintained in accordance with the *Income Tax Act* (Canada).

2.4 **Filing of internal control report** – An issuer must file an internal control report separately but concurrently with the filing of its annual financial statements and annual MD&A.[17]

2.5 **Form and content of internal control report** –

(1) An internal control report must include:

(a) a statement of management's responsibility for establishing and maintaining adequate internal control over financial reporting for an issuer;

(b) a statement identifying the control framework used by management to evaluate the effectiveness of the issuer's internal control over financial reporting;

(c) management's assessment of the effectiveness of the issuer's internal control over financial reporting as of the end of the issuer's financial year, including a statement as to whether the internal control over financial reporting is effective;

(d) disclosure of any material weaknesses in the issuer's internal control over financial reporting identified by management;

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[13] This section is derived from 17 CFR 240.13a-15(c) (*Controls and procedures*) and 17 CFR 240.15d-15(c) (*Controls and procedures*).

[14] This section is derived from 17 CFR 240.13a-15(c) (*Controls and procedures*) and 17 CFR 240.15d-15(c) (*Controls and procedures*).

[15] This section is derived from 17 CFR 229.308 (*Instruction to Item 308*), 17 CFR 249.220f (*Instruction to Item 15*) and 17 CFR 249.240f (*Instruction to paragraph (c) of General Instruction B.6*).

[16] This requirement is similar to requirements set forth in Canada Revenue Agency's Information Circular 78-10R3 *Books and Records Retention/Destruction*.

[17] This section is derived from 17 CFR 229.308(a) (*Management's annual report on internal control over financial reporting*), 17 CFR 249.220f (*Item 15(b) – Management's annual report on internal control over financial reporting*) and 17 CFR 249.240f (*Paragraph (c) of General Instruction B.6 – Management's annual report on internal control over financial reporting*).

(e) a statement that the participating audit firm that audited the issuer's annual financial statements has issued an internal control audit report;

(f) disclosure of any limitations in management's assessment of the effectiveness of the issuer's internal control over financial reporting extending into a joint venture or a variable interest entity in which the issuer has a material interest; and

(g) disclosure of any limitations in management's assessment of the effectiveness of the issuer's internal control over financial reporting extending into a business that was acquired by the issuer during the financial year.[18]

(2) Despite paragraph (1)(g), management must not limit its assessment of the effectiveness of an issuer's internal control over financial reporting extending into a business as at the end of a financial year where the business was acquired in the immediately preceding financial year.

(3) An internal control report must be dated a date that is on or before the date of the internal control audit report prepared in respect of the internal control report.

2.6 **Approval of internal control report –** An issuer's board of directors must approve an internal control report required to be filed under section 2.4 before the internal control report is filed.

PART 3 – INTERNAL CONTROL AUDIT REPORT

3.1 **Filing of internal control audit report –**

(1) An issuer must file an internal control audit report for the same financial year for which an internal control report has been filed.

(2) The internal control audit report must be filed by the issuer together with the internal control report.

3.2 **Form and content of internal control audit report** –

(1) An internal control audit report must:

(a) be prepared in accordance with the CICA Standard;

(b) be dated the same date as the auditor's report on the annual financial statements;

(c) be signed by the participating audit firm; and

(d) identify the internal control report in respect of which the internal control audit report has been prepared.[19]

(2) Despite paragraph (1)1, an internal control audit report in respect of an internal control report of a foreign issuer may be prepared in accordance with the PCAOB Standard.

(3) An internal control audit report may be combined with the auditor's report on the annual financial statements.[20]

3.3 **No separate engagement** – An internal control audit report and auditor's report on annual financial statements for a financial year must be prepared by the same participating audit firm.[21]

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[18] The requirements set out in paragraphs (a) through (e) in this section are derived from 17 CFR 229.308(a) (*Management's annual report on internal control over financial reporting*), 17 CFR 249.220f (*Item 15(b) – Management's annual report on internal control over financial reporting*) and 17 CFR 249.240f (*Paragraph (c) of General Instruction B.6 – Management's annual report on internal control over financial reporting*). The requirements set out in paragraphs (f) and (g) of this section are derived from Office of the Chief Accountant, Division of Corporate Finance: *Management's Report on Internal Control Over Financial Reporting and Certification of Disclosure in Exchange Act Periodic Reports – Frequently Asked Questions (revised October 6, 2004*).

[19] This section is derived from 17 CFR 210.2-02(f) (*Accountants' reports and attestation reports on management's assessment of internal control over financial reporting*).

[20] This section is derived from 17 CFR 210.2-02(f) (*Accountants' reports and attestation reports on management's assessment of internal control over financial reporting*).

[21] This section is derived from section 404(b) of the Sarbanes-Oxley Act.

PART 4 – REFILED INTERNAL CONTROL REPORTS AND INTERNAL CONTROL AUDIT REPORTS

4.1 **Refiled annual financial statements** –

(1) If an issuer refiles its annual financial statements for a financial year, it must refile its internal control report and internal control audit report for that financial year.

(2) The refiled internal control report and internal control audit report must be filed by the issuer separately but concurrently with the filing of its refiled annual financial statements.

PART 5 – DELIVERY OF INTERNAL CONTROL REPORT AND INTERNAL CONTROL AUDIT REPORT

5.1 **Delivery** – An issuer that must send its annual financial statements and annual MD&A for a financial year to a person or company under NI 51-102 must also send to the person or company, concurrently and without charge, a copy of its internal control report and internal control audit report for that financial year.

PART 6 – LANGUAGE OF INTERNAL CONTROL REPORTS AND INTERNAL CONTROL AUDIT REPORTS

6.1 **French or English -**

(1) An issuer must file the internal control reports and the internal control audit reports required to be filed under this Instrument in French or in English.

(2) Despite subsection (1), if an issuer files an internal control report or an internal control audit report only in French or only in English but delivers to securityholders a version of the document in the other language, the issuer must file that other version not later than when it is first delivered to securityholders.

(3) In Québec, an issuer must comply with linguistic obligations and rights prescribed by Québec law.

PART 7 - EXEMPTIONS

7.1 **Exemption for 52-111 transition 1 issuers –** A 52-111 transition 1 issuer is exempt from the requirements of this Instrument for a financial year ending on or before June 29, 2007 provided that the issuer files a notice of 52-111 exemption with the securities regulatory authorities separately but concurrently with its annual financial statements and annual MD&A for that financial year.

7.2 **Exemption for 52-111 transition 2 issuers –** A 52-111 transition 2 issuer is exempt from the requirements of this Instrument for a financial year ending on or before June 29, 2008 provided that the issuer files a notice of 52-111 exemption with the securities regulatory authorities separately but concurrently with its annual financial statements and annual MD&A for that financial year.

7.3 **Exemption for 52-111 transition 3 issuers –** A 52-111 transition 3 issuer is exempt from the requirements of this Instrument for a financial year ending on or before June 29, 2009 provided that the issuer files a notice of 52-111 exemption with the securities regulatory authorities separately but concurrently with its annual financial statements and annual MD&A for that financial year.

7.4 **Exemption for issuers that comply with U.S. laws** – An issuer is exempt from the requirements in this Instrument for a financial year if:

(a) the issuer is in compliance with U.S. federal securities laws implementing the internal control report requirements in sections 404(a) and (b) of the Sarbanes-Oxley Act; and

(b) management's annual report on internal control over financial reporting and the attestation report on management's assessment of internal control over financial reporting included in the issuer's annual report for the financial year is filed promptly after it is filed with the SEC.[22]

7.5 **Exemption for foreign issuers** – An issuer is exempt from the requirements in this Instrument if it qualifies for the relief contemplated by, and is in compliance with the requirements and conditions set out in, sections 5.4 and 5.5 of National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers.*[23]

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[22] This is similar to the exemption contained in section 7.1 of MI 52-109.

[23] This is similar to the exemption contained in section 7.2 of MI 52-109.

7.6 **Exemption for certain exchangeable security issuers** – An issuer is exempt from the requirements in this Instrument if it qualifies for the relief contemplated by, and is in compliance with the requirements and conditions set out in, section 13.3 of NI 51-102.[24]

7.7 **Exemption for certain credit support issuers** – An issuer is exempt from the requirements in this Instrument if it qualifies for the relief contemplated by, and is in compliance with the requirements and conditions set out in, section 13.4 of NI 51-102.[25]

7.8 **Exemption for asset-backed securities issuers** – An issuer is exempt from the requirements in this Instrument if it is an issuer of asset-backed securities.[26]

7.9 **General exemption** –

(1) The regulator or securities regulatory authority may grant an exemption from this Instrument, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.

(2) Despite subsection (1), in Ontario only the regulator may grant such an exemption.[27]

PART 8 - EFFECTIVE DATE AND TRANSITION

8.1 Effective date - This Instrument comes into force on [●].[28]

8.2 Transition – The provisions of the Instrument regarding internal control reports and internal control audit reports apply for financial years ending on or after June 30, 2006.[29]

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24 This is similar to the exemption contained in section 7.3 of MI 52-109.

25 This is similar to the exemption contained in section 7.4 of MI 52-109.

26 Issuers of asset-backed securities are not required to comply with the SEC rules implementing section 404 of the Sarbanes-Oxley Act.

27 This is similar to the exemption contained in section 7.5 of MI 52-109.

28 This Instrument is intended to come into force on the same date as the amended and restated MI 52-109.

29 Under the SEC rules implementing section 404 of the Sarbanes-Oxley Act, a foreign private issuer must comply with the annual internal control report for its first financial year ending on or after July 15, 2005.

COMPANION POLICY 52-111CP – TO MULTILATERAL INSTRUMENT 52-111 REPORTING ON INTERNAL CONTROL OVER FINANCIAL REPORTING

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PART 1 – GENERAL

1.1 **Introduction and purpose -**

(1) Multilateral Instrument 52-111 *Reporting on Internal Control over Financial Reporting* (the Instrument) sets out additional disclosure requirements for all reporting issuers, other than investment funds and venture issuers.

(2) The purpose of this Companion Policy (the Policy) is to help you understand how the provincial and territorial securities regulatory authorities interpret or apply certain provisions of the Instrument.

1.2 **Application to non-corporate entities -** The Instrument applies to both corporate and non-corporate entities. Where the Instrument or the Policy refers to a particular corporate characteristic, such as a board of directors, the reference should be read to include any equivalent characteristic of a non-corporate entity.

PART 2 – MANAGEMENT'S ASSESSMENT OF EFFECTIVENESS OF INTERNAL CONTROL OVER FINANCIAL REPORTING

2.1 **No formal requirement for interim evaluation -** The Instrument does not require interim evaluations of internal control over financial reporting. We recognize that some controls operate continuously while others operate only at certain times, such as the end of a financial year. The management of an issuer should perform evaluations of the design and operation of the issuer's internal control over financial reporting over a period of time that is adequate for it to determine whether, as of the end of the issuer's financial year, the design and operation of the issuer's internal control over financial reporting are effective.[1]

2.2 **Management -**

(1) Section 2.1 of the Instrument requires management of an issuer to evaluate the effectiveness of internal control over financial reporting. The Instrument does not define "management". We would expect that management, for the purposes of the Instrument, includes the chief executive officer and chief financial officer of an issuer, or in the case of an issuer that does not have a chief executive officer or chief financial officer, all persons performing similar functions to a chief executive officer or chief financial officer; however, we believe that it should be left to the discretion of the chief executive officer and chief financial officer (or persons performing similar functions to a chief executive officer or chief financial officer), each acting reasonably, to determine the other members of management for the purposes of the Instrument.

(2) Where an issuer does not have a chief executive officer or chief financial officer, each person who performs similar functions to a chief executive officer or chief financial officer must participate in the evaluation of the effectiveness of the issuer's internal control over financial reporting. It is left to the discretion of the issuer, acting reasonably, to determine who those persons are.

(3) In the case of an income trust reporting issuer (as described in proposed National Policy 41-201 *Income Trusts and Other Indirect Offerings*) where executive management resides at the underlying business entity level or in an external management company, we would generally consider the chief executive officer and chief financial officer of the underlying business entity or the external management company to be persons performing functions in respect of the income trust similar to a chief executive officer and chief financial officer.

(4) In the case of a limited partnership reporting issuer with no chief executive officer and chief financial officer, we would generally consider the chief executive officer and chief financial officer of its general partner to be persons performing functions in respect of the limited partnership reporting issuer similar to a chief executive officer and chief financial officer.

2.3 **Scope of evaluation -**

(1) The assessment of an issuer's internal control over financial reporting should be based upon procedures sufficient to evaluate its design and to test its operating effectiveness.[2]

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[1] This section is derived from the "Final Rule: Management's Report on Internal Control Over Financial Reporting and Certification of Disclosure in Exchange Act Periodic Reports" issued by the SEC on June 18, 2003 (the SEC Release) – see "C. Quarterly Evaluations of Internal Control over Financial Reporting – 3. Final Rules".

[2] This section is derived from the SEC Release – see "B. Management's Annual Assessment of, and Report on, the Company's Internal Control over Financial Reporting – 3. Final Rules – d. Method of Evaluating".

(2) The controls subject to such assessment include:

(a) controls over initiating, authorizing, recording, processing and reporting significant accounts and disclosures and related assertions included in the financial statements;

(b) controls related to the initiation and processing of non-routine and non-systematic transactions, such as accounts involving judgments and estimates;

(c) controls related to the selection and application of appropriate accounting policies that are in accordance with the issuer's GAAP;

(d) anti-fraud programs and controls;

(e) controls, including information technology general controls, on which other controls are dependent;

(f) controls over the period-end financial reporting process, including controls over procedures used to enter transaction totals into the general ledger, to initiate, authorize, record and process journal entries in the general ledger and to record recurring and nonrecurring adjustments to the financial statements (for example, consolidating adjustments, report combinations and reclassifications); and

(g) controls that have a pervasive impact such as those within the control environment, including the "tone at the top", assignment of authority and responsibility, consistent policies and procedures and issuer wide programs that apply to all locations and business units.[3]

(3) The nature of an issuer's testing activities will largely depend on the circumstances of the issuer and the significance of a control. Inquiry alone, however, will not generally provide an adequate basis for management's assessment. This statement should not be interpreted to mean that management personally must conduct the necessary activities to evaluate the design and test the operating effectiveness of the issuer's internal control over financial reporting. Activities, including those necessary to provide management with the information on which it bases its assessment, may be conducted by non-management personnel acting under the supervision of management. Management, however, has overall responsibility for the preparation of the internal control report.[4]

2.4 **Control framework for evaluation -**

(1) The Instrument does not mandate the use of a particular control framework in recognition of the fact that other evaluation standards exist and may be developed in the future that may satisfy the intent of the Instrument.

(2) A suitable control framework should:

(a) be free from bias;

(b) permit reasonably consistent qualitative and quantitative measurements of an issuer's internal control over financial reporting;

(c) be sufficiently complete so that those relevant factors that would alter a conclusion about the effectiveness of an issuer's internal control over financial reporting are not omitted; and

(d) be relevant to an evaluation of internal control over financial reporting.

(3) Without limiting the generality of subsections (1) and (2), the following control frameworks satisfy our criteria for the purposes of section 2.2 of the Instrument:

(a) the *Risk Management and Governance (formerly: Guidance of the Criteria of Control Board*) published by The Canadian Institute of Chartered Accountants;

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[3] This section is derived from the SEC Release – see "B. Management's Annual Assessment of, and Report on, the Company's Internal Control over Financial Reporting – 3. Final Rules – d. Method of Evaluating" and the proposed CICA Standard.

[4] This section is derived from the SEC Release – see "B. Management's Annual Assessment of, and Report on, the Company's Internal Control over Financial Reporting – 3. Final Rules – d. Method of Evaluating".

(b) the *Internal Control – Integrated Framework* published by The Committee of Sponsoring Organizations of the Treadway Commission; and

(c) the *Turnbull Report* published by The Institute of Chartered Accountants in England and Wales.

(4) The control frameworks referred to in subsection (3) include in their definition of “internal control” three general categories: effectiveness and efficiency of operations, reliability of financial reporting and compliance with applicable laws and regulations. The term “internal control over financial reporting”, as defined in the Instrument, is a subset of internal controls addressed in these control frameworks. The definition in the Instrument does not encompass the elements of these control frameworks that relate to effectiveness and efficiency of an issuer’s operations and an issuer’s compliance with applicable laws and regulations, with the exception of compliance with the applicable laws and regulations directly related to the preparation of financial statements, such as the securities regulatory authorities’ financial reporting requirements.[5]

2.5 **Evidence -**

(1) The Instrument requires that an assessment of the effectiveness of internal control over financial reporting be supported by evidence. We expect this evidence to include information about the design of internal control over financial reporting and the testing processes used by management. We believe that this evidence should provide reasonable support:

(a) for the evaluation of whether the control is designed to prevent or detect material misstatements or omissions in the issuer’s financial disclosure; and

(b) for the conclusion that the tests were appropriately planned and performed and that the results of the tests were appropriately considered.[6]

(2) To provide reasonable support for management’s assessment of the effectiveness of internal control over financial reporting, the evidence should include:

(a) the design of controls over relevant assertions related to all significant accounts and disclosures in the financial statements;

(b) information about how significant transactions are initiated, authorized, recorded, processed and reported;

(c) sufficient information about the flow of transactions to identify the points at which material misstatements due to error or fraud could occur;

(d) a listing of controls designed to prevent or detect fraud, including who performs the controls and related segregation of duties;

(e) a listing of controls over period-end financial reporting processes;

(f) a listing of controls over safeguarding of assets; and

(g) results of management’s testing and evaluation.[7]

(3) The evidence may be in written or non-written form.

(4) The evidence may be in bound or loose-leaf form or in photographic film form or may be entered or recorded by any system of mechanical or electronic data processing or by any other information storage device that is capable of reproducing any required information in intelligible form within a reasonable time.[8]

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[5] This section is derived from the SEC Release – see “B. Management’s Annual Assessment of, and Report on, the Company’s Internal Control over Financial Reporting – 3. Final Rules – a. Evaluation of Internal Control Over Financial Reporting” and “A. Definition of Internal Control – 1. Proposed Rule and 3. Final Rules”.

[6] This section is derived from the SEC Release – see “B. Management’s Annual Assessment of, and Report on, the Company’s Internal Control over Financial Reporting – 3. Final Rules – d. Method of Evaluating”.

[7] This section is derived from the proposed CICA Standard.

[8] This requirement is similar to requirements in federal legislation (such as the *Canada Business Corporations Act* and *Trust and Loan Companies Act*).

2.6 **Subsidiaries, variable interest entities, joint ventures, equity and portfolio investments -**

(1) ***Underlying entities -*** An issuer may have a variety of long term investments. In particular, an issuer may have any of the following interests (referred to in this section as underlying entities):

(a) an interest in an entity which is consolidated because the issuer controls that entity (a subsidiary);

(b) an interest in an entity which is consolidated because it is a variable interest entity (a VIE);

(c) an interest in an entity which is proportionately consolidated because the issuer jointly controls that entity (a joint venture);

(d) an interest in an entity which is accounted for using the equity method because the issuer has significant influence over that entity (an equity investment); or

(e) an interest in an entity which is carried at cost because the issuer has neither control nor significant influence over that entity (a portfolio investment).

In this section, the term entity is meant to capture a broad range of structures, including, but not limited to, corporations.

(2) ***Evaluation of effectiveness of internal control over financial reporting -*** If an issuer has an interest in an underlying entity, the nature of that underlying entity will impact the procedures required to be undertaken by management in its evaluation of the effectiveness of the issuer's internal control over financial reporting.

(3) ***Expectations regarding access to underlying entity -*** In the case of an issuer with an interest in a subsidiary, we expect management to have access to the subsidiary to evaluate the issuer's internal control over financial reporting extending into the subsidiary.

In the case of an issuer with an interest in a joint venture or a VIE, we acknowledge that management may not always have access to the underlying entity to evaluate the issuer's internal control over financial reporting extending into the underlying entity. We expect management to take all *reasonable* steps to evaluate the issuer's internal control over financial reporting. It is left to the discretion of management, acting reasonably, to determine what constitutes "reasonable steps".

In the case of an issuer with an interest in a portfolio investment or an equity investment, management will often not have access to the underlying entity to evaluate the issuer's internal control over financial reporting extending into the underlying entity.

(4) ***No access -*** When management does not have access to the underlying entity to evaluate the issuer's internal control over financial reporting extending into the underlying entity:

(a) in the case of an issuer with a material interest in a joint venture or a VIE, management is required to disclose this scope limitation in the internal control report. This disclosure should include the magnitude of the amounts proportionately consolidated or consolidated into the issuer's annual financial statements.

(b) in the case of an issuer with an equity investment or a portfolio investment, management should evaluate the effectiveness of the internal control over financial reporting that was required to be designed under Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (MI 52-109). These requirements are discussed in subparagraph 5.6(5)(c)(ii) and paragraph 5.6(5)(d) of the companion policy to MI 52-109.

(5) ***Factors affecting access -*** Whether management has the necessary access to a joint venture or a VIE to evaluate an issuer's internal control over financial reporting extending into the joint venture or VIE is a question of fact. While the factors to consider in making this assessment are the same as those listed in paragraph 5.6(5)(f) (in the case of a joint venture) or paragraph 5.6(5)(g) (in the case of a VIE) of the companion policy to MI 52-109, the outcome of the analysis may be different. Management may have the ability to evaluate the effectiveness of internal control over financial reporting extending into the joint venture or VIE even though the chief executive officer and chief financial officer (or persons performing similar functions to a chief executive officer or chief financial officer) do not have the ability to design internal control over financial reporting extending into the joint venture or VIE.

For all joint ventures and VIEs created on or after **[insert the date the Instrument comes into force]**, we expect an issuer to negotiate for the necessary access to evaluate the issuer's internal control over financial reporting extending into the joint venture or VIE.

2.7 **Business acquisitions -**

(1) ***General expectation -*** Except as discussed in section 2.6, we expect management to have access to each consolidated or proportionately consolidated entity to evaluate an issuer's internal control over financial reporting extending into the entity. We acknowledge, however, that it may not be feasible to assess an issuer's internal control over financial reporting extending into a business as at the end of a financial year during which the business was acquired by the issuer.

(2) ***Factors affecting feasibility of assessing internal control over financial reporting extending into an acquired business -*** Whether it is feasible for management to assess an issuer's internal control over financial reporting extending into a business as at the end of a financial year during which the business was acquired by the issuer is a question of fact. It may depend on, among other things:

(i) whether the business acquired has been subject to the Instrument, the U.S. federal securities laws implementing the internal control report requirements in sections 404(a) and (b) of the Sarbanes-Oxley Act or substantially similar requirements;

(ii) the size and complexity of the business acquired;

(iii) the terms of the acquisition agreement;

(iv) the length of time between the date of the acquisition agreement, the closing date of the acquisition and the date of management's assessment of internal control over financial reporting; and

(v) whether the business was acquired under a hostile take-over bid.

(3) ***Disclosure of scope limitation -*** If it is not feasible for management to assess an issuer's internal control over financial reporting extending into a business as at the end of a financial year during which the business was acquired by the issuer, management is required to disclose this scope limitation in the internal control report. This disclosure should include the magnitude of the amounts relating to the acquired business consolidated into the issuer's annual financial statements.

2.8 **Interaction between the Instrument and MI 52-109 -** Nothing in the Instrument relieves a chief executive officer and chief financial officer (or persons performing similar functions to a chief executive officer or chief financial officer) of their obligations under MI 52-109.

PART 3 - INTERNAL CONTROL AUDIT REPORT

3.1 **No separate engagement -**

(1) Section 3.3 of the Instrument provides that the participating audit firm that prepares the auditor's report on the financial statements must be the same as the participating audit firm who prepares the internal control audit report. Because the participating audit firm is required to audit management's assessment of internal control over financial reporting, management and the participating audit firm will need to coordinate their processes of documenting and testing the internal control over financial reporting. However, we remind issuers and participating audit firms that the independence provisions of the rules of professional conduct adopted by the provincial and territorial institutes of Chartered Accountants prohibit a participating audit firm in Canada from providing certain non-audit services to an audit client. Under these rules of professional conduct, participating audit firms may assist management in documenting internal control over financial reporting without compromising their independence. When the participating audit firm is engaged to assist management in documenting internal control over financial reporting, management must be actively involved in the process. We remind issuers and participating audit firms that under the rules of professional conduct management cannot delegate its responsibility to assess its internal control over financial reporting to the participating audit firm. The Instrument does not amend the rules of professional conduct.[9]

[9] This section is derived from the SEC Release – see "B. Management's Annual Assessment of, and Report on, the Company's Internal Control over Financial Reporting – 3. Final Rules – b. Auditor Independence Issues".

(2) The evaluation of independence for the purposes of signing the internal control audit report is distinct from the evaluation of independence for the purposes of signing the auditor's report on the financial statements. The CICA Standard and the PCAOB Standard require a participating audit firm to be independent in order to sign the internal control audit report.

(3) Under the CICA Standard and the PCAOB Standard, to qualify as independent, the participating audit firm should not:

(a) act as management or as an employee of an issuer;

(b) audit its own work;

(c) serve in a position of being an advocate for an issuer; or

(d) have a mutual or conflicting interest with an issuer.

(4) Under the rules of professional conduct of the provincial and territorial institutes of Chartered Accountants, participating audit firms are prohibited from providing certain non-audit services to issuers above a specified size threshold. In certain circumstances, however, the rules of professional conduct allow these services to be provided to smaller issuers. When such services are provided to an issuer, the issuer's audit committee and the participating audit firm should evaluate whether the participating audit firm's independence has been impaired for the purposes of signing an internal control audit report. In doing so, the audit committee and the participating audit firm should evaluate carefully the nature of the services provided to determine whether the participating audit firm:

(a) has acted as a control or has designed a control for the issuer; and

(b) will be auditing its own work in signing the internal control audit report.

(5) Non-audit services which should be considered carefully in an evaluation of independence for the purposes of signing an internal control audit report include:

(a) preparation of the annual financial statements for the financial year in respect of which the internal control audit report is provided; and

(b) design or implementation of a hardware or software system that aggregates source data underlying the annual financial statements for the financial year in respect of which the internal control audit report is provided.

3.2 **Combined audit reports -** Under the CICA Standard and the PCAOB Standard, a participating audit firm may prepare a "combined audit report" in relation to an issuer, which combines the auditor's report on the financial statements with the internal control audit report. In determining whether a "combined audit report" should be filed, the participating audit firm and the issuer should consider whether the auditor's report on the financial statements is expected to be included or incorporated by reference in another document that may be filed or delivered to the securities regulatory authorities.

PART 4 – REFILED ANNUAL MD&A

4.1 **Refiled annual MD&A -** If the annual MD&A for a financial year is refiled but the annual financial statements for that financial year are not refiled, it will not be necessary to refile the internal control report and internal control audit report for that financial year.

PART 5 – EXEMPTIONS

5.1 **Issuers that comply with U.S. laws -**

(1) The exemptions in section 7.3 of the Instrument are based on our view that the investor confidence aims of the Instrument do not justify requiring issuers to comply with the internal control report and internal control audit report requirements in the Instrument if such issuers comply with substantially similar requirements under U.S. laws, as those laws may be amended from time to time.

(2) As a condition to being exempt from the internal control report and internal control audit report requirements under section 7.3 of the Instrument, issuers must file the reports that they filed with the SEC in compliance with its rules implementing the requirements prescribed in sections 404(a) and 404(b) of the Sarbanes-Oxley Act.[10]

PART 6 – LIABILITY FOR REPORTS CONTAINING MISREPRESENTATIONS

6.1 Liability for internal control reports containing misrepresentations -

(1) Officers providing an internal control report containing a misrepresentation potentially could be subject to quasi-criminal, administrative or civil proceedings under securities law.

(2) Officers providing an internal control report containing a misrepresentation could also potentially be subject to private actions for damages either at common law or, in Québec, under civil law, or under the *Securities Act* (Ontario) when amendments which create statutory civil liability for misrepresentations in continuous disclosure are proclaimed in force. The liability standard applicable to a document required to be filed with the Ontario Securities Commission, including an internal control report, will depend on whether the document is a “core” document as defined under Part XXIII.1 of the *Securities Act* (Ontario). Internal control reports are currently not included in the definition of “core document” but would be included in the definition of “document”.

(3) In any action commenced under Part XXIII.1 of the *Securities Act* (Ontario) a court has the discretion to treat multiple misrepresentations having common subject matter or content as a single misrepresentation. This provision could permit a court in appropriate cases to treat a misrepresentation in an issuer’s financial statements and a misrepresentation made by officers in an internal control report that relate to the underlying financial statements as a single misrepresentation.

(4) Liability for misrepresentations under Part XXIII.1 of the *Securities Act* (Ontario) is limited to, among others, each officer of the issuer who authorized, permitted or acquiesced in the release of the internal control report. The term “officer” is defined in the *Securities Act* (Ontario) to include certain persons acting in specified positions as well as persons designated as “officers” in an issuer’s by-laws. Accordingly, it is possible that certain members of management that are involved in the preparation of the internal control report are not “officers” and as a result, are not exposed to liability under Part XXIII.1 of the *Securities Act* (Ontario) for a misrepresentation in an internal control report.

6.2 Liability for internal control audit reports containing misrepresentations -

(1) Participating audit firms providing an internal control audit report containing a misrepresentation potentially could be subject to quasi-criminal, administrative or civil proceedings under securities law.

(2) Participating audit firms providing an internal control audit report containing a misrepresentation could also potentially be subject to private actions for damages either at common law or, in Québec, under civil law, or under the *Securities Act* (Ontario) when amendments which create statutory civil liability for misrepresentations in continuous disclosure are proclaimed in force. The liability standard applicable to a document required to be filed with the Ontario Securities Commission, including an internal control audit report, will depend on whether the document is a “core” document as defined under Part XXIII.1 of the *Securities Act* (Ontario). Internal control audit reports are currently not included in the definition of “core document” but would be included in the definition of “document”.

(3) In any action commenced under Part XXIII.1 of the *Securities Act* (Ontario) a court has the discretion to treat multiple misrepresentations having common subject matter or content as a single misrepresentation. This provision could permit a court in appropriate cases to treat a misrepresentation in an auditor’s report on the financial statements and a misrepresentation in an internal control audit report that relates to the auditor’s report on the financial statements as a single misrepresentation.[11]

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[10] The provisions of this part are similar to the provisions of Part 6 of the companion policy to MI 52-109.

[11] The provisions of this part are similar to the provisions of Part 7 of the companion policy to MI 52-109.

6.1.3 Multilateral Instrument 52-109 Certification of Disclosure in Issuers' Annual and Interim Filings

MULTILATERAL INSTRUMENT 52-109
CERTIFICATION OF DISCLOSURE IN ISSUERS' ANNUAL AND INTERIM FILINGS

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PART 1 – DEFINITIONS AND APPLICATION

1.1 **Definitions -** In this Instrument,

"52-109 transition 1 issuer" means an issuer that satisfies the following conditions:

(a) it is not a venture issuer; and

(b) its listed equity securities have an aggregate market value of $250,000,000 or more but less than $500,000,000 on the market capitalization date;

"52-109 transition 2 issuer" means an issuer that satisfies the following conditions:

(a) it is not a venture issuer; and

(b) its listed equity securities have an aggregate market value of $75,000,000 or more but less than $250,000,000 on the market capitalization date;

"52-109 transition 3 issuer" means an issuer that satisfies the following conditions:

(a) it is not a venture issuer; and

(b) its listed equity securities have an aggregate market value of less than $75,000,000 calculated on the market capitalization date;

"52-109 transition issuer" means a 52-109 transition 1 issuer, 52-109 transition 2 issuer or 52-109 transition 3 issuer;

"AIF" has the meaning ascribed to it in NI 51-102;[1]

"annual certificate" means the certificate required to be filed pursuant to Part 3;

"annual filings" means the issuer's AIF, if any, internal control report, if any, and annual financial statements and annual MD&A filed under securities legislation for a financial year, including for greater certainty all documents and information that are incorporated by reference in any AIF;

"annual financial statements" means the annual financial statements required to be filed under NI 51-102;

"audit committee" has the meaning ascribed to it in Multilateral Instrument 52-110 *Audit Committees*;[2]

"CICA Standard" means the standard, established by the Auditing and Assurance Standards Board of The Canadian Institute of Chartered Accountants, for an audit of internal control over financial reporting performed in conjunction with an audit of financial statements, as amended from time to time;

"disclosure controls and procedures" means controls and other procedures of an issuer that are designed to provide reasonable assurance that information required to be disclosed by the issuer in its annual filings, interim filings or other reports filed or submitted by it under securities legislation is recorded, processed, summarized and reported within the time periods specified in the securities legislation and include controls and procedures designed to ensure that information required to be disclosed by an issuer in its annual filings, interim filings or other reports filed or submitted under securities legislation is accumulated and communicated to the issuer's management, including its chief executive officers and chief financial officers (or persons who perform similar functions to a chief executive officer or a chief financial officer), as appropriate to allow timely decisions regarding required disclosure;

"interim certificate" means the certificate required to be filed pursuant to Part 4;

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1 ‘"AIF" is defined in NI 51-102 as a completed Form 51-102F2 *Annual Information Form* or, in the case of an SEC issuer, a completed Form 51-102F2 or an annual report or transition report under the 1934 Act on Form 10-K, Form 10-KSB or Form 20F.

2 "Audit committee" is defined in Multilateral Instrument 52-110 *Audit Committees* as a committee (or equivalent body) established by and among the board of directors of an issuer for the purpose of overseeing the accounting and financial reporting processes of the issuer and audits of the financial statements of the issuer, and, if no such committee exists, the entire board of directors of the issuer.

"interim filings" means the issuer's interim financial statements and interim MD&A filed under securities legislation for an interim period;

"interim financial statements" means the interim financial statements required to be filed under NI 51-102;

"interim period" has the meaning ascribed to it in NI 51-102;[3]

"internal control over financial reporting" means a process designed by, or under the supervision of, the issuer's chief executive officer and chief financial officer, or persons performing similar functions, and effected by the issuer's board of directors, management and other personnel, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with the issuer's GAAP and includes those policies and procedures that:

(a) pertain to the maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of the assets of the issuer,

(b) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with the issuer's GAAP, and that receipts and expenditures of the issuer are being made only in accordance with authorizations of management and directors of the issuer, and

(c) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the issuer's assets that could have a material effect on the annual financial statements or interim financial statements;

"internal control report" has the meaning ascribed to it in MI 52-111;[4]

"investment fund" has the meaning ascribed to it in NI 51-102;[5]

"issuer's GAAP" has the meaning ascribed to it in NI 52-107;[6]

"listed equity securities" means equity securities listed or quoted on an exchange or marketplace;

"market capitalization date" means:

(a) June 30, 2005;

(b) in the case of an issuer that becomes a reporting issuer after June 30, 2005, the date on which the issuer becomes a reporting issuer; or

(c) in the case of a reporting issuer that ceases to be a venture issuer after June 30, 2005, the date on which the reporting issuer ceased to be a venture issuer;

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[3] "Interim period" is defined in NI 51-102 as

(a) in the case of a year other than a transition year, a period commencing on the first day of the financial year and ending nine, six or three months before the end of the financial year; or

(b) in the case of a transition year, a period commencing on the first day of the transition year and ending

(i) three, six, nine or 12 months, if applicable, after the end of the old financial year; or

(ii) 12 , nine, six or three months, if applicable, before the end of the transition year.

[4] "Internal control report" is defined in MI 52-111 as a report of management that describes management's assessment of the effectiveness of the issuer's internal control over financial reporting.

[5] "Investment fund" is defined in NI 51-102 as a mutual fund or non-redeemable investment fund.

[6] "Issuer's GAAP" is defined in NI 52-107 as the accounting principles used to prepare an issuer's financial statements, as permitted by NI 52-107.

"marketplace" has the meaning ascribed to it in National Instrument 21-101 *Marketplace Operation*;[7]

"material weakness" has the meaning ascribed to it in the CICA Standard;[8]

"MD&A" has the meaning ascribed to it in NI 51-102;

"MI 52-111" means Multilateral Instrument 52-111 *Reporting on Internal Control over Financial Reporting*;

"NI 51-102" means National Instrument 51-102 *Continuous Disclosure Obligations*;

"NI 52-107" means National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency*;

"Sarbanes-Oxley Act" means the Sarbanes-Oxley Act of 2002, Pub.L. 107-204, 116 Stat. 745 (2002), as amended from time to time;

"significant deficiency" has the meaning ascribed to it in the CICA Standard;[9]

"subsidiary" has the meaning ascribed to it in the Handbook;

"U.S. GAAP" has the meaning ascribed to it in NI 52-107;[10]

"U.S. marketplace" has the meaning ascribed to it in NI 51-102; and[11]

"venture issuer" means an issuer that, as at the applicable time, did not have any of its securities listed or quoted on any of the Toronto Stock Exchange, a U.S. marketplace, or a marketplace outside of Canada or the United States of America; where the "applicable time" in respect of:

(a) the Instrument other than paragraph (c) of the definition of market capitalization date in section 1.1, is the end of the applicable financial year; and

(b) paragraph (c) of the definition of market capitalization date in section 1.1, is the date on which securities of an issuer are listed or quoted on any of the Toronto Stock Exchange, a U.S. marketplace, or a marketplace outside of Canada or the United States of America.

1.2 **Application** – This Instrument applies to all reporting issuers other than investment funds.

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7 "Marketplace" is defined in National Instrument 21-101 *Marketplace Operation* as
(a) an exchange,
(b) a quotation or trade reporting system,
(c) a person or company not included in paragraph (a) or (b) that
(i) constitutes, maintains or provides a market or facility for bringing together buyers and sellers of securities,
(ii) brings together the orders for securities of multiple buyers and sellers, and
(iii) uses established, non-discretionary methods under which the orders interact with each other, and the buyers and sellers entering the orders agree to the terms of the trade, or
(d) a dealer that executes a trade of an exchange-traded security outside of a marketplace,
but does not include an inter-dealer bond broker.

8 The definition in the proposed CICA Standard is:
""Material weakness" means a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the annual or interim financial statements will not be prevented or detected."

9 The definition in the proposed CICA Standard is:
""Significant deficiency" means a control deficiency, or combination of control deficiencies, that adversely affects an issuer's ability to initiate, authorize, record, process or report external financial data reliably in accordance with generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of the entity's annual or interim financial statements that is more than inconsequential will not be prevented or detected."

10 "U.S. GAAP" is defined in NI 52-107 as generally accepted accounting principles in the United States of America that the SEC has identified as having substantially authoritative support, as supplemented by Regulation S-X and Regulation S-B under the 1934 Act.

11 "U.S. marketplace" is defined in NI 51-102 as an exchange registered as a 'national securities exchange' under section 6 of the 1934 Act, or the Nasdaq Stock Market.

1.3 **Calculation of the aggregate market value of an issuer's listed equity securities –** For the purposes of this Instrument, the aggregate market value of the listed equity securities of an issuer is the aggregate of the market value of each class of its listed equity securities outstanding on the market capitalization date, calculated by multiplying

1. the total number of listed equity securities of the class outstanding on the market capitalization date, by

2. the weighted average of the market price for the listed equity securities of the class outstanding on the exchange or marketplace on which that class of listed equity securities is principally traded for each of the 20 trading days immediately following the market capitalization date.

PART 2 – DISCLOSURE CONTROLS AND PROCEDURES AND INTERNAL CONTROL OVER FINANCIAL REPORTING

2.1 **Disclosure controls and procedures and internal control over financial reporting -** Every issuer must have disclosure controls and procedures and internal control over financial reporting.

PART 3 - CERTIFICATION OF ANNUAL FILINGS

3.1 **Annual certificates -** Every issuer must file a separate annual certificate, in the required form, in respect of and personally signed by each person who, at the time of filing the annual certificate:

1. is a chief executive officer;

2. is a chief financial officer; and

3. in the case of an issuer that does not have a chief executive officer or chief financial officer, performs similar functions to a chief executive officer or a chief financial officer, as the case may be.

3.2 **Required form of annual certificates – issuers other than venture issuers and 52-109 transition issuers -** The required form of annual certificates for issuers other than venture issuers and 52-109 transition issuers is Form 52-109F1.

3.3 **Required form of annual certificates – 52-109 transition 1 issuers -**

(1) The required form of annual certificates for 52-109 transition 1 issuers for financial years ending on or before June 29, 2007 is Form 52-109FVT1.

(2) Despite subsection (1), a 52-109 transition 1 issuer may file annual certificates in Form 52-109F1 for financial years ending on or before June 29, 2007 provided that the issuer has complied with the requirements of MI 52-111.

(3) The required form of annual certificates for 52-109 transition 1 issuers for financial years ending on or after June 30, 2007 is Form 52-109F1.

3.4 **Required form of annual certificates – 52-109 transition 2 issuers -**

(1) The required form of annual certificates for 52-109 transition 2 issuers for financial years ending on or before June 29, 2008 is Form 52-109FVT1.

(2) Despite subsection (1), a 52-109 transition 2 issuer may file annual certificates in Form 52-109F1 for financial years ending on or before June 29, 2008 provided that the issuer has complied with the requirements of MI 52-111.

(3) The required form of annual certificates for 52-109 transition 2 issuers for financial years ending on or after June 30, 2008 is Form 52-109F1.

3.5 **Required form of annual certificates – 52-109 transition 3 issuers -**

(1) The required form of annual certificates for 52-109 transition 3 issuers for financial years ending on or before June 29, 2009 is Form 52-109FVT1.

(2) Despite subsection (1), a 52-109 transition 3 issuer may file annual certificates in Form 52-109F1 for financial years ending on or before June 29, 2009 provided that the issuer has complied with the requirements of MI 52-111.

(3) The required form of annual certificates for 52-109 transition 3 issuers for financial years ending on or after June 30, 2009 is Form 52-109F1.

3.6 **Required form of annual certificates – venture issuers -** The required form of annual certificates for venture issuers is Form 52-109FVT1.

3.7 **Transition period for annual certificates -** Despite sections 3.2, 3.3, 3.4, 3.5 and 3.6, an issuer may file annual certificates in Form 52-109FM1 for financial years ending on or before June 29, 2006.

3.8 **Deadline for filing annual certificates -** The annual certificates must be filed by the issuer separately but concurrently with the latest of the following:

1. if it is required to file an AIF under NI 51-102, the filing of its AIF; and

2. the filing of its annual financial statements and annual MD&A.

PART 4 - CERTIFICATION OF INTERIM FILINGS

4.1 **Interim certificates -** Every issuer must file for each interim period a separate interim certificate, in the required form, in respect of and personally signed by each person who, at the time of the filing of the interim certificate:

1. is a chief executive officer;

2. is a chief financial officer; and

3. in the case of an issuer that does not have a chief executive officer or chief financial officer, performs similar functions to a chief executive officer or a chief financial officer, as the case may be.

4.2 **Required form of interim certificates –**

(1) The required form of interim certificates is Form 52-109F2.

(2) Despite subsection (1), an issuer may file interim certificates in Form 52-109FM2 in respect of a permitted modified interim period.

(3) Despite subsections (1) and (2), an issuer may file interim certificates in Form 52-109FT2 in respect of a permitted bare interim period.

(4) For the purpose of subsection (2), a permitted modified interim period is an interim period that occurs before the end of the first financial year for which an issuer is required to file an annual certificate in Form 52-109F1 or Form 52-109FVT1.

(5) For the purpose of subsection (3), a permitted bare interim period is an interim period that occurs before the end of the first financial year for which an issuer is permitted to file an annual certificate in Form 52-109FM1.

4.3 **Deadline for filing interim certificates -** The interim certificates must be filed by the issuer separately but concurrently with the filing of its interim filings.

PART 5 – REFILED ANNUAL CERTIFICATES AND INTERIM CERTIFICATES

5.1 **Refiled annual financial statements, annual MD&A and AIFs –**

(1) If an issuer refiles its annual financial statements, annual MD&A or AIF for a financial year, it must refile its annual certificates for that financial year in Form 52-109F1R.

(2) The refiled annual certificates must be filed by the issuer separately but concurrently with the filing of its refiled annual financial statements, annual MD&A or AIF, as the case may be.

5.2 **Voluntarily filed AIFs** -

(1) If a venture issuer voluntarily files an AIF for a financial year after the issuer has filed its annual financial statements, annual MD&A and annual certificates for that financial year, it must refile its annual certificates in Form 52-109F1R - AIF.

(2) The refiled annual certificates must be filed by the issuer separately but concurrently with the filing of its AIF.

5.3 **Refiled interim financial statements and interim MD&A –**

(1) If an issuer refiles its interim financial statements or interim MD&A for an interim period, it must refile its interim certificates for that interim period in Form 52-109F2R.

(2) The refiled interim certificates must be filed by the issuer separately but concurrently with the filing of its refiled interim financial statements or interim MD&A, as the case may be.

PART 6 – LANGUAGE OF ANNUAL CERTIFICATES AND INTERIM CERTIFICATES

6.1 **French or English -**

(1) An issuer must file annual certificates and interim certificates required to be filed under this Instrument in French or in English.

(2) In Québec, an issuer must comply with linguistic obligations and rights prescribed by Québec law.

PART 7 - EXEMPTIONS

7.1 **Exemption for issuers that comply with U.S. Laws –**

(1) Subject to subsection (4), an issuer is exempt from Part 3 with respect to a financial year if:

(a) the issuer is in compliance with U.S. federal securities laws implementing the annual report certification requirements in section 302(a) of the Sarbanes-Oxley Act; and

(b) the issuer’s signed certificates relating to its annual report for the financial year are filed as soon as reasonably practicable after they are filed with the SEC.

(2) Subject to subsection (5), an issuer is exempt from Part 4 with respect to an interim period if:

(a) the issuer is in compliance with U.S. federal securities laws implementing the quarterly report certification requirements in section 302(a) of the Sarbanes-Oxley Act; and

(b) the issuer's signed certificates relating to its quarterly report for the quarter are filed as soon as reasonably practicable after they are filed with the SEC.

(3) Subject to subsection (5), an issuer is exempt from Part 4 with respect to an interim period if:

(a) the issuer furnishes to the SEC a current report on Form 6-K containing the issuer's quarterly financial statements and MD&A;

(b) the Form 6-K is accompanied by signed certificates that are filed with the SEC in the same form required by U.S. federal securities laws implementing the quarterly report certification requirements in section 302(a) of the Sarbanes-Oxley Act; and

(c) the signed certificates relating to the quarterly report furnished under cover of the Form 6-K are filed as soon as reasonably practicable after they are filed with the SEC.

(4) Despite subsection (1), Part 3 applies to an issuer with respect to a financial year if the issuer files annual financial statements prepared in accordance with Canadian GAAP, unless the issuer files those statements with the SEC in compliance with U.S. federal securities laws implementing the annual report certification requirements in section 302(a) of the Sarbanes-Oxley Act.

(5) Despite subsections (2) and (3), Part 4 applies to an issuer with respect to an interim period if the issuer files or furnishes, whether on a voluntary basis or otherwise, interim financial statements prepared in accordance with Canadian GAAP, unless the issuer files or furnishes those statements with the SEC in compliance with U.S. federal securities laws implementing the quarterly report certification requirements in section 302(a) of the Sarbanes-Oxley Act.

7.2 **Exemption for foreign issuers –** An issuer is exempt from the requirements in this Instrument if it qualifies for the relief contemplated by, and is in compliance with the requirements and conditions set out in, sections 5.4 and 5.5 of National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers*.

7.3 **Exemption for certain exchangeable security issuers –** An issuer is exempt from the requirements in this Instrument if it qualifies for the relief contemplated by, and is in compliance with the requirements and conditions set out in, section 13.3 of NI 51-102.

7.4 **Exemption for certain credit support issuers –** An issuer is exempt from the requirements in this Instrument if it qualifies for the relief contemplated by, and is in compliance with the requirements and conditions set out in, section 13.4 of NI 51-102.

7.5 **General exemption –**

(1) The regulator or securities regulatory authority may grant an exemption from this Instrument, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.

(2) Despite subsection (1), in Ontario only the regulator may grant such an exemption.

PART 8 - EFFECTIVE DATE AND TRANSITION

8.1 **Repeal of former instrument -** Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* that came into force on March 30, 2004 is repealed.

8.2 **Effective date -** This Instrument comes into force on **[●]**.[12]

[12] This Instrument is intended to come into force on the same date as MI 52-111.

FORM 52-109F1 – CERTIFICATION OF ANNUAL FILINGS FOR ISSUERS REQUIRED TO COMPLY WITH MULTILATERAL INSTRUMENT 52-111

I, ***‹identify (i) the certifying officer, (ii) his or her position at the issuer, (iii) the name of the issuer and (iv) if the certifying officer's title is not "chief executive officer" or "chief financial officer" of the issuer, whether the certifying officer is providing the certificate in the capacity of a chief executive officer or a chief financial officer›***, certify that:

1. I have reviewed the annual filings (as this term is defined in Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*) of ***‹identify issuer›*** (the issuer) for the financial year ended ***‹state the relevant date›***;

2. Based on my knowledge, the annual filings do not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that is necessary to make a statement not misleading in light of the circumstances under which it was made, with respect to the period covered by the annual filings;

3. Based on my knowledge, the annual financial statements together with the other financial information included in the annual filings fairly present in all material respects the financial condition, results of operations and cash flows of the issuer, as of the date and for the periods presented in the annual filings;

4. The issuer's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures and internal control over financial reporting for the issuer, and we have:

   (a) designed such disclosure controls and procedures, or caused them to be designed under our supervision, to provide reasonable assurance that material information relating to the issuer, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which the annual filings are being prepared;

   (b) designed such internal control over financial reporting, or caused it to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with the issuer's GAAP;

   (c) evaluated the effectiveness of the issuer's disclosure controls and procedures as of the end of the period covered by the annual filings and have caused the issuer to disclose in the annual MD&A our conclusions about the effectiveness of the disclosure controls and procedures as of the end of the period covered by the annual filings based on such evaluation; and

   (d) caused the issuer to disclose in the annual MD&A any change in the issuer's internal control over financial reporting that occurred during the period beginning on <***insert the date immediately following the end of the most recent interim period*****>** and ended **<*insert financial year end*>** that has materially affected, or is reasonably likely to materially affect, the issuer's internal control over financial reporting; and

5. The issuer's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the issuer's auditors and the audit committee (or persons performing the equivalent functions):

   (a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the issuer's ability to record, process, summarize and report financial information; and

   (b) any fraud, whether or not material, that involves management or other employees who have a significant role in the issuer's internal control over financial reporting.

Date: ***<insert date of filing>***

____
[Signature]
[Title]
<if the certifying officer's title is not "chief executive officer" or "chief financial officer", indicate whether the certifying officer is providing the certificate in the capacity of a chief executive officer or a chief financial officer>

FORM 52-109FVT1 – CERTIFICATION OF ANNUAL FILINGS FOR ISSUERS NOT REQUIRED TO COMPLY WITH MULTILATERAL INSTRUMENT 52-111

I, ***‹identify (i) the certifying officer, (ii) his or her position at the issuer, (iii) the name of the issuer and (iv) if the certifying officer's title is not "chief executive officer" or "chief financial officer" of the issuer, whether the certifying officer is providing the certificate in the capacity of a chief executive officer or a chief financial officer›***, certify that:

1. I have reviewed the annual filings (as this term is defined in Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*) of ***‹identify the issuer›*** (the issuer) for the financial year ended ***‹state the relevant date›***;

2. Based on my knowledge, the annual filings do not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that is necessary to make a statement not misleading in light of the circumstances under which it was made, with respect to the period covered by the annual filings;

3. Based on my knowledge, the annual financial statements together with the other financial information included in the annual filings fairly present in all material respects the financial condition, results of operations and cash flows of the issuer, as of the date and for the periods presented in the annual filings;

4. The issuer's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures and internal control over financial reporting for the issuer, and we have:

   (a) designed such disclosure controls and procedures, or caused them to be designed under our supervision, to provide reasonable assurance that material information relating to the issuer, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which the annual filings are being prepared;

   (b) designed such internal control over financial reporting, or caused it to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with the issuer's GAAP;

   (c) evaluated the effectiveness of the issuer's disclosure controls and procedures as of the end of the period covered by the annual filings and have caused the issuer to disclose in the annual MD&A our conclusions about the effectiveness of the disclosure controls and procedures as of the end of the period covered by the annual filings based on such evaluation; and

   (d) caused the issuer to disclose in the annual MD&A any change in the issuer's internal control over financial reporting that occurred during the period beginning on <***insert the date immediately following the end of the most recent interim period>*** and ended ***<insert financial year end>*** that has materially affected, or is reasonably likely to materially affect, the issuer's internal control over financial reporting; and

5. The issuer is not required to comply with the requirements of Multilateral Instrument 52-111 *Reporting on Internal Control over Financial Reporting* for the financial year ended ***<state the relevant date>***.

Date: ***<insert date of filing>***

____
[Signature]
[Title]
<if the certifying officer's title is not "chief executive officer" or "chief financial officer", indicate whether the certifying officer is providing the certificate in the capacity of a chief executive officer or a chief financial officer>

FORM 52-109FM1 – MODIFIED CERTIFICATION OF ANNUAL FILINGS DURING TRANSITION PERIOD

I, ***‹identify (i) the certifying officer, (ii) his or her position at the issuer, (iii) the name of the issuer and (iv) if the certifying officer's title is not "chief executive officer" or "chief financial officer" of the issuer, whether the certifying officer is providing the certificate in the capacity of a chief executive officer or a chief financial officer›***, certify that:

1. I have reviewed the annual filings (as this term is defined in Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*) of ***‹identify the issuer›*** (the issuer) for the financial year ended ***‹state the relevant date›***;

2. Based on my knowledge, the annual filings do not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that is necessary to make a statement not misleading in light of the circumstances under which it was made, with respect to the period covered by the annual filings;

3. Based on my knowledge, the annual financial statements together with the other financial information included in the annual filings fairly present in all material respects the financial condition, results of operations and cash flows of the issuer, as of the date and for the periods presented in the annual filings; and

4. The issuer's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures for the issuer, and we have:

   (a) designed such disclosure controls and procedures, or caused them to be designed under our supervision, to provide reasonable assurance that material information relating to the issuer, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which the annual filings are being prepared; and

   (b) evaluated the effectiveness of the issuer's disclosure controls and procedures as of the end of the period covered by the annual filings and have caused the issuer to disclose in the annual MD&A our conclusions about the effectiveness of the disclosure controls and procedures as of the end of the period covered by the annual filings based on such evaluation.

Date: ***<insert date of filing>***

____
[Signature]
[Title]
<if the certifying officer's title is not "chief executive officer" or "chief financial officer", indicate whether the certifying officer is providing the certificate in the capacity of a chief executive officer or a chief financial officer>

FORM 52-109F1R – REFILED CERTIFICATION OF ANNUAL FILINGS

I, ***‹identify (i) the certifying officer, (ii) his or her position at the issuer, (iii) the name of the issuer and (iv) if the certifying officer's title is not "chief executive officer" or "chief financial officer" of the issuer, whether the certifying officer is providing the certificate in the capacity of a chief executive officer or a chief financial officer›***, certify that:

1. This refiled certificate is being filed separately but concurrently with the filing of <***identify the filing(s) that have been refiled*>** by **<*identify the issuer*>** (the issuer);

2. I have reviewed the refiled annual filings (as this term is defined in Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*) of the issuer for the financial year ended ***‹state the relevant date›***;

<***If the issuer is required or permitted to file its annual certificates in Form 52-109F1, then insert paragraphs 2 to and including 5 of Form 52-109F1.***

If the issuer is required or permitted to file its annual certificates in Form 52-109FVT1, then insert paragraphs 2 to and including 5 of Form 52-109FVT1.

***If the issuer is permitted to file its annual certificates in Form 52-109FM1, then insert paragraphs 2 to and including 4 of Form 52-109FM1.*>**

Date: **<*insert date of filing*>**

____
[Signature]
[Title]
<if the certifying officer's title is not "chief executive officer" or "chief financial officer", indicate whether the certifying officer is providing the certificate in the capacity of a chief executive officer or a chief financial officer>

FORM 52-109F1R – AIF – REFILED CERTIFICATION OF ANNUAL FILINGS

I, ***‹identify (i) the certifying officer, (ii) his or her position at the issuer, (iii) the name of the issuer and (iv) if the certifying officer's title is not "chief executive officer" or "chief financial officer" of the issuer, whether the certifying officer is providing the certificate in the capacity of a chief executive officer or a chief financial officer›***, certify that:

1. This refiled certificate is being filed separately but concurrently with the filing of an AIF that has been voluntarily filed by <***identify the issuer*****>** (the issuer);

2. I have reviewed the annual filings (as this term is defined in Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*) of the issuer for the financial year ended ***‹state the relevant date›***;

< ***If the issuer is required to file its annual certificates in Form 52-109FVE1, then insert paragraphs 2 to and including 5 of Form 52-109FVT1.***

If the issuer is permitted to file its annual certificates in Form 52-109FTT1, then insert paragraphs 2 to and including 4 of Form 52-109FM1.>

Date: ***<insert date of filing>***

____
[Signature]
[Title]
<if the certifying officer's title is not "chief executive officer" or "chief financial officer", indicate whether the certifying officer is providing the certificate in the capacity of a chief executive officer or a chief financial officer>

FORM 52-109F2 – CERTIFICATION OF INTERIM FILINGS

I, ***‹identify (i) the certifying officer, (ii) his or her position at the issuer, (iii) the name of the issuer and (iv) if the certifying officer's title is not "chief executive officer" or "chief financial officer" of the issuer, whether the certifying officer is providing the certificate in the capacity of a chief executive officer or a chief financial officer›***, certify that:

1. I have reviewed the interim filings (as this term is defined in Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*) of ***‹identify the issuer›***, (the issuer) for the interim period ended ***‹state the relevant date›***;

2. Based on my knowledge, the interim filings do not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that is necessary to make a statement not misleading in light of the circumstances under which it was made, with respect to the period covered by the interim filings;

3. Based on my knowledge, the interim financial statements together with the other financial information included in the interim filings fairly present in all material respects the financial condition, results of operations and cash flows of the issuer, as of the date and for the periods presented in the interim filings; and

4. The issuer's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures and internal control over financial reporting for the issuer, and we have:

   (a) designed such disclosure controls and procedures, or caused them to be designed under our supervision, to provide reasonable assurance that material information relating to the issuer, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which the interim filings are being prepared;

   (b) designed such internal control over financial reporting, or caused it to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with the issuer's GAAP; and

   (c) caused the issuer to disclose in the interim MD&A any change in the issuer's internal control over financial reporting that occurred during the three months ended ***<insert end of interim period>***that has materially affected, or is reasonably likely to materially affect, the issuer's internal control over financial reporting.

Date: ***<insert date of filing>***

____
[Signature]
[Title]
<if the certifying officer's title is not "chief executive officer" or "chief financial officer", indicate whether the certifying officer is providing the certificate in the capacity of a chief executive officer or a chief financial officer>

FORM 52-109FT2 – BARE CERTIFICATION OF INTERIM FILINGS DURING TRANSITION PERIOD

I, ***‹identify (i) the certifying officer, (ii) his or her position at the issuer, (iii) the name of the issuer and (iv) if the certifying officer's title is not "chief executive officer" or "chief financial officer" of the issuer, whether the certifying officer is providing the certificate in the capacity of a chief executive officer or a chief financial officer›***, certify that:

1. I have reviewed the interim filings (as this term is defined in Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*) of ***‹identify the issuer›***, (the issuer) for the interim period ended ***‹state the relevant date›***;

2. Based on my knowledge, the interim filings do not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that is necessary to make a statement not misleading in light of the circumstances under which it was made, with respect to the period covered by the interim filings; and

3. Based on my knowledge, the interim financial statements together with the other financial information included in the interim filings fairly present in all material respects the financial condition, results of operations and cash flows of the issuer, as of the date and for the periods presented in the interim filings.

Date: ***<insert date of filing>***

____
[Signature]
[Title]
<if the certifying officer's title is not "chief executive officer" or "chief financial officer", indicate whether the certifying officer is providing the certificate in the capacity of a chief executive officer or a chief financial officer>

FORM 52-109FM2 – MODIFIED CERTIFICATION OF INTERIM FILINGS DURING TRANSITION PERIOD

I, ***‹identify (i) the certifying officer, (ii) his or her position at the issuer, (iii) the name of the issuer and (iv) if the certifying officer's title is not "chief executive officer" or "chief financial officer" of the issuer, whether the certifying officer is providing the certificate in the capacity of a chief executive officer or a chief financial officer›***, certify that:

1. I have reviewed the interim filings (as this term is defined in Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*) of ***‹identify the issuer›*** (the issuer) for the interim period ended ***‹state the relevant date›***;

2. Based on my knowledge, the interim filings do not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that is necessary to make a statement not misleading in light of the circumstances under which it was made, with respect to the period covered by the interim filings;

3. Based on my knowledge, the interim financial statements together with the other financial information included in the interim filings fairly present in all material respects the financial condition, results of operations and cash flows of the issuer, as of the date and for the periods presented in the interim filings; and

4. The issuer's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures for the issuer, and we have designed such disclosure controls and procedures, or caused them to be designed under our supervision, to provide reasonable assurance that material information relating to the issuer, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which the interim filings are being prepared.

Date: ***<insert date of filing>***

____
[Signature]
[Title]
<if the certifying officer's title is not "chief executive officer" or "chief financial officer", indicate whether the certifying officer is providing the certificate in the capacity of a chief executive officer or a chief financial officer>

FORM 52-109F2R – REFILED CERTIFICATION OF INTERIM FILINGS

I, ***‹identify (i) the certifying officer, (ii) his or her position at the issuer, (iii) the name of the issuer and (iv) if the certifying officer's title is not "chief executive officer" or "chief financial officer" of the issuer, whether the certifying officer is providing the certificate in the capacity of a chief executive officer or a chief financial officer›***, certify that:

1. This refiled certificate is being filed separately but concurrently with the filing of <***identify the filing(s) that have been refiled*>** by ***<identify the issuer>*** (the issuer);

2. I have reviewed the refiled interim filings (as this term is defined in Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*) of the issuer for the interim period ended ***‹state the relevant date›***;

<***If the issuer is required to file its interim certificates in Form 52-109F2, then insert paragraphs 2 to and including 4 of Form 52-109F2.***

If the issuer is permitted to file its interim certificates in Form 52-109FM2, then insert paragraphs 2 to and including 4 of Form 52-109FM2.>

Date: ***<insert date of filing>***

____
[Signature]
[Title]
<if the certifying officer's title is not "chief executive officer" or "chief financial officer", indicate whether the certifying officer is providing the certificate in the capacity of a chief executive officer or a chief financial officer>

COMPANION POLICY 52-109CP – TO MULTILATERAL INSTRUMENT 52-109
CERTIFICATION OF DISCLOSURE IN ISSUERS' ANNUAL AND INTERIM FILINGS

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APPENDIX A – ANNUAL CERTIFICATE AND INTERIM CERTIFICATE FILING REQUIREMENTS

PART 1 – GENERAL

1.1 **Introduction and purpose -**

(1) Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (the Instrument) sets out additional disclosure requirements for all reporting issuers, other than investment funds.

(2) The purpose of this Companion Policy (the Policy) is to help you understand how the provincial and territorial securities regulatory authorities interpret or apply certain provisions of the Instrument.

1.2 **Application to non-corporate entities -** The Instrument applies to both corporate and non-corporate entities. Where the Instrument or the Policy refers to a particular corporate characteristic, such as an audit committee of the board of directors, the reference should be read to also include any equivalent characteristic of a non-corporate entity.

PART 2 – FORM OF CERTIFICATES

2.1 **Prescribed language -** The annual certificates and interim certificates must be filed in the exact language prescribed in the required form (including the form number and form title), without any amendment. Failure to do so will be a breach of the Instrument.

2.2 **Filing requirements -** For illustration purposes only, the table in Appendix A sets out the filing requirements for annual certificates and interim certificates of issuers with financial years beginning on the first day of a month.

PART 3 - FILING OF CERTIFICATES

3.1 **Paper copies of the signed certificates -** An issuer that has filed annual certificates and interim certificates through the System for Electronic Document Analysis and Retrieval (SEDAR) need not file the paper copies of the signed certificates.

3.2 **Certificates filed with the SEC -** To avail itself of the exemptions under section 7.1 of the Instrument, an issuer must file the certificates of the chief executive officer and chief financial officer (or persons performing similar functions to a chief executive officer or chief financial officer) that the issuer filed with SEC as exhibits to the annual or quarterly reports with respect to the relevant reporting period. These certificates should be filed separately but concurrently with the annual or quarterly report, as the case may be.

PART 4 – CERTIFYING OFFICERS

4.1 **Persons performing similar functions to a chief executive officer or chief financial officer -**

(1) Where an issuer does not have a chief executive officer or chief financial officer, each person who performs similar functions to a chief executive officer or chief financial officer must certify the annual filings and interim filings. It is left to the discretion of the issuer, acting reasonably, to determine who those persons are.

(2) In the case of an income trust reporting issuer (as described in proposed National Policy 41-201 *Income Trusts and Other Indirect Offerings*) where executive management resides at the underlying business entity level or in an external management company, we would generally consider the chief executive officer and chief financial officer of the underlying business entity or the external management company to be persons performing functions in respect of the income trust similar to a chief executive officer and chief financial officer.

(3) In the case of a limited partnership reporting issuer with no chief executive officer and chief financial officer, we would generally consider the chief executive officer and chief financial officer of its general partner to be persons performing functions in respect of the limited partnership reporting issuer similar to a chief executive officer and chief financial officer.

4.2 **"New" certifying officers -**

(1) Chief executive officers and chief financial officers (or persons performing similar functions to a chief executive officer or chief financial officer) holding such offices at the time that annual certificates and interim certificates are filed are the persons who must sign those certificates.

(2) The certifying officers must each certify that they have designed (or caused to be designed under their supervision) disclosure controls and procedures and internal control over financial reporting. There may be situations where an issuer's disclosure controls and procedures and internal control over financial reporting have been designed and

implemented prior to the certifying officers assuming their respective offices. We recognize that in these situations the certifying officers may have difficulty in representing that they have designed or caused to be designed these controls and procedures. In our view, where:

(a) disclosure controls and procedures and internal control over financial reporting have been designed and implemented prior to the certifying officers assuming their respective offices;

(b) the certifying officers have reviewed the existing disclosure controls and procedures and internal control over financial reporting on assuming their respective offices; and

(c) the certifying officers have designed (or caused to be designed under their supervision) any modifications or enhancements to the existing disclosure controls and procedures and internal control over financial reporting determined to be necessary following their review,

the certifying officers will have designed (or caused to be designed under their supervision) these controls and procedures for the purposes of the annual certificates and interim certificates.

4.3 **One person acting as chief executive officer and chief financial officer -** If only one individual is, or is performing similar functions to, the chief executive officer and the chief financial officer of an issuer, that individual may either:

(a) provide two certificates (one in the capacity of the chief executive officer and the other in the capacity of the chief financial officer); or

(b) provide one certificate in the capacity of both the chief executive officer and chief financial officer and file this certificate twice, once in the filing category for certificates of chief executive officers and once in the filing category for certificates of chief financial officers.

PART 5 – REQUIRED CERTIFICATIONS

5.1 **Fair presentation of financial condition, results of operations and cash flows -**

(1) The certifying officers must each certify that their issuer's financial statements (including prior period comparative financial information) and other financial information included in the annual filings and interim filings "*fairly present*" the issuer's financial condition, results of operations and cash flows.

(2) This representation is not qualified by the phrase "in accordance with generally accepted accounting principles" which Canadian auditors typically include in their financial statement audit reports. This qualification has been specifically excluded from the Instrument to prevent management from relying entirely on compliance with the issuer's GAAP in this representation, particularly where the issuer's GAAP financial statements may not reflect the financial condition of an issuer (since the issuer's GAAP do not always define all of the components of an overall fair presentation). We believe that this is appropriate as the certification is intended to provide assurances that the financial information disclosed in the annual filings and interim filings, viewed in their entirety, meets a standard of overall material accuracy and completeness that is broader than financial reporting requirements under the issuer's GAAP. As a result, issuers are not entitled to limit the representation to Canadian GAAP, US GAAP or any other source of generally accepted accounting principles.

(3) The concept of fair presentation as used in the annual certificates and interim certificates is not limited to compliance with the issuer's GAAP; however, it is not intended to permit an issuer to depart from the issuer's GAAP in the preparation of its financial statements. In the event that an issuer is of the view that there are limitations to the issuer's GAAP based financial statements as an indicator of the issuer's financial condition, the issuer should provide any necessary additional disclosure in its MD&A.

(4) We do not believe that a formal definition of fair presentation is appropriate as it encompasses a number of qualitative and quantitative factors that may not be applicable to all issuers. In our view, fair presentation includes:

(a) selection of appropriate accounting policies;

(b) proper application of appropriate accounting policies;

(c) disclosure of financial information that is informative and reasonably reflects the underlying transactions; and

(d) inclusion of additional disclosure necessary to provide investors with a materially accurate and complete picture of financial condition, results of operations and cash flows.

(5) For additional commentary on what constitutes fair presentation we refer you to case law in this area. The leading U.S. case in this area is *U.S. v. Simon* (425 F.2d 796). The leading Canadian case in this area is the B.C. Court of Appeal decision in *Kripps v. Touche Ross and Co.* [1997] B.C.J. No. 968; Leave to appeal refused [1997] S.C.C.A. No. 380. See subsections 5.6(3) and (5) of the Policy for further guidance.

5.2 **Financial condition -** The Instrument does not formally define financial condition. The term "financial condition" in the annual certificates and interim certificates is intended to be used in the same manner as the term "financial condition" is used in The Canadian Institute of Chartered Accountants' MD&A Guidelines and NI 51-102. In our view, financial condition encompasses a number of qualitative and quantitative factors which would be difficult to enumerate in a comprehensive list applicable to all issuers. Financial condition of an issuer includes considerations such as:

(a) liquidity;

(b) solvency;

(c) capital resources;

(d) overall financial health of the issuer's business; and

(e) current and future considerations, events, risks or uncertainties that might impact the financial health of the issuer's business.

5.3 **Design of disclosure controls and procedures and internal control over financial reporting -**

(1) The certifying officers must each certify that they are responsible for establishing and maintaining disclosure controls and procedures and internal control over financial reporting and that they have designed (or caused to be designed under their supervision) adequate internal control over financial reporting and disclosure controls and procedures.

(2) The Instrument defines "disclosure controls and procedures" and "internal control over financial reporting". The Instrument does not, however, prescribe the degree of complexity or any specific policies or procedures that must make up those controls and procedures. In our view, these considerations are best left to the judgement of the certifying officers, acting reasonably, based on various factors that may be particular to an issuer, including its size, the nature of its business and the complexity of its operations.

(3) While there is a substantial overlap between the definition of disclosure controls and procedures and internal control over financial reporting, there are both some elements of disclosure controls and procedures that are not subsumed within the definition of internal control over financial reporting and some elements of internal control over financial reporting that are not subsumed within the definition of disclosure controls and procedures. For example, disclosure controls and procedures may include those components of internal control over financial reporting that provide reasonable assurances that transactions are recorded as necessary to permit the preparation of financial statements in accordance with the issuer's GAAP; however, some issuers may design their disclosure controls and procedures so that certain components of internal control over financial reporting pertaining to the accurate recording of transactions and disposition of assets or to the safeguarding of assets are not included.

5.4 **Evaluation of effectiveness of disclosure controls and procedures -**

(1) The certifying officers must each certify that they have evaluated the effectiveness of the issuer's disclosure controls and procedures as at the end of the financial year and have caused the issuer to disclose in the annual MD&A their conclusions about the effectiveness of the disclosure controls and procedures based on such evaluation.

(2) The Instrument does not specify the contents of the certifying officers' report on its evaluation of disclosure controls and procedures; however, given that disclosure controls and procedures should be designed to provide, at a minimum, reasonable assurance of achieving their objectives, the report should set forth, at a minimum, the conclusions of the certifying officers as to whether the controls and procedures are, in fact, effective at the "reasonable assurance" level.

5.5 **Representations regarding disclosure controls and procedures and internal control over financial reporting following the transition periods -**

(1) If an issuer files an annual certificate in Form 52-109FM1 that includes representations regarding disclosure controls and procedures, we do not expect these representations to extend to the prior period comparative information included in the annual filings if:

(a) the prior period comparative information was previously the subject of certificates that did not include these representations; or

(b) no certificate was required in respect of the prior period.

(2) If an issuer files an annual certificate in Form 52-109F1 that includes representations regarding internal control over financial reporting, we do not expect these representations to extend to the prior period comparative information included in the annual filings if the prior period comparative information was previously the subject of certificates that did not include these representations.

(3) If an issuer files an interim certificate in Form 52-109FM2 that includes representations regarding disclosure controls and procedures, we do not expect these representations to extend to the prior period comparative information included in the interim filings if:

(a) the prior period comparative information was previously the subject of certificates that did not include these representations; or

(b) no certificate was required in respect of the prior period.

(4) If an issuer files an interim certificate in Form 52-109F2 that includes representations regarding internal control over financial reporting, we do not expect these representations to extend to the prior period comparative information included in the interim filings if the prior period comparative information was previously the subject of certificates that did not include these representations.

5.6 **Subsidiaries, variable interest entities, joint ventures, equity and portfolio investments -**

(1) ***Underlying entities -*** An issuer may have a variety of long term investments. In particular, an issuer may have any of the following interests (referred to in this section as underlying entities):

(a) an interest in an entity which is consolidated because the issuer controls that entity (a subsidiary);

(b) an interest in an entity which is consolidated because it is a variable interest entity (a VIE);

(c) an interest in an entity which is proportionately consolidated because the issuer jointly controls that entity (a joint venture);

(d) an interest in an entity which is accounted for using the equity method because the issuer has significant influence over that entity (an equity investment); or

(e) an interest in an entity which is carried at cost because the issuer has neither control nor significant influence over that entity (a portfolio investment).

In this section, the term entity is meant to capture a broad range of structures, including, but not limited to, corporations.

(2) ***Certification extending into underlying entities -*** If an issuer has an interest in an underlying entity, the nature of that underlying entity will impact the procedures required to be undertaken by the certifying officers as part of the certification process.

(3) ***Certification of fair presentation -*** As discussed in section 5.1, the concept of fair presentation is not limited to compliance with the issuer's GAAP. If the certifying officers believe that an issuer's GAAP based financial statements do not fully present its financial condition insofar as it relates to an underlying entity, the certifying officers should cause the issuer to provide additional disclosure in its MD&A.

(4) ***Certification of design of disclosure controls and procedures -***

(a) The certifying officers should design (or cause to be designed under their supervision) disclosure controls and procedures for the issuer *extending into an underlying entity* to the extent necessary to provide reasonable assurance that information material to the issuer regarding an underlying entity is disclosed to management of the issuer on a timely basis.

(b) In the case of an issuer with an interest in a subsidiary, we expect the certifying officers to have access to the underlying entity to design the disclosure controls and procedures discussed in paragraph (a).

In the case of an issuer with an interest in a joint venture, we expect the issuer to negotiate for sufficient access to the joint venture to permit the certifying officers to design the disclosure controls and procedures discussed in paragraph (a).

In the case of an issuer with an equity investment, a portfolio investment or an interest in a VIE where the certifying officers do not have access to the underlying entity to design the disclosure controls and procedures discussed in paragraph (a), we expect the certifying officers to take all *reasonable* steps to ensure that the issuer obtains all information material to the issuer regarding the underlying entity. It is left to the discretion of the certifying officers, acting reasonably, to determine what constitutes "reasonable steps"; however, for portfolio investments, we recognize that the certifying officers may be limited in the steps that they can take and that *reasonable* steps may be similar to arrangements to obtain information about other line items on the issuer's balance sheet.

(5) ***Certification of design of internal control over financial reporting*** **-**

(a) The certifying officers should design (or cause to be designed under their supervision) the internal control over financial reporting for the issuer *extending into an underlying entity* to the extent necessary to provide reasonable assurance regarding the reliability of the issuer's financial reporting and preparation of the issuer's financial statements for external purposes in accordance with the issuer's GAAP.

(b) In the case of an issuer with an interest in a subsidiary, we expect the certifying officers to have access to the subsidiary to design the internal control over financial reporting discussed in paragraph (a).

In the case of an issuer with an interest in a joint venture or VIE, we acknowledge that the certifying officers may not have the access to the underlying entity necessary to design the internal control over financial reporting discussed in paragraph (a). We expect the certifying officers to take all *reasonable* steps to design appropriate internal control over financial reporting. It is left to the discretion of the certifying officers, acting reasonably, to determine what constitutes "reasonable steps".

In the case of an issuer with an interest in an equity investment or a portfolio investment, the certifying officers will not have access to the underlying entity to design the internal control over financial reporting discussed in paragraph (a). We expect the certifying officers to take all *reasonable* steps to design appropriate internal control over financial reporting. It is left to the discretion of the certifying officers, acting reasonably, to determine what constitutes "reasonable steps".

(c) If the certifying officers have access to the underlying entity to design the internal control over financial reporting discussed in paragraph (a) and they are not satisfied with those controls that extend into the underlying entity, they must complete remediation action prior to the financial statement period end date. Unlike the case where the certifying officers believe that an issuer's GAAP based financial statements do not fully present its financial condition, any concerns of the certifying officers regarding the design of internal control over financial reporting cannot be overcome through MD&A disclosure.

(d) If the certifying officers do not have access to the underlying entity to design the internal control over financial reporting discussed in paragraph (a):

(i) in the case of an issuer with a material interest in a joint venture or VIE, we expect the certifying officers to cause the issuer to disclose this scope limitation in its annual MD&A as part of the process of ensuring fair presentation of the issuer's financial condition. This disclosure should include the magnitude of the amounts proportionately consolidated or consolidated into the issuer's annual financial statements.

(ii) in the case of an issuer with an equity investment or a portfolio investment, we expect that at a minimum the issuer's internal control over financial reporting should enable the certifying officers to certify the financial statements that include line items that relate to the equity investment or portfolio investment. Those line items may include:

1. the cost of the investment;

2. any dividends received by the issuer from the investment;

3. any required impairment charge related to the investment; and

4. the issuer's share of any income/loss from the equity investment.

(e) In order to certify an issuer's annual filings or interim filings which include information regarding a joint venture, a VIE or an equity investment, we recognize that the certifying officers will be required to rely in most cases on the financial information reported by the underlying entity. At a minimum, we expect the certifying officers to cause the issuer to:

(i) ensure that it receives the underlying entity's financial information on a timely basis;

(ii) review the underlying entity's financial information to determine if it has been prepared in accordance with the issuer's GAAP; and

(iii) review the underlying entity's accounting policies and ensure that they are changed to the issuer's accounting policies.

(f) Whether the certifying officers have the necessary access to a joint venture to design internal control over financial reporting extending into the joint venture is a question of fact. The necessary access may depend on, among other things:

(i) the issuer's percentage ownership of the joint venture;

(ii) whether the other joint venture owners are reporting issuers;

(iii) the operator of the joint venture;

(iv) the terms of the joint venture agreement; and

(v) the date of creation of the joint venture.

For all joint ventures created on or after **[insert date the Instrument comes into force]**, we expect an issuer to negotiate for the necessary access to design internal control over financial reporting for the issuer extending into the joint venture.

(g) Whether the certifying officers have the necessary access to a VIE to design internal control over financial reporting extending into the VIE is a question of fact. The necessary access may depend on, among other things:

(i) the issuer's percentage ownership of the VIE, if any;

(ii) whether the other VIE owners are reporting issuers;

(iii) the nature of the relationship between the issuer and the VIE;

(iv) the terms of the VIE agreement; and

(v) the date of creation of the VIE.

For all VIEs created on or after **[insert date the Instrument comes into force]**, we expect an issuer to negotiate for the necessary access to design internal control over financial reporting for the issuer extending into the VIE.

(6) ***Certification regarding evaluation of effectiveness of disclosure controls and procedures -*** We remind certifying officers that they must evaluate the effectiveness of the disclosure controls and procedures that they are required to design. The disclosure controls and procedures that are required to be designed are discussed in subsection (4).

(7) ***Certification regarding disclosure of changes to internal control over financial reporting*** -

(a) We remind certifying officers that they must cause the issuer to disclose changes in the internal control over financial reporting that they are required to design. The controls that are required to be designed are discussed in subsection (5).

(b) If the certifying officers do not have access to an underlying entity to design internal control over financial reporting as contemplated in subparagraph (5)(d)(i), the certifying officers must cause the issuer to disclose any changes in internal control over financial reporting extending into the underlying entity that the certifying officers become aware of. This disclosure is only required where such controls are material to the issuer.

PART 6 – EXEMPTIONS

6.1 **Issuers that comply with U.S. laws -**

(1) The exemptions in section 7.1 of the Instrument are based on our view that the investor confidence aims of the Instrument do not justify requiring issuers to comply with the certification requirements in the Instrument if such issuers already comply with substantially similar requirements in the U.S.

(2) As a condition to being exempt from the annual certificate and interim certificate requirements under section 7.1 of the Instrument, issuers must file the certificates of the chief executive officer and chief financial officer (or persons performing similar functions to a chief executive officer or chief financial officer) that they filed with the SEC in compliance with its rules implementing the certification requirements prescribed in section 302(a) of the Sarbanes-Oxley Act.

(3) Pursuant to NI 52-107, certain Canadian issuers are able to satisfy their requirements to file financial statements prepared in accordance with Canadian GAAP by filing statements prepared in accordance with US GAAP; however, it is possible that some Canadian issuers may still continue to prepare two sets of financial statements and continue to file their Canadian GAAP statements in the applicable jurisdictions. In order to ensure that the Canadian GAAP financial statements are certified (pursuant to either the Sarbanes-Oxley Act or the Instrument), those issuers will not have recourse to the exemptions in section 7.1 of the Instrument.

PART 7 – LIABILITY FOR CERTIFICATES CONTAINING MISREPRESENTATIONS

7.1 **Liability for certificates containing misrepresentations -**

(1) An officer providing a certificate containing a misrepresentation potentially could be subject to quasi-criminal, administrative or civil proceedings under securities law.

(2) Officers providing a certificate containing a misrepresentation could also potentially be subject to private actions for damages either at common law or, in Québec, under civil law, or under the *Securities Act* (Ontario) when amendments which create statutory civil liability for misrepresentations in continuous disclosure are proclaimed in force. The liability standard applicable to a document required to be filed with the Ontario Securities Commission, including an annual certificate or interim certificate, will depend on whether the document is a “core” document as defined under Part XXIII.1 of the *Securities Act* (Ontario). Annual certificates and interim certificates are currently not included in the definition of “core document” but would be caught by the definition of “document”.

(3) In any action commenced under Part XXIII.1 of the *Securities Act* (Ontario) a court has the discretion to treat multiple misrepresentations having common subject matter or content as a single misrepresentation. This provision could permit a court in appropriate cases to treat a misrepresentation in an issuer’s financial statements and a misrepresentation made by an officer in an annual certificate or interim certificate that relates to the underlying financial statements as a single misrepresentation.

APPENDIX A – ANNUAL CERTIFICATE AND INTERIM CERTIFICATE FILING REQUIREMENTS

Financial Year	Financial Period	Required Form of Certificate for:[1]				
		Issuers other than Venture & Transition Issuers	Transition Issuers			Venture Issuers
			Category 1	Category 2	Category 3	
January 1 to December 31	Interim periods ended Mar. 31/05, Jun. 30/05, Sept. 30/05	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2
	Year ended Dec. 31/05	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1
	Interim periods ended Mar. 31/06, Jun. 30/06, Sept. 30/06	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2
	Year ended Dec. 31/06	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim periods ended Mar. 31/07, Jun. 30/07, Sept. 30/07	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Dec. 31/07	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim periods ended Mar. 31/08, Jun. 30/08, Sept. 30/08	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Dec. 31/08	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109VT1	V/T Annual Form 52-109VT1
	Interim periods ended Mar. 31/09, Jun. 30/09, Sept. 30/09	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Dec. 31/09	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1

[1] Where the form specified is a Form 52-109FVT1 or 52-109FM1, an issuer may voluntarily choose to file a Form 52-109F1. If the issuer chooses to do so, all subsequent interim certificates filed should be in Form 52-109F2 and all subsequent annual certificates filed should be in Form 52-109F1.

Financial Year	Financial Period	Required Form of Certificate for:[1]				
		Issuers other than Venture & Transition Issuers	Transition Issuers			Venture Issuers
			Category 1	Category 2	Category 3	
	Interim periods ended Mar. 31/10, Jun. 30/10, Sept. 30/10	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Dec. 31/10	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1

Financial Year	Financial Period	Required Form of Certificate for:				
		Issuers other than Venture & Transition Issuers	Transition Issuers			Venture Issuers
			Category 1	Category 2	Category 3	
February 1 to January 31	Interim periods ended Apr.30/05, Jul. 31/05, Oct. 31/05	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2
	Year ended Jan. 31/06	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1
	Interim periods ended Apr. 30/06, Jul. 31/06, Oct. 31/06	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2
	Year ended Jan. 31/07	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim periods ended Apr. 30/07, Jul. 31/07, Oct. 31/07	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Jan. 31/08	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim periods ended Apr. 30/08, Jul. 31/08, Oct. 31/08	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Jan. 31/09	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim periods ended Apr. 30/09, Jul. 31/09, Oct. 31/09	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Jan. 31/10	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1

Financial Year	Financial Period	Required Form of Certificate for:				
		Issuers other than Venture & Transition Issuers	Transition Issuers			Venture Issuers
			Category 1	Category 2	Category 3	
March 1 To February 28/29	Interim periods ended May 31/05, Aug. 31/05, Nov. 30/05	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2
	Year ended Feb. 28/06	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1
	Interim periods ended May 31/06, Aug. 31/06, Nov. 30/06	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2
	Year ended Feb. 28/07	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim periods ended May 31/07, Aug. 31/07, Nov. 30/07	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Feb. 28/08	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim periods ended May 31/08, Aug. 31/08, Nov. 30/08	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Feb. 28/09	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim periods ended May 31/09, Aug. 31/09, Nov. 30/09	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Feb. 28/10	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1

Financial Year	Financial Period	Required Form of Certificate for:				
		Issuers other than Venture & Transition Issuers	Transition Issuers			Venture Issuers
			Category 1	Category 2	Category 3	
April 1 to March 31	Year ended Mar. 31/05	Modified Annual Form 52- 109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1
	Interim Periods ended Jun. 30/05, Sept. 30/05, Dec. 31/05	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2
	Year ended Mar. 31/06	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1
	Interim Periods ended Jun. 30/06, Sept. 30/06, Dec. 31/06	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2
	Year ended Mar. 31/07	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim Periods ended Jun. 30/07, Sept. 30/07, Dec. 31/07	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Mar. 31/08	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim Periods ended Jun. 30/08, Sept. 30/08, Dec. 31/08	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year Ended Mar. 31/09	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim Periods ended Jun. 30/09, Sept. 30/09, Dec. 31/09	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year Ended Mar. 31/10	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1

Financial Year	Financial Period	Required Form of Certificate for:				
		Issuers other than Venture & Transition Issuers	Transition Issuers			Venture Issuers
			Category 1	Category 2	Category 3	
May 1 to April 30	Year ended Apr. 30/05	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1
	Interim periods ended Jul. 31/05, Oct. 31/05, Jan. 31/06	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2
	Year ended Apr. 30/06	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1
	Interim periods ended Jul. 31/06, Oct. 31/06, Jan. 31/07	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2
	Year ended Apr. 30/07	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim periods ended Jul. 31/07, Oct. 31/07, Jan. 31/08	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Apr. 30/08	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim periods ended Jul. 31/08, Oct. 31/08, Jan. 31/09	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Apr. 30/09	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim periods ended Jul. 31/09, Oct. 31/09, Jan. 31/10	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Apr. 30/10	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1

Financial Year	Financial Period	Required Form of Certificate for:				
		Issuers other than Venture & Transition Issuers	Transition Issuers			Venture Issuers
			Category 1	Category 2	Category 3	
June 1 to May 31	Year ended May 31/05	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1
	Interim periods ended Aug. 31/05, Nov. 30/05, Feb. 28/06	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2
	Year ended May 31/06	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim periods ended Aug. 31/06, Nov. 30/06, Feb. 28/07	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended May 31/07	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim periods ended Aug. 31/07, Nov. 30/07, Feb. 28/08	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended May 31/08	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim periods ended Aug. 31/08, Nov. 30/08, Feb. 28/09	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended May 31/09	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim periods ended Aug. 31/09, Nov. 30/09, Feb. 28/10	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended May 31/10	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1

Financial Year	Financial Period	Required Form of Certificate for:				
		Issuers other than Venture & Transition Issuers	Transition Issuers			Venture Issuers
			Category 1	Category 2	Category 3	
July 1 **to** **June 30**	Interim period ended Mar. 31/05	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2
	Year ended Jun. 30/05	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1
	Interim periods ended Sept. 30/05, Dec. 31/05, Mar. 31/06	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2
	Year ended Jun. 30/06	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim periods ended Sept. 30/06, Dec. 31/06, Mar. 31/07	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Jun. 30/07	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim periods ended Sept. 30/07, Dec. 31/07, Mar. 31/08	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Jun. 30/08	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim periods ended Sept. 30/08, Dec. 31/08, Mar. 31/08	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Jun. 30/09	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1

Financial Year	Financial Period	Required Form of Certificate for:				
		Issuers other than Venture & Transition Issuers	Transition Issuers			Venture Issuers
			Category 1	Category 2	Category 3	
	Interim periods ended Sept. 30/09, Dec. 31/09, Mar. 31/10	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Jun. 30/10	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1

Financial Year	Financial Period	Required Form of Certificate for:				
		Issuers other than Venture & Transition Issuers	Transition Issuers			Venture Issuers
			Category 1	Category 2	Category 3	
August 1 to July 31	Interim period ended Apr. 30/05	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2
	Year ended Jul. 31/05	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1
	Interim period ended Oct. 31/05, Jan. 31/06, Apr. 30/06	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2
	Year ended Jul. 31/06	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim periods ended Oct. 31/05, Jan. 31/07, Apr. 30/07	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Jul. 31/07	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim periods ended Oct. 31/07, Jan. 31/08, Apr. 30/08	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Jul. 31/08	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim periods ended Oct. 31/08, Jan. 31/09, Apr. 30/09	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Jul. 31/09	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1

Financial Year	Financial Period	Required Form of Certificate for:				
		Issuers other than Venture & Transition Issuers	Transition Issuers			Venture Issuers
			Category 1	Category 2	Category 3	
	Interim periods ended Oct. 31/09, Jan. 31/10, Jul.31/10	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Jul. 31/10	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1

Financial Year	Financial Period	Required Form of Certificate for:				
		Issuers other than Venture & Transition Issuers	Transition Issuers			Venture Issuers
			Category 1	Category 2	Category 3	
September 1 to August 31	Interim Period ended May 31/05	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2
	Year ended Aug. 31/05	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1
	Interim Periods ended Nov. 30/06, Feb. 28/06, May 31/06	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2
	Year ended Aug 31/06	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim Periods ended Nov. 30/06, Feb. 28/07, May 31/07	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Aug 31/07	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim Periods ended Nov. 30/06, Feb. 28/07, May 31/07	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Aug 31/08	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim Periods ended Nov. 30/07, Feb. 28/08, May 31/08	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Aug 31/09	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1

Financial Year	Financial Period	Required Form of Certificate for:				
		Issuers other than Venture & Transition Issuers	Transition Issuers			Venture Issuers
			Category 1	Category 2	Category 3	
	Interim Periods ended Nov. 30/08, Feb. 28/09, May 31/09	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Aug. 31/10	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1

Financial Year	Financial Period	Required Form of Certificate for:				
		Issuers other than Venture & Transition Issuers	Transition Issuers			Venture Issuers
			Category 1	Category 2	Category 3	
October 1 to September 30	Interim Periods ended Mar. 31/05, Jun. 30/05	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2
	Year ended Sept. 30/05	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1
	Interim Periods ended Dec. 31/05, Mar. 31/06, Jun. 30/06	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2
	Year ended Sept. 30/06	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim Periods ended Dec. 31/06, Mar. 31/07, Jun. 30/07	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Sept. 30/07	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim Periods ended Dec. 31/07, Mar. 31/08, Jun. 30/08	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Sept. 30/08	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim Periods ended Dec. 31/08, Mar. 31/09, Jun. 30/09	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Sept. 30/09	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1

Financial Year	Financial Period	Required Form of Certificate for:				
		Issuers other than Venture & Transition Issuers	Transition Issuers			Venture Issuers
			Category 1	Category 2	Category 3	
	Interim Periods ended Dec. 31/09, Mar. 31/10, Jun. 30/10	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Sept. 30/10	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1

Financial Year	Financial Period	Required Form of Certificate for:				
		Issuers other than Venture & Transition Issuers	Transition Issuers			Venture Issuers
			Category 1	Category 2	Category 3	
November 1 to October 31	Interim Periods ended Apr 30/05, Jul. 31/05	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2
	Year ended Oct. 31/05	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1
	Interim Periods ended Jan. 31/06, Apr 30/06, Jul. 31/06	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2
	Year ended Oct. 31/06	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim Periods ended Jan. 31/07, Apr 30/07, Jul. 31/07	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Oct. 31/07	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim Periods ended Jan. 31/08, Apr. 30/08, Jul. 31/08	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Oct. 31/08	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim Periods ended Jan. 31/09, Apr. 30/09, Jul. 31/09	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Oct. 31/09	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1

Financial Year	Financial Period	Required Form of Certificate for:				
		Issuers other than Venture & Transition Issuers	Transition Issuers			Venture Issuers
			Category 1	Category 2	Category 3	
	Interim Periods ended Jan. 31/10, Apr. 30/10, Jul. 31/10	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Oct. 31/10	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1

Financial Year	Financial Period	Required Form of Certificate for:				
		Issuers other than Venture & Transition Issuers	Transition Issuers			Venture Issuers
			Category 1	Category 2	Category 3	
December 1 to November 30	Interim Periods ended Feb. 28/05, May 31/05, Aug. 31/05	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2
	Year ended Nov. 30/05	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1
	Interim Periods ended Feb. 28/06, May 31/06, Aug. 31/06	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2
	Year ended Nov. 30/06	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim Periods ended Feb. 28/07, May 31/07, Aug. 31/07	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Nov. 30/07	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim Periods ended Feb. 28/08, May 31/08, Aug. 31/08	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Nov. 30/08	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim Periods ended Feb. 28/09, May 31/09, Aug. 31/09	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Nov. 30/09	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1

Financial Year	Financial Period	Required Form of Certificate for:				
		Issuers other than Venture & Transition Issuers	Transition Issuers			Venture Issuers
			Category 1	Category 2	Category 3	
	Interim Periods ended Feb. 28/10, May 31/10, Aug. 31/10	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Nov. 30/10	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1

6.1.4 Concept Paper 23-402 - Best Execution and Soft Dollar Arrangements

CONCEPT PAPER 23-402

BEST EXECUTION AND SOFT DOLLAR ARRANGEMENTS

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Executive Summary

In response to our rapidly changing markets and initiatives in other jurisdictions, we initiated a project to consider “best execution” in the Canadian context. The purpose of this concept paper is to set out a number of issues related to best execution and soft dollar arrangements for discussion and obtain feedback. Based on the feedback received through the consultation process, we will consider the appropriate next steps (if any).

Although in some jurisdictions there are statements setting out what may be considered to be best execution, it is generally acknowledged that it is difficult to determine a single definition (especially one with a bright line test). Best execution has often been equated with obtaining the best price, but has more recently been described as the outcome of a process. For the purposes of this paper, to provide a starting point for the discussion, we set out a proposed description of “best execution” based on the following key elements: price, speed of execution, certainty of execution, and total transaction cost.

One crucial aspect to consider with best execution is the ability to test compliance after the fact. An important factor is whether there are adequate methods for measurement and if they are being appropriately used. In order to ascertain whether best execution has been achieved, it is necessary for firms to review and monitor the quality of trade execution and for such information to be available to regulators. Most market participants agree that measurement is important in assessing best execution, however, there is currently no consensus regarding the appropriate means to do so.

Best execution is mainly the responsibility of the dealer who is handling an order, but all parties involved in a trade have some responsibility. A registered adviser, for example, must determine the needs of its clients and is responsible for setting out specific requirements for each order. In fact, all clients should be clear in providing instructions to their dealer on what their objectives are for each trade. Finally, marketplaces may also have a role in ensuring that best execution is obtained.

There may be different considerations for assessing best execution depending on where a security is trading – is it a Canadian-only, inter-listed or foreign security? – and the structure of the market. Although best execution applies to all transactions regardless of the type of market, there are constraints that are applicable. For example, the lack of transparency in over-the-counter (OTC) markets generally makes it more difficult to assess execution quality. Therefore, given the data constraints with OTC trades, measurement becomes a more complex exercise. On the other hand, readily available data on exchange-traded securities provides clients with the ability to reasonably assess trade executions.

There are also a number of potential barriers to achieving best execution. Soft dollar arrangements (i.e., where advisers use commission dollars to pay for trading-related goods or services) is one area that raises issues about whether best execution is obtained. In some cases, a mark-up may be applied above the commission rate that the client usually pays. If the commission is already a bundled commission and a mark-up is applied on top of that, it is difficult to understand how the ultimate client receives best execution. In addition, measurement becomes more complex with soft dollar arrangements, as it is difficult to compare trading commissions that include a bundle of proprietary services against commission payments that include a portion to the dealer and a portion to third parties unless dealers are pricing all services separately.

There are a number of potential conflicts associated with soft dollar arrangements, not all of which relate directly to a best execution obligation. Soft dollar issues are dealt with in the section entitled “Potential barriers to achieving and measuring best execution” but may be broader, i.e., an adviser using soft dollar arrangements may also have challenges in meeting its general obligations to its clients. Conflicts arise in any case where there is potential for advisers to put their interests before their clients’. It may be difficult to determine with certainty which services the adviser receives from dealers that are being paid with clients’ commissions and whether in all cases the client who pays is the client who gets the benefit of these services.

Directed brokerage (which involves a commitment to place orders with a specific dealer in return for certain services) and commission recapture (which allows institutional investors to track the amount of commission dollars and, in prescribed circumstances, receive back a certain percentage) both raise issues about whether best execution is impeded if incentives to not act in the best interests of clients are created.

Other jurisdictions are currently dealing with issues with respect to best execution and soft dollar arrangements. In the United States, the Securities and Exchange Commission (SEC) has articulated the duty of best execution in several releases. Most recently, the SEC considered soft dollar arrangements and the scope of the safe harbor contained in section 28(e) of the Securities and Exchange Act of 1934. In the United Kingdom, the Financial Services Authority (FSA) published a consultation paper on best execution in October 2002. In April 2003, the FSA published a consultation paper on bundled brokerage and soft commission arrangements and recently published a policy statement with feedback on the paper. The FSA is considering limiting the range of goods and services that fund managers can buy through commissions and requiring fund managers to make enhanced disclosure to their clients about the costs of execution and research. The FSA is looking to industry to provide a framework for the breakdown between the costs of execution and the costs of research. In Australia, the Australian Securities and Investment Commission (ASIC) recently issued a report on soft dollar benefits that describes types of soft dollar benefits, examines how benefits are being disclosed and comments on disclosure practices.

We are seeking comment on all aspects of the concept paper; however, we also raise specific questions for comment.

1. Background

Best execution has been the subject of much debate by regulators, market participants and investors in securities markets around the world. Advances in technology and the rise of alternative trading systems (ATSs) have increased the complexity of fulfilling the duty to obtain best execution of a client order. Although dealers and advisers are subject to various best execution requirements, determining what constitutes “best execution” in practice is a complex issue. What is clear is that there is no single, agreed-upon definition of best execution. To some, it means achieving the best price for a transaction. To others, it is obtaining the most timely execution possible. In the end, whatever definition is used, an important part of ensuring that best execution is obtained is the ability to measure execution quality.

Other jurisdictions have spent considerable effort in addressing issues relating to best execution. The SEC dealt with best execution issues in a number of releases including the order handling rules that are designed to improve the handling of customer limit orders and the rules requiring disclosure of order routing and execution practices. More recently, the SEC has been focused on practices engaged in by both broker-dealers and investment managers that impede best execution such as “soft dollars”, commission recapture and directed brokerage. In the United Kingdom, the FSA dealt with best execution in the context of competing marketplaces in a consultation paper published in October 2002. Like the SEC, the FSA has also turned its attention to the impact of other issues that impede best execution and published a consultation paper in April 2003 (CP 176). In May 2004, the FSA published *Bundled Brokerage and Soft Commission Arrangements, Feedback on CP 176,* which set forth its views on limiting the range of goods and services that can be paid for with commissions. The FSA also proposes to increase disclosure regarding the use of commissions.

Both the SEC and the FSA have addressed best execution by first looking at market structure issues and then assessing other issues that impede the achievement of best execution. In Canada, in the absence of multiple, competing marketplaces, market structure has not demanded the same degree of attention. However, with new methods of trading and the continued globalization of the securities markets, we believe that it is necessary to address the concept of best execution in our markets.

This concept paper was initiated to assess whether there is a consistent understanding of best execution in Canada, to seek clarity in defining best execution, to determine which issues currently affect the quality of execution and to ensure there is an appropriate regulatory framework in place to support it. As a first step, OSC staff held informal discussions with a number of market participants to confirm the issues and obtain initial feedback. The comments obtained have been incorporated into this concept paper.

There has been substantial analysis in other jurisdictions, which has helped us in identifying issues. However, as our markets may be distinguished to some degree – especially from the perspective of market fragmentation – it is important that all issues be considered in a Canadian context. The purpose of this concept paper is to generate discussion of these and any related issues that have not been identified and use the feedback received through the consultation process to determine next steps. We are seeking comment on all aspects of this concept paper; however, we request specific comment on the questions raised throughout.

2. Responsibility for Best Execution

All parties involved in a trade have responsibilities in relation to best execution. It is universally acknowledged that a dealer handling an order for a client has an obligation to seek best execution when executing that order. In addition, a registered adviser[1] has a responsibility to determine and set out instructions for each order (whether given to a dealer verbally or electronically) and to monitor the trade execution. Further, all clients should give clear directions so that the registrant they are dealing with can satisfy its obligation to provide best execution. Finally, marketplaces may also have a role in ensuring that best execution is obtained. Set out below is a brief discussion of these roles.

a) Dealers’ obligations

The obligation of a dealer to provide best execution is well established. Securities legislation imposes a fundamental obligation on dealers to deal fairly, honestly and in good faith with its clients. This general duty is set out in common law, and in Québec, in civil law, and has been codified in various instruments[2].

[1] Throughout the paper, when we refer to “adviser”, we are referring to a registered adviser under securities legislation, which includes investment counsel and portfolio managers, acting as intermediaries between dealers and clients.

[2] See, for example: Ontario Securities Commission Rule 31-505 *Conditions of Registration* (OSC Rule 31-505); ASC Policy 3.1, *Registrants Code of Conduct and Ethical Practices* and subsections 92(3)(c) and (d) of the *Securities Act* (Alberta); Sections 160 and 161 of the *Securities Act* (Québec); Sections 14 and 44(1) of the Securities Rules (BC), section 4.2 of BC Policy 31-601 *Registration Requirements* and sections 50 and 55 of the *Securities Act* (British Columbia); MSC Proposed Local Rule 31-501 *Registration Rule*.

Currently, there are specific requirements in securities legislation and SRO rules dealing with best execution that begin with a general obligation and then focus on price. For example, section 4.2 of National Instrument 23-101 *Trading Rules (*NI 23-101) provides that a dealer acting as agent for a client must make reasonable efforts to ensure that the client receives the best execution price on a purchase or sale of securities. Companion Policy 23-101CP explains further that, in satisfying its fiduciary obligations to its client, a dealer should make reasonable efforts to obtain a lower price on an order to buy or a higher price on an order to sell than is currently available by posting a better bid or offer.

In addition, section 5.1 of the Universal Market Integrity Rules (UMIR) provides that a dealer shall "diligently pursue the execution of each client order on the most advantageous terms for the client as expeditiously as practicable under prevailing market conditions". Section 5.2 sets out a best price obligation and requires a dealer to make "reasonable efforts" to ensure that a client order receives the best price. Further, rule 6310 of the Bourse de Montréal rules deals with best execution and provides that a member must use reasonable care consistent with just and equitable principles of trade, high standards of professional conduct and integrity to obtain the best price for its client.

The Investment Dealers Association of Canada (IDA) reflects the general obligations in By-Law 29, which sets out requirements that specify that all officers and employees of member firms must *"*observe high standards of ethics and conduct in the transaction of their business" and must "not engage in any business conduct or practice which is unbecoming or detrimental to the public interest".

b) Advisers' obligations

In general terms, advisers have a responsibility to act in the best interests of their clients. For example, section 2.1 of OSC Rule 31-505 contains general requirements applicable to registered advisers to deal fairly, honestly and in good faith with their clients.

As part of the process for seeking best execution, advisers often have specific obligations. First, advisers must ensure that the strategies that they determine for trade execution for their clients are appropriate in the circumstances. Second, advisers must allocate trades fairly among client accounts. This is set out in securities legislation in some jurisdictions[3] which requires every investment counsel to maintain standards directed at ensuring fairness in the allocation of investment opportunities among its clients. These requirements also impose an obligation on advisers to monitor trading costs and to ensure that they are minimized without foregoing the necessary services from dealers.

In addition, securities legislation in some jurisdictions requires any person or company responsible for the management of a mutual fund to act honestly, in good faith and in the best interests of the mutual fund and to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances[4].

There are also Trade Management Guidelines set out by the CFA Institute [formerly the Association for Investment Management and Research (AIMR)] to assist investment management firms in meeting their best execution obligations. The guidelines describe best execution as a process that investment management firms apply to seek to maximize the value of a client's portfolio within the client's stated investment objectives and constraints. According to the guidelines, advisers have a duty to seek the most favourable execution terms reasonably available given the specific circumstances of each trade.

c) Client's role

A client, whether institutional (on its own behalf or on behalf of clients) or retail[5], should be clear in giving instructions to a dealer on how a trade is to be executed and, in particular, whether there are any issues regarding the timeliness or certainty of the execution of the order. A client may be more interested in obtaining an immediate fill than in obtaining the best price possible over a longer period. This is recognized in UMIR Policy 5.1, which provides that "the desire of the client to obtain a fill quickly is always a consideration". UMIR Policy 5.1 also states that "if a client expressly consents to a principal trade on a fully informed basis, following the client's instructions will be reasonable".

d) Marketplace's role

Marketplaces have a role in ensuring the quality of their market and in providing a mechanism for price discovery that allows best execution to be obtained and measured. In addition, marketplaces have historically played a role in facilitating best execution through establishing rules that require participants to trade at the best available price ("trade-through" rules). With more electronic access to marketplaces, and the broadening of access to non-dealers, issues are currently being raised about the role of marketplaces in facilitating best execution. In particular, it is currently being debated, particularly in the United States,

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3 See, for example: Section 115(1) of the Regulation to the *Securities Act* (Ontario).

4 See, for example: Section 116 of the *Securities Act* (Ontario); section 190(1) and (2) of the *Securities Act* (Alberta); section 125 of the *Securities Act* (BC).

5 Throughout the paper, reference to "client" includes an institution dealing with a dealer on its own behalf or on behalf of another client as well as a retail client dealing with a dealer directly.

whether it is appropriate to place an obligation on a marketplace to establish and enforce policies and procedures to prevent trade-throughs. This may, for example, be accomplished by electronic linkages to and among marketplaces. It is recognized, however, that even if marketplaces have a role in ensuring that the best price is obtained, this does not alter a dealer's duty of best execution to its clients.

Question

Question 1: Are there any changes to current requirements that would be helpful in ensuring best execution? Do you think that clients are aware of their role in best execution or would some form of investor education be helpful?

3. What is "best execution"?

There is no simple, purely objective definition of best execution. It is difficult to define best execution because there are many factors that may be relevant in assessing what constitutes best execution in any particular circumstance. Price, for example, is often but not always the only, or even primary consideration. The intermediary must exercise judgment by taking into account considerations such as the client's objectives, the size of the order and the market in which the security trades. Indeed, this is why it is often considered more appropriate to think of best execution as the outcome of a process and not an absolute value determined on a trade-by-trade basis.

a) Elements of best execution

There are some main elements of best execution that are commonly agreed-upon: 1) price; 2) speed of execution; 3) certainty of execution; and 4) total transaction cost[6].

i) Price

For a retail-sized market order, each client is owed the best price available at the time his/her order is placed. Where a security trades in a single market, this duty is fulfilled by immediately executing the order or withholding it and executing at a better price. For a limit order, the client is owed the specified price or better if it becomes available and for other orders, the best price given the particular instructions. The duty to obtain the best price, even where the security trades only on one market, is complicated by the size of the order and the frequency with which it trades.

Where a security trades in multiple marketplaces (and possibly different countries), the duty becomes more complex and the agent is required to have access to current and complete trading information and to ensure that the transaction is executed on the market that will provide the best net price to the client.

ii) Speed of execution

While obtaining the best price generally remains the guiding principle of best execution, most clients also expect timely execution of their orders and are not prepared to wait in order to gain a slight price improvement. As automated routing and linkage of markets have become more common, clients typically expect immediate fills on market orders and in most cases consider speed of execution to be an essential element of best execution. In fulfilling the duty of best execution, a dealer must ensure that a client's order is entered on the market in a timely fashion. Further, it means that the dealer should have the capability of accessing markets that can provide timely execution. When attempting to provide price improvement on an order for a client, a dealer will have to assess the trade-off between an immediate fill and the future possibility of a better price.

iii) Certainty of execution

Certainty of execution is very closely linked to speed of execution, as an immediate fill provides certainty, but it may also depend on other factors. In trading illiquid securities, for example, certainty may be provided by a dealer's knowledge of where to obtain the securities or willingness to act as principal. Any expertise or service that ensures the desired execution – especially for investors that need a particular fill at a particular time – has a value.

iv) Total transaction cost

The overall cost of a transaction must be considered when assessing whether the other elements of best execution have been met:

[6] Other possible elements are mentioned in the FSA's *Consultation Paper 154 on best execution* and the Committee of European Securities Regulators' (CESR) *Advice on Possible Implementing Measures of the Directive 2004/39/EU on Markets in Financial Instruments*, Consultation Paper, June 2004, such as size of order.

- Cost of execution must be considered when orders may be routed to different marketplaces. The dealer must take into account any commissions, access fees or transaction costs (including jitney fees, which may be a significant factor for smaller dealers with limited market access) that would impact the net price to the client. Thus, while a better price may be quoted on a given market, if there are costs of transacting on that market that are material, price may not be the only determining factor.

- Market impact refers to the price movement that occurs when executing an order. When a large order is entered it can cause sharp price movements, especially in an illiquid security. Even if it is broken up into smaller orders, other participants may notice the activity and respond, causing market movements that may negatively affect the remainder of the order.

- Opportunity cost relates to the missed opportunity to obtain a better price when an order is not completed at the most advantageous time. Opportunity cost is often measured in relation to risk since the trader must weigh the risk of not completing an order quickly and missing the best price against waiting for a better price and instead having the market move against him or her.

b) Measurement

Critical to any analysis of the principles of best execution is the degree to which any dealer or adviser (and each of their respective clients) is able to measure the execution quality of a trade. The general consensus among regulators and the market participants we spoke with was that, in order to track best execution in terms of price, dealers and advisers should make efforts to measure the quality of execution on a regular basis by tracking and comparing the quote at the time the order was placed against possible benchmarks such as the post-trade quote, the closing price or the volume-weighted average price (VWAP). Where factors other than price have been identified as key, records of orders should be clear and there should also be processes in place to review such orders against executions.

During our informal consultations, it was generally acknowledged that it can be difficult to determine the appropriate means of measurement. One reason is that it depends, to a large extent, on the elements relevant to best execution, which are not all clearly delineated in any specific requirements or guidance today and will vary in accordance with a client’s instructions. In addition, there are issues concerning the ready availability of appropriate data to measure the quality of trades. Based on the feedback we received, it appears that some dealers and advisers have adopted specific policies and procedures within their firms as well as specific tools and technology for measurement, while others rely on relatively *ad hoc* processes. Some of those in the former group utilize sophisticated analytical tools to measure execution quality or specialized services that provide trading analytics useful for measurement.

Part 11 of NI 23-101 requires dealers to record certain information relating to orders and trades and to transmit that information to a regulation services provider or a securities regulatory authority. This information is required to be in electronic form by the earlier of January 1, 2007 and the date on which a self-regulatory entity or a regulation services provider implements a rule that sets such a requirement. Examples of the required information include the date and time that an order is first originated and any client instructions or consents respecting the handling or trading of the order, if applicable. Such audit trail information is currently available for measuring execution quality, but not always in electronic form.

c) Description for purposes of discussion

Some jurisdictions have described what best execution means[7]. Although we have general best execution obligations in Canada, there is no guidance on what “best execution” means, beyond the focus on best price, or how to achieve it. In order to provide context for the discussion in this paper, based on the descriptions of best execution in other jurisdictions and the elements discussed above, we are setting out a proposed description: best execution means ***the best net result for the client, considering the relevant elements (including price, speed of execution, certainty of execution, and total transaction cost) in light of the client’s stated investment objectives.*** In practice, the best execution obligation is met by seeking to achieve this best net result and not necessarily by meeting an absolute standard. The specific application of this principle will vary with the needs of clients and with the particular security but, if challenged on whether best execution was achieved for a particular trade, the agent should be able to demonstrate that it has a defined process and that it has taken reasonable care in relying on this process.

Once the feedback has been analyzed, if we determine that this description or a similar description is appropriate, we would need to consider how to incorporate it into the overall best execution framework.

[7] The SEC has stated that the duty of best execution requires a broker-dealer to seek the “most favorable terms reasonably available under the circumstances for a customer’s transaction”. The FSA, in reformulating the best execution obligation, adopted the approach that it should be seen more as the result of an investment decision-making process rather than solely based on best price for the customer on a single transaction. CFA Institute Trade Management Guidelines describe best execution as a process that investment management firms apply to seek to maximize the value of a client’s portfolio within the client’s stated investment objectives and constraints. See also CFA Institute’s *Asset Manager Code of Conduct Exposure Draft* (November 2004).

Questions

Question 2: ***Should there be more prescriptive rules than those which currently exist for best execution or should the methods for meeting the best execution obligation be left to the discretion of registrants?***

Question 3: ***Do you believe that there are other elements of best execution that should be considered? If so, please describe them.***

Question 4: ***If audit trail information is not in easily-accessible electronic form, how is the information used to measure execution quality? Is there other information that provides useful measurement?***

Question 5: ***Do you believe the suggested description emphasizing the process to seek the best net result for a client is appropriate and provides sufficient clarity and, if not, can you suggest an alternative description?***

4. Market Structure Issues

a) Market fragmentation

As described above, in executing a client order a dealer must generally seek the best price, taking into account any costs incurred so that the net result is most beneficial to the client. A primary consideration is whether the dealer has access to the best price at the time of execution. In order to achieve this result, the dealer must have access to timely market information to determine where the best price exists and must have access to the applicable market to get that price.

When a security trades on multiple marketplaces, it is more difficult to ensure that an order was filled at the best price available at the time of execution. The growth of trading in ATSs in recent years, particularly in the US, has given rise to concerns about market fragmentation in the context of best execution.

Market fragmentation has not been a significant issue in Canada in recent years for Canadian-only listed equity securities since there are single markets for senior equities, junior equities, financial derivatives and commodity contracts. However, the establishment of the ATS rules in 2001 opened the door for new systems to become established and means that the issues seen in the US will likely be faced in Canada.

For inter-listed securities, market fragmentation becomes more of a consideration. However, the market participants that were consulted did not believe that there were serious issues with inter-listed equity securities for two reasons. First, they stated that, as a result of the exchange rate, orders are generally filled in Canada unless the client has specified that the order should be routed to a US market. Second, many added that they believe that the degree of automation and arbitrage has resulted in efficient markets, so a client would receive the best price regardless of whether the order was routed to a Canadian or US market (given the variable of foreign exchange). If a dealer is routing an order for execution on a US market to another dealer, the issues described below in relation to foreign listed equity securities would apply.

Finally, for foreign-only listed equity securities, it is more difficult to ensure that best execution is obtained. Dealers have an obligation to choose executing brokers in accordance with best execution principles and to monitor the quality of execution. Although some dealers were able to provide details of how they measure and evaluate their executing brokers, many market participants consulted were not able to provide such details. Some dealers may choose an executing broker based on reciprocal business and, until recently, many based their decision on payment for order flow arrangements (this service appears either to have been reduced or discontinued). However, the question arises as to whether a dealer who chooses an executing broker based on payment for order flow or reciprocal business alone, without analyzing all factors, is acting in the best interest of the client. Critics of these practices argue that the benefit in these cases goes to the dealer and not the client and thus constitutes a conflict of interest. Further, if the dealer in Canada is basing the decision on such factors alone, and not measuring the quality of the execution provided by the executing broker, how is best execution ensured?

b) Internalization

The practice of internalization refers to the crossing of orders by dealers. It includes (a) trades done as agent on both sides of the transaction and (b) trades in which the dealer acts as principal in filling a client's order. When internalization occurs (regardless of any obligation to print on an exchange and meet other exchange requirements), it must be done within the context of best execution obligations. When client orders are crossed, the requirements of both clients must be taken into account and they are both owed best execution.

There has been significant debate on the subject of client-principal transactions and whether a dealer can act in the best interest of its client when also acting as a principal. With respect to Canadian equity marketplaces, there are specific requirements for client-principal transactions. In particular, under UMIR section 6.3, the dealer cannot trade as principal against client orders of

less than 5,000 shares unless it provides price improvement, i.e., provides a price at least one price increment better than the existing market quote. The benefit of dealers trading on their own behalf is that they provide much needed liquidity to the market, which results in narrower spreads and/or additional volume (liquidity), thereby assisting in the achievement of best execution. This must be balanced against the inherent conflict of interest in client-principal trading and the concern that when a large portion of orders are internalized this causes fragmentation and has the potential to negatively affect the price discovery mechanism.

c) Structure of market

Understanding that different considerations flow from different types of markets is necessary to make a full assessment of best execution. Relevant factors include the ability to see the price that the security is trading at, the volume at that price and whether the security has been trading regularly. As part of this assessment, the usual liquidity of a particular security is also important. Further, although best execution must be sought for all transactions regardless of the type of market, there are constraints that are applicable when trading in certain markets.

i) Auction markets

Continuous auction markets typically have greater transparency, which allows participants to have access to pre-trade and post-trade information. Best execution issues in a continuous auction market tend to focus on order handling, the amount of internalization and the ability to obtain the best price if the security is inter-listed. This applies to any type of security traded on a continuous auction market.

Particularly when trading less liquid securities, showing an order and/or information leakage resulting from seeking the other side may have an impact on the execution. As a result, some continuous auction markets have established special facilities. For example, the Toronto Stock Exchange (TSX) has implemented order types (anonymous and iceberg) and special facilities that allow anonymous trading and are designed to reduce market impact. The TSX market-on-close (MOC) facility establishes the closing price for specified TSX securities by accepting anonymous MOC orders throughout the day, broadcasting the imbalance twenty minutes before the close, and by running an electronic call at the close. In addition, POSIT, an electronic order matching system that prices trades at the mid-point of the bid and ask on TSX, was in place for several years[8].

ii) Over-the-counter trading

Currently, for equity securities trading OTC, trading information is not publicly available. In Ontario, information on OTC equity trades is required to be reported to the Canadian Unlisted Board (CUB) for monitoring and surveillance purposes. Generally, the requirements applicable are those under the electronic audit trail requirements in NI 23-101 and IDA requirements relating to books and records.

In addition, the debt market continues to be predominantly a dealer market and has historically operated in a non-transparent fashion. Although the recent emergence of two debt ATSs and the distribution by CanPX of benchmark government debt and certain corporate debt information have provided greater transparency than previously available, the majority of debt trading is not transparent. There are general requirements set out in IDA Policy 5 *Code of Conduct for IDA Member Firms Trading in Domestic Debt Markets*. IDA Policy 5 emphasizes that dealers should act fairly, honestly and in good faith when dealing in the debt market.

The lack of transparency in the OTC market generally makes it more difficult to assess execution quality. Given data availability constraints, measurement becomes a more complex exercise. In addition, securities trading in the OTC market often have less liquidity and are subject to greater price movements when an order is executed. In order to achieve best execution, the unique nature of OTC trading may result in a dealer taking longer to complete a transaction and taking on principal risk (which leads to a higher cost). One issue to consider is whether dealers and advisers should be required to obtain multiple quotes (where possible) for a particular security in order to ensure that the best price is received.

Questions

Question 6: Do you believe that there are any significant issues impacting the quality of execution for:

(a) Listed equities – whether Canadian-only, inter-listed or foreign-only;
(b) Unlisted equity securities;
(c) Derivatives; or
(d) Debt securities?

[8] TSX closed POSIT on December 31, 2004.

Question 7: ***How should dealers in Canada monitor and measure the quality of executions received from foreign executing brokers?***

Question 8: ***Do you think that internalization of orders represents an impediment to obtaining best execution?***

Question 9: ***Should there be requirements for dealers and advisers to obtain multiple quotes for OTC securities? Should there be a mark-up rule that would prohibit dealers from selling securities at an excessive mark-up from their acquisition cost (similar to National Association of Securities Dealers, Inc. (NASD) requirements dealing with fair prices)?***

Question 10: ***How is best execution tracked and demonstrated in a dealer market that does not have pre- or post-trade transparency such as the debt or unlisted equity market?***

5. Potential Barriers to Achieving and Measuring Best Execution

a) Soft dollars and bundled services

“Soft dollars” refers to the practice by advisers of using commission dollars to pay for trading-related goods or services in addition to paying for trade execution. That is, historically, full-service dealers have provided other services, such as incidental advice, research and analytical tools, with trade execution (“bundled services”). “Soft dollar arrangements” is often used to refer to both bundled services and to the practice of advisers directing part of the commissions paid to dealers to third parties.

OSC Policy 1.9 and Autorité des marchés financiers (AMF) Policy Statement Q-20, both entitled “*Use by dealers of brokerage commissions as payment for goods or services other than order execution services (“soft dollar” deals)*” outline allowable practices in the use of commission dollars for payment for goods or services other than order execution. These policies provide that commission dollars may not be used for payment of “goods or services” other than “order execution services” or “investment decision-making services”. “Investment decision-making services” is defined as:

(a) advice as to the value of securities and the advisability of effecting transactions in securities,

(b) analyses and reports concerning securities, portfolio strategy or performance, issuers, industries, or economic or political factors and trends, and

(c) data bases or software to the extent they are designed mainly to support the services referred to in (a) and (b),

whether the services are provided by a dealer directly or by a third party.

Only recently have buy-side institutions begun to request a separation of the services provided by full-service dealers to allow them to negotiate execution-only commissions. This has led to analysis of soft dollar arrangements from both the full-service and third party provider perspective. For clarity, we refer to the payment of third party services as soft dollar arrangements, and the services provided by a full-service dealer as bundled services.

Although issues relating to soft dollar arrangements could form the basis of a separate paper, we have discussed them here as they are linked to best execution. Any arrangements that may cause complexity in measuring the quality of execution, may impact on registrants’ incentives, or may result in increased cost to clients should be analyzed when considering best execution issues. Soft dollar arrangements have all of these characteristics, as described below.

(i) Soft dollar arrangements

Typically, a portion of the “soft dollar” commission charged goes to pay a third party provider for certain goods or services and the rest remains with the executing dealer.

One argument in favour of soft dollar arrangements is that their use allows independent research providers to compete with large full-service firms that provide bundled execution and research services, an extremely important factor in today’s environment where independent research has become a priority.

Those in favour of soft dollar payments have argued that there are benefits to the practice, although there may be room for abuse at present. Many believe that soft dollar payments should be expressly limited to paying for third party research services or technology services which provide direct input to the decision-making process of the adviser and supporters of the concept have suggested that the only rule change that is required is to clarify the scope of services allowed and to limit those services which are considered to be “investment decision-making services”. Many have suggested that soft dollar services currently may, but should not, include the following types of goods or services:

- computer hardware and software used in the administrative functions of the business, e.g. accounting software used by an adviser in managing its business;
- newspapers, magazines, trade journals;
- travel, educational conferences, courses or materials;
- quote machines, order routing terminals and networks; and
- televisions and communication services such as satellite or cable services[9].

Critics of soft dollars contend that dealers do not work as diligently on an order when they know the trade is a soft dollar trade, since they are being paid a fraction of their usual commission. For this reason, some advisers have stated that they have adopted a practice of not identifying soft dollar orders at the time of the trade but instead will provide an allocation breakdown of soft dollar commission at month or quarter end to their dealers. This may cause difficulties in accounting for soft dollars – for example, if the dealer has already taken in the commission payment as revenue, how is a payment to a third party service provider accounted for? Finally, critics of soft dollar payments argue that it may result in the costs being paid by one client or a few clients even though the benefit derived from the services applies to a number or all of the adviser's clients. This would cause a disconnect between who pays for the service and who receives the benefit.

In some examples of soft dollar arrangements, a mark-up is applied and in others, the regular negotiated commission is charged. In any case where there is a mark-up applied above a "regular" bundled commission, it is difficult to understand how the client receives best execution. Even if there is no mark-up, since the adviser could arguably negotiate a lower commission for execution only, critics state that the overall cost to the client when using soft dollar arrangements is too high and is counter to achieving best execution. It is also difficult to measure whether best execution is obtained in the case of soft dollar arrangements as the trading commissions that are at the base of the arrangements sometimes include services from dealers that are bundled and sometimes are for execution-only. Those who are most opposed to soft dollar arrangements believe that the practice constitutes a misuse of client assets to pay for services which should rightly be considered an expense of the adviser in doing business[10].

An adviser using soft dollar arrangements may have difficulty meeting its general obligations to its clients as a result of the following:

- there may be issues concerning disclosure, where a service such as research is paid for by the adviser's clients with commission dollars, allowing the adviser to avoid purchasing the research with its own funds and including it as an expense;
- the adviser could potentially reduce costs in a poorly performing portfolio by using research and other services paid for by other portfolios; and
- the selection of dealers may be biased by the existence of soft dollar arrangements rather than being based on the quality of trade execution.

There are a number of potential conflicts of interest associated with soft dollar arrangements that may not be directly linked to best execution. In general terms, conflicts of interest arise in any situation where there are incentives or practices that create the potential for an adviser's interests to be put before a client's interest. Any use by an adviser of commissions for its own benefit would be a conflict of interest. This is recognized in OSC Policy 1.9 and AMF Policy Q-20 which provide that "commissions [on brokerage transactions executed on behalf of a manager of a portfolio or fund of securities] must only be used as payment for goods or services which are for the benefit of the beneficiaries and should not be used as payment for goods or services which are for the benefit of the manager".

ii) Unbundling of services/commissions

The policies relating to soft dollar arrangements do not distinguish between third party services and bundled services provided by full-service dealers. However, since full-service dealers have not traditionally charged directly for any services supporting

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9 Recently, the FSA published a supplementary policy statement clarifying the goods and services that could be purchased with commission. The FSA characterized certain services as "non-permitted services" (such as computer hardware, travel, seminar fees and subscriptions for publications) and provided additional information about "permitted services". An NASD Task Force also issued a report on soft dollars which included a recommendation that the SEC adopt an illustrative list of what items would be included in or excluded from the definition of "research services" and from time to time publish a new list or other interpretive assistance. This is discussed in more detail in the next section of the paper dealing with other jurisdictions' initiatives.

10 FSA, *Bundled brokerage and soft commission arrangements, Feedback on CP 176*.

trading, such as research and trading analytics, values are not easily assessed. Research has been referred to as a "free" service as well as one that can be paid for after it is received to reflect its actual value to the recipient.

Many believe that the concept of paying for third party research using commission dollars is no different than paying a "bundled" commission which represents payment for in-house proprietary research and trading-related services as well as execution. Therefore, they contend that, if soft dollar payments were to be prohibited, it should be done concurrently with the unbundling of full-service commission dollar payments.

iii) Disclosure

A significant current issue concerning soft dollars is transparency. A commonly-held view among market participants is that, if advisers were to provide greater disclosure to their clients regarding the use of commission dollars, then the issue would not be as critical. They believe that clients have the right to know how their commission dollars are being used and to determine whether they believe that the adviser is acting in their best interests.

Currently, there are certain disclosure requirements applicable to soft dollar arrangements. OSC Policy 1.9 and AMF Policy Statement Q-20 provide that the annual information form or prospectus of a mutual fund must disclose the names of persons who have provided "investment decision-making services" with a summary of the services, where remuneration for those services was paid through commission on transactions executed on behalf of the mutual fund. This disclosure requirement has been incorporated into National Instrument 81-101 *Mutual Fund Prospectus Disclosure* (see section 10.4(2) of Form 81-101F2 Contents of Annual Information Form). It is also proposed in National Instrument 81-106 *Investment Fund Continuous Disclosure*[11] (NI 81-106) that the notes to the financial statements of an investment fund include details of the total commission paid to dealers, specifying the amount of commissions paid and the amount of soft dollar transactions.

iv) Accounting issues

Soft dollar arrangements and bundled services give rise to questions as to the appropriate accounting for such arrangements. For example, current practice in the mutual fund industry is to treat the entire commission for the portfolio transaction, regardless of whether it includes an element of compensation for provision of third party services, as either part of the cost of acquisition of an investment or as a reduction in the proceeds of a sale of an investment, as appropriate. As a result, the commission is ultimately reflected in the financial statements as a change in the realized and unrealized gain or loss on portfolio securities rather than as a component of operating expenses. This practice affects the management expense ratio (MER), a key ratio used by investors to screen and compare mutual funds, since the MER is required to include only those costs that are treated as expenses in the financial statements. A fund using commissions to pay for operating expenses such as acquiring research reports would disclose a lower MER than a fund that pays separately for the same or similar research reports.

As a result of the accounting treatment, investors are not in a position to evaluate how much is spent on "investment decision-making services" as opposed to order execution. Some believe at least part of the "investment decision-making services" portion of the commission represents a cost of the purchase or sale of securities as these services assist in the selection of securities for purchase or sale. Others are of the view that only the cost of order execution is a direct cost of the purchase or sale of securities. However, those who hold the latter view are concerned that the measurement difficulties are such that the arrangements cannot always be split into component parts. They suggest that only those commission arrangements for which the "investment decision-making services" portion can be reliably measured should be split.

b) Directed brokerage

Directed brokerage refers to the practice by advisers of using commission payments as incentives for dealers to provide some type of preferential treatment. There are different types of directed brokerage. One type – where transactions of a mutual fund are directed to a dealer as inducement or reward for the dealer selling securities of the mutual fund – is prohibited in National Instrument 81-105 *Mutual Fund Sales Practices* (NI 81-105). In particular, section 6.1(4) of NI 81-105 prohibits directing transactions of the mutual fund to a dealer as inducement or reward for the dealer selling securities of the mutual fund.

All forms of directed brokerage involve transactions that are directed to a dealer in return for some benefit. This may include a dealer providing client referrals or providing the opportunity to participate in hot new issues. An adviser may also direct transactions to an affiliate firm in which it has an equity interest.

In any of these cases, the adviser is using clients' commission dollars to receive a benefit that may not be directly returned to the same clients or may even benefit only the adviser. Directing commissions to a dealer in return for some benefit to the adviser represents a conflict of interest since the adviser may be placing its own interest ahead of its clients' interests and, among other things, best execution may not be achieved. Further, it can be argued that, when any factor other than the quality of execution is the primary reason for choosing a dealer, then the duty of best execution has been compromised.

[11] Proposed NI 81-106 was published for comment on May 28, 2004.

Initial feedback indicates that many participants believe that directed brokerage is not a serious issue in Canada today and that most advisers choose to divide their business among a selected list of dealers based on quality of execution. Again, several participants have commented that if advisers are required to disclose their top dealers and the criteria used in choosing those dealers, then the issue would be minimized.

c) Commission recapture

Commission recapture arrangements allow institutional investors to track the amount of commission dollars and, if available, receive back certain amounts. Under a commission recapture program a dealer will generally return to an adviser's clients a portion of the commission dollars paid. Those in favour of commission recapture argue that the practice amounts to a volume discount for large entities who generate significant commission revenue and that the amounts returned go to the benefit of the clients. A number of firms specialize in commission recapture programs and actively market this service to institutional investors.

Opponents of commission recapture programs contend that the very fact that commission recapture exists indicates that clients have been paying higher commissions than necessary (i.e., if the practice is so inefficient that an intermediary can make a business out of it, it must mean the client is paying fees that are too high). Further, critics of commission recapture also state that the dollars may not necessarily be returned to the clients' pool of assets but may be used to defray the expenses of the fund administrator and thus are not any different than soft dollars. Some advisers commented that when a client specifies which dealer must be used for execution, then they (the adviser) have lost the ability to choose a dealer based on the quality of execution, and this compromises their duty to provide best execution to their clients.

Questions

Question 11: ***How does an adviser ensure that its soft dollar arrangements are consistent with its general obligations to its clients?***

Question 12: ***Are there any other additional benefits or concerns with soft dollar arrangements that are not noted above?***

Question 13: ***If it is acceptable to pay for goods or services using soft dollars, which services should be included as "investment decision-making services" and "order execution services" and which services should specifically not be included?***

Question 14: ***Should there be additional disclosure requirements beyond those specified in OSC Policy 1.9 and AMF Policy Statement Q-20, National Instrument 81-101 and proposed in National Instrument 81-106? Should the disclosure requirements be the same for third party soft dollar payments and bundled commissions?***

Question 15: ***What, if any, are the practical impediments to an adviser:***

(a) splitting into their component parts commission payments that compensate for both order execution and "investment decision-making services" as a result of either third party soft dollar arrangements or bundled commissions; or

(b) making a reasonable allocation of the cost of "investment decision-making services" to the beneficiaries of those services (for example, allocating across mutual funds)?

Question 16: ***If the split between order execution and "investment decision-making services" cannot be measured reliably, should the entire commission be accounted for as an operating expense in the financial statements? If it can be measured reliably, should the "investment decision-making services" portion of commission payments be accounted for as an operating expense in the financial statements?***

Question 17: ***Would it be appropriate for the MER to be based on amounts that differ from the expenses recognized in the audited financial statements? For example, should the entire commission continue to be accounted for as an acquisition/disposition cost in the financial statements but the MER calculation be adjusted either to include all commissions or to include only that portion that is estimated to relate to "investment decision-making services"?***

Question 18: ***Should directed brokerage or commission recapture arrangements be limited or prohibited?***

Question 19: ***Should disclosure be required for directed brokerage or commission recapture arrangements?***

6. *Other Jurisdictions' Initiatives*

a) *United States*

In the United States, the duty of best execution has been discussed in various SEC releases and is incorporated in self-regulatory organization (SRO) rules. The SEC has stated that the duty of best execution requires a broker-dealer to seek the "most favorable terms reasonably available under the circumstances for a customer's transaction"[12]. NASD Rule 2320 requires a member to use reasonable diligence to ascertain the best inter-dealer market for a security and to execute in such market so that the price to the customer is as favorable as possible under prevailing market conditions[13]. In addition, NASD members are required to obtain quotes from three dealers (or all dealers if less than three) to determine the best inter-dealer market for non-NASDAQ securities, unless two or more quotes are displayed on an inter-dealer quotation system.

In addition, the SEC adopted Rules 11Ac1-5 and 11Ac1-6 under the *Securities Exchange Act of 1934* (1934 Act) concerning disclosure of order routing and execution practices. Rule 11Ac1-5 requires market centers that trade national market system securities to make monthly, electronic disclosures of basic information concerning their quality of executions on a stock-by-stock basis. Such information includes, for example, how market orders of various sizes are executed relative to the public quotes. Rule 11Ac1-6 requires brokers that route orders on behalf of customers to disclose, on a quarterly basis, the identity of the market centers to which they route a significant percentage of their orders. In addition, brokers are required to disclose the nature of their relationships with such market centers, including any internalization or payment for order flow arrangements that could represent a conflict of interest between the broker and its customers. Brokers are also required to respond to the requests of customers interested in learning where their individual orders were routed for execution during the previous six months.

In a release issued by the SEC in 1986[14] (1986 Release), the SEC emphasized that money managers are obligated to obtain best execution of clients' transactions under the circumstances of the particular transaction. The SEC stated that the determining factor in assessing whether a money manager has obtained best execution is not the lowest possible commission cost but whether the transaction represents the best qualitative execution for the account.

In order to address concerns related to soft dollars, the US Congress enacted section 28(e) of the 1934 Act in 1975 in order to provide a safe harbor to money managers who use commission dollars to obtain investment research and brokerage services provided that certain conditions are met. The background to this provision was set out in the 1986 Release. In connection with the abolition of fixed commission rates on May 1, 1975, money managers and broker-dealers expressed concern that if money managers were to pay more than the lowest available commission rate to a broker-dealer in return for services other than execution, such as research, they would be exposed to charges that they had breached a fiduciary duty[15]. Section 28(e) clarifies that money managers may consider the provision of research, as well as execution services, in evaluating the cost of brokerage services without violating their fiduciary responsibilities.

The SEC is currently reviewing soft dollar arrangements. In the spring of 2004, the Chair of the SEC set up an internal task force to review soft dollar arrangements[16]. In addition, in May 2004, NASD formed a Mutual Fund Task Force (NASD Task Force) to consider mutual fund portfolio transaction costs including directed brokerage, soft dollars and disclosure. In November 2004, the NASD Task Force issued a report with recommendations concerning soft dollars. The NASD Task Force concluded that the safe harbor in section 28(e) should be preserved and made a number of recommendations including that the SEC:

- narrow its interpretation of the scope of research services for purposes of the safe harbor to better tailor the safe harbor to the types of services that principally benefit clients rather than the adviser (and protect only brokerage services and the "intellectual content" of research[17]);
- ensure that a fund board obtains appropriate information regarding a fund adviser's brokerage allocation practices including soft dollar products and services received; and
- mandate enhanced disclosure in fund prospectuses to foster better investor awareness of soft dollars.

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12 Securities Exchange Act Release No. 34-37619A.

13 In April 2001, the NASD issued Notice to Members 01-22 to reiterate best execution obligations that apply to members when they receive, handle, route for execution or execute client orders.

14 Securities Exchange Act Release No. 34-23170 (April 23, 1986).

15 Securities Exchange Act Release No. 34-23170 (April 23, 1986).

16 The task force is comprised of SEC staff from five divisions and offices.

17 The NASD Task Force proposed that the SEC define "intellectual content" as "any investment formula, idea, analysis or strategy that is communicated in writing, orally or electronically and that has been developed, authored, provided or applied by the broker dealer or third party research provider (other than magazines, periodicals or other publications in general circulation)". The proposed definition would not protect such benefits as computer hardware and software unrelated to any research content or analytical tool, phone lines and data transmission lines, terminals and similar facilities, magazines, newspapers, journals, on-line news services, portfolio accounting services, proxy voting services unrelated to issuer research and travel expenses incurred in company visits.

In recommending that the SEC interpret the safe harbor to protect only brokerage services and the "intellectual content" of research, the NASD Task Force proposed that the SEC include an illustrative list of what items would be included or excluded from the definition.

In addition, the SEC enacted a rule, effective October 14, 2004, that prohibits funds from paying for the distribution of their shares with brokerage commissions (which is similar to the prohibition contained in National Instrument 81-105 *Mutual Fund Sales Practices*).

Recently, the SEC proposed revisions to the National Market System in Regulation NMS. Regulation NMS contains four proposals that address the following topics: (1) trade-throughs; (2) intermarket access; (3) sub-penny pricing; and (4) market data. Subject to two major exceptions, the proposed trade-through rule would require an order execution facility, national securities exchange and national securities association to establish, maintain and enforce policies and procedures reasonably designed to prevent the execution of a trade-though in its market. The SEC emphasized that the trade-through rule, including the exceptions, in no way alters or lessens a broker-dealer's duty to achieve best execution for its customers' orders and a broker-dealer must carry out a regular and rigorous review of the quality of market centers to evaluate their best execution policies[18].

b) United Kingdom

Section 7.5 of the FSA's Conduct of Business Sourcebook deals with best execution. In general terms, a firm must take reasonable care to ascertain the best available price and execute customer transactions at this price or a better price, unless the firm has taken reasonable steps to ensure that it would be in the customer's interests not to do so.

In October 2002, the FSA published Consultation Paper 154 on best execution (CP 154). In reformulating the best execution obligation, the FSA adopted the approach that it should be seen more as the result of an investment decision-making process rather than solely based on best price for the customer on a single transaction. The FSA proposed that firms provide information to their customers about their execution arrangements such as details of order-routing practices and the existence of conflicts or incentives that might affect order-routing decisions. In addition, the FSA stated that, as execution quality can be influenced by the approach firms adopt, firms should monitor their execution performance. With respect to disclosure obligations, the FSA acknowledged that there might be sound reasons for imposing different disclosure requirements for investment managers given the nature of the service provided.

In April 2003, the FSA published a related consultation paper, CP 176 – *Bundled brokerage and soft commission arrangements*[19]. Prior to this, in 2001, a review of institutional investment in the United Kingdom, prepared by Paul Myners, identified problems arising from the use of bundled brokerage and soft commission arrangements by asset managers. The FSA had agreed that it would review those matters further and make proposals for regulatory change if necessary. CP 176 therefore proposed two main measures:

- Limiting the range of goods and services that could be purchased with commissions; and
- Requiring fund managers to value the goods and services that could still be softed or bundled and to rebate an equivalent amount to their customers' funds.

CP 176 generated nearly 150 responses. In May 2004, the FSA published *Bundled brokerage and soft commission arrangements, Feedback on CP 176,* and suggested that three changes were necessary:

- The range of goods and services that fund managers can buy with their clients' funds through commission payments should be limited to execution and research;
- Fund management clients should be given, through enhanced disclosure, clear information about the respective costs of execution and research paid for on their behalf by their manager and the overall expenditure on these services; and

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18 Regulation NMS, Release No. 34-49325 (February 24, 2004) at p.23.

19 Bundled brokerage is defined in CP 176 as an arrangement in which a broker provides a client (e.g. a fund manager) with a combination of trade execution services and other services, such as investment research, paid for through commissions. The components of the bundle are not usually offered or priced as separate services. Soft commission arrangements are described as those where the fund manager receives goods and services (usually from third parties) which are paid for by the broker. There is an explicit prior agreement that links the value of the softed goods and services to a specified volume of commission from orders.

- Fund managers should be encouraged to seek, and brokers to provide, clear payment and pricing mechanisms that enable individual services to be purchased separately. The FSA believes that the existence of such mechanisms will facilitate better decision-making[20].

The FSA also stated that they were looking to industry to develop the disclosure proposal. The Investment Management Association (IMA) has been developing a new system of "comparative disclosure" to show the breakdown between the costs of execution and the costs of research.

In November 2004, as follow-up to the May 2004 paper, the FSA published a policy statement[21] setting out the FSA's views on what should be covered by the terms "execution" and "research". The FSA proposed to set an "outer-perimeter" for permitted commission payments and draw a distinction between non-permitted goods and services on one hand and execution and research on the other hand. Services classified as "non-permitted services" are those that are not sufficiently connected with particular investment management decisions or transactions to be classified as execution or research. These include services related to the valuation or performance measurement of portfolios, computer hardware, seminar fees, subscriptions for publications, travel, accommodation or entertainment costs, membership fees to professional associations and employees' salaries. The FSA views execution as consisting of services provided by a broker that are demonstrably linked to the arranging and conclusion of a specific transaction (or series of transactions) and arise between the point at which the fund manager makes an investment decision and the point at which the transaction is concluded. With respect to research, the FSA concluded that research should be capable of adding value by providing new insights to inform fund managers when making investment or trading decisions and should not include raw data feeds or information that is generally publicly available. The FSA also provided an update on the progress made with the industry disclosure proposal.

c) Australia

In 1997, the Australian Securities and Investment Commission (ASIC) issued Policy Statement 122 *Investment advisory services: the conduct of business rules* (s.849 and s.851). Policy Statement 122 (PS 122) set out ASIC policies and guidelines on how persons making securities recommendations to investors could meet the Conduct of Business Rules in the *Corporations Act* (Australia). In particular, PS 122.64 provided that where a securities adviser received non-cash benefits – for example, office space, computer access to research and databases, advertising rebates and subsidies, etc. – for promoting particular funds or securities, the benefits generally had to be disclosed.

Effective March 11, 2004, disclosure requirements were revised[22], in part to include disclosure for advice on any type of financial product, not just securities, as was previously the case.

When a potential retail client approaches an adviser, the adviser must give the consumer a Financial Services Guide (FSG). The FSG must disclose:

- All remuneration, commissions and other benefits attributable to the provision of any of the authorised services (e.g., advice); and
- Associations and relationships with the issuers of any financial product that might be capable of influencing advice.

When a retail client gets personal advice, the adviser must provide a Statement of Advice (SOA). A SOA must disclose:

- Remuneration, commissions and other benefits;
- Other interests; and
- Associations and relationships with the issuers of any financial product that might be capable of influencing the advice (or any other authorised service).

In June 2004, ASIC released a research report on soft dollar benefits in the financial planning industry[23]. The report explores a broad category of "soft dollar benefits", a term which is used to mean all benefits except:

- Direct client advice fees; and

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[20] See "Bundled brokerage and soft commission arrangements - Feedback on CP176" published May, 2004.

[21] Bundled brokerage and soft commission arrangements, Update on issues arising from PS 04/13.

[22] Disclosure requirements are now contained in Part 7.7 of the Corporations Act 2001 and the Corporations Regulations 2001.

[23] *Disclosure of soft dollar benefits: An ASIC research report*, June 2004.

- Basic monetary commissions that financial advisers and their licensees may receive if they recommend certain products.

The report describes types of soft dollar benefits, explores how conflicts of interest arise from these benefits, examines how the benefits are being disclosed to consumers and comments on what is considered good disclosure. ASIC states in the report that it will consider conducting a formal surveillance next year to ensure that disclosure of soft dollar benefits meets legal requirements.

In addition, the Australia Investment and Financial Services Association (IFSA) and the Financial Planning Association (FPA) have existing guidelines on soft dollar benefits. For example, IFSA guidelines in 1999 provided that acceptable soft dollar benefits include third party research and technical analysis software and that unacceptable benefits include travel, accommodation and entertainment costs and computer software or hardware if not associated with investment decision-making, advice or research. The FPA Code of Ethics also has a provision requiring disclosure of remuneration.

In late 2003, IFSA and FPA commenced a joint project on issues related to soft dollar benefits. In December 2003, a proposal was released for an industry code of practice on "alternative forms of remuneration" (i.e., soft dollar benefits) and was finalized in July 2004. The proposed code is in addition to legal disclosure requirements.

Question

***Question 20*: Would any of these initiatives be helpful in Canada?**

7. Comment Process

Interested parties are invited to make written submissions on the concept paper. Please provide comments in writing on or before May 6, 2005 to all of the CSA listed below in care of the OSC, in duplicate, as indicated below:

British Columbia Securities Commission
Alberta Securities Commission
Manitoba Securities Commission
Ontario Securities Commission

c/o John Stevenson, Secretary
Ontario Securities Commission
20 Queen Street West
Suite 1903, Box 55
Toronto, Ontario M5H 3S8
Fax: (416) 593-2318
Email: jstevenson@osc.gov.on.ca

Please also send your submission to the Autorité des marchés financiers as follows:

Anne-Marie Beaudoin, Directrice du secrétariat
Autorité des marchés financiers
Tour de la Bourse
800, square Victoria
C.P. 246, 22e étage
Montréal, Québec H4Z 1G3
Email: consultation-en-cours@lautorite.com

A diskette containing the submissions (in Windows format, preferably Word) should also be submitted.

Comment letters submitted in response to requests for comments are placed on the public file in certain jurisdictions and form part of the public record, unless confidentiality is requested. Comment letters will be circulated among the securities regulatory authorities, whether or not confidentiality is requested. Although comment letters requesting confidentiality will not be placed in the public file, freedom of information legislation in certain jurisdictions may require securities regulatory authorities in those jurisdictions to make comment letters available. Persons submitting comment letters should therefore be aware that the press and members of the public may be able to obtain access to any comment letters.

Questions

Please refer your questions to any of the following people:

Cindy Petlock
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Chapter 7

Insider Reporting

This chapter is available in the print version of the OSC Bulletin, as well as as in Carswell's internet service SecuritiesScource (see www.carswell.com).

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

To obtain Insider Reporting information, please visit the SEDI website (www.sedi.ca).

Chapter 8

Notice of Exempt Financings

REPORTS OF TRADES SUBMITTED ON FORM 45-501F1

Transaction Date	Purchaser	Security	Total Purchase Price ($)	Number of Securities
01-Jan-2005	3 Purchasers	ABC American -Value Fund - Units	450,001.77	53,404.00
01-Jan-2005	4 Purchasers	ABC Fully-Managed Fund - Units	1,126,084.86	111,448.00
01-Jan-2005	42 Purchasers	ABC Fundamental - Value Fund - Units	7,391,204.75	408,523.00
01-Jan-2005	15 Purchasers	ABC North American Deep Value Fund - Units	3,477,500.00	326,529.00
22-Dec-2004	10 Purchasers	Alchemix Energy Corporation - Common Shares	455,439.78	361,614.00
30-Dec-2004	Venture Partners Equity Fund Inc E2 Venture Fund	Alchemix Energy Corporation - Common Shares	325,001.89	255,907.00
11-Jan-2005	Credit Risk Advisors LP Toronto-Dominion Bank	Ames True Temper, Inc. - Notes	4,000,000.00	4,000.00
07-Jan-2005	3 Purchasers	Apollo Gold Corporation - Units	143,500.00	191,333.00
31-Dec-2004	3 Purchasers	Avalon Ventures Ltd. - Flow-Through Shares	28,500.00	190,000.00
06-Jan-2005	RBC Global Investment Management	Axtel. S.A. de C.V. - Notes	1,993,715.62	1.00
01-Mar-2004 to 17-Dec-2004	31 Purchasers	Blair Franklin MultiStrategy Fund LP - Units	10,590,000.00	9,945.85
18-Jan-2005	Duanne Parnham	Brilliant Mining Corp. - Units	10,000.00	100,000.00
01-Jan-2004 to 31-Dec-2004	70 Purchasers	Burgundy Balanced Pension Fund - Units	14,856,960.74	1,185,610.00
01-Jan-2004 to 31-Dec-2004	120 Purchasers	Burgundy Japan Fund - Units	40,259,023.21	1,902,600.00
01-Jan-2004 to 31-Dec-2004	52 Purchasers	Burgundy Pension Trust Fund - Units	2,069,396.68	128,149.77
01-Jan-2004 to 31-Dec-2004	13 Purchasers	Burgundy RCA Fund - Units	0.00	61,771.00

01-Jan-2004 to 31-Dec-2004	101 Purchasers	Burgundy Small Cap Value Fund - Units	16,288,456.15	218,542.63
23-Dec-2004 to 31-Dec-2004	Centaur Balanced	Centaur Balanced Fund - Units	29,768.52	2,839.00
08-Dec-2004 to 22-Dec-2004	Centaur Balanced	Centaur Balanced Fund - Units	32,769.56	2,368.00
23-Dec-2004 to 31-Dec-2004	Centaur Bond Fund	Centaur Bond Fund - Units	228,297.93	22,189.00
08-Dec-2004 to 22-Dec-2004	Centaur Bond Fund	Centaur Bond Fund - Units	626,135.28	60,790.00
23-Dec-2004 to 31-Dec-2004	Centaur Canadian Equity	Centaur Canadian Equity - Units	221,050.04	2,287.00
08-Dec-2004 to 22-Dec-2004	Centaur Canadian Equity	Centaur Canadian Equity - Units	929,823.24	9,750.00
23-Dec-2004 to 31-Dec-2004	Centaur International	Centaur International Fund - Units	10,855.44	1,285.00
08-Dec-2004 to 22-Dec-2004	Centaur International	Centaur International Fund - Units	255,701.39	30,550.00
22-Dec-2004 to 31-Dec-2004	Centaur Money Market	Centaur Money Market - Units	1,519,251.01	151,925.00
08-Dec-2004 to 22-Dec-2004	Centaur Money Market	Centaur Money Market - Units	848,244.15	38,295.00
23-Dec-2004 to 31-Dec-2004	Centaur Small Cap	Centaur Small Cap - Units	25,960.07	385.00
23-Dec-2004 to 31-Dec-2004	Centaur US Equity	Centaur US Equity - Units	137,775.48	3,270.00
08-Dec-2004 to 22-Dec-2004	Centaur US Equity	Centaur US Equity - Units	303,687.96	7,238.00
26-Oct-2004 to 03-Dec-2004	4 Purchasers	CMS Small-Cap Private Equity Fund Q, LP - Units	895,000.00	1.00
19-Nov-2004	Limited Market Dealer Inc	Cusac Gold Mines Ltd. - Units	200,000.00	769,231.00

30-Dec-2004	5 Purchasers	Discovery Drilling Funds VI Limited Partnership - Limited Partnership Units	175,000.00	175.00
23-Dec-2004 to 14-Jan-2005	12 Purchasers	Ecu Silver Mining Inc. - Units	552,500.00	2,210,000.00
01-Jan-2004 to 14-May-2004	The Manufactures Life Insurance Company	Elliott & Page Balanced Fund - Units	1,916,544.00	155,641.00
01-Jan-2004 to 31-Dec-2004	The Manufacturers Life Insurance Company	Elliott & Page Generation Wave Fund - Units	4,076,825.00	286,069.00
01-Jan-2004 to 31-Dec-2004	85 Purchasers	Epic Limited Partnership - Limited Partnership Units	18,045,318.00	6,211.00
01-Jan-2004 to 31-Dec-2004	13 Purchasers	Epic Limited Partnership II - Limited Partnership Units	2,477,556.00	1,054.00
02-Jul-2004 to 31-Dec-2004	Tom Schenkel Don Maclean	Epic Tabacon North American Diversified Fund LP - Limited Partnership Units	550,000.00	537.00
01-Jan-2004 to 31-Dec-2004	The Manufactures Life Insurance Company	E&P American Growth Fund - Units	1,576,726.00	80,793.00
01-Jan-2004 to 17-May-2004	The Manufacturers Life Insurance Company	E&P Blue Chip Fund - Units	3,012,969.00	144,052.00
26-Jan-2004 to 31-Dec-2004	The Manufacturers Life Insurance Company	E&P Canadian Equity Fund - Units	2,482,326.00	99,829.00
01-Jan-2004 to 31-Dec-2004	The Manufacturers Life Insurance Company	E&P Core Canadian Equity Fund - Units	31,429,466.00	2,471,563.00
09-Dec-2004 to 31-Dec-2004	The Manufacturers Life Insurance Company	E&P Corporate Bond Fund - Units	605,715.00	57,158.00
27-Jan-2004 to 31-Dec-2004	The Manufacturers Life Insurance Company	E&P Dividend Fund - Units	76,346,139.00	6,222,544.00
01-Jan-2004 to 31-Dec-2004	The Manufacturers Life Insurance Company	E&P Global Multi-Style Fund - Units	1,977,343.00	167,495.00
01-Jan-2004 to 31-Dec-2004	The Manufacturers Life Insurance Company	E&P Growth Opportunities Fund - Units	104,509,024.00	3,841,110.00
01-Jan-2004 to 14-May-2004	The Manufacturers Life Insurance Company	E&P International Equity Fund - Units	2,952,677.00	3,197,530.00

01-Jan-2004 to 31-Dec-2004	The Manufacturers Life Insurance Company	E&P Manulife Tax-Managed Growth Portfolio Fund - Units	13,908,019.00	1,417,099.00
01-Jan-2004 to 31-Dec-2004	The Manufactures Life Insurance Company	E&P Money Fund - Units	97,952,245.00	9,795,224.00
01-Jan-2004 to 31-Dec-2004	The Manufacturers Life Insurance Company	E&P Monthly High Income Fund - Units	486,439,608.00	33,527,339.00
01-Jan-2004 to 31-Dec-2004	The Manufacturers Life Insurance Company	E&P Sector Rotation Fund - Units	7,198,079.00	504,864.00
01-Jan-2004 to 14-May-2004	The Manufacturers Life Insurance Company	E&P Total Equity Fund - Units	2,414,481.00	243,293.00
01-Jan-2004 to 31-Dec-2004	The Manufacturers Life Insurance Company	E&P U.S. Mid-Cap Fund - Units	3,770,044.00	338,116.00
01-Jan-2004 to 31-Dec-2004	The Manufacturers Life Insurance Company	E&P Value Equity Fund - Units	6,735,955.00	538,994.00
01-Dec-2004	17 Purchasers	FactorCorp. - Units	1,368,000.00	1,368,000.00
31-Dec-2004	MineralFields B.C. 2004 LP	Firesteel Resources Inc. - Units	173,000.00	692,000.00
28-Jan-2005	Blackboard Ventures Inc	Frazier Healthcare V, LP - Units	10,000,000.00	10,000,000.00
15-Jan-2005	Harwin Developments Ltd	Garibaldi Village Property LP - Limited Partnership Units	100,000.00	100.00
11-Jan-2005	Hershey Canada Inc.	GMO International Disciplined Equity Fund III - Units	15,410,408.18	431,785.00
31-Dec-2004	4 Purchasers	Goldstake Explorations Inc. - Units	450,000.00	4,500,000.00
23-Dec-2004	16 Purchasers	Grandview Gold Inc. - Units	445,000.00	445,000.00
17-Feb-2004 to 17-Dec-2004	Cinram International Inc.	HSBC Short Term Investment Fund - Trust Units	22,500,000.00	2,245,509.00
13-Jan-2005	Robert DiStefano Hannelore Mahjoub	iseemedia, Inc. - Common Shares	10,500.00	12,353.00
30-Dec-2004	24 Purchasers	Icefloe Technologies Inc. - Common Shares	1,942,626.50	2,590,167.00
05-Jan-2005 to 14-Jan-2005	7 Purchasers	IMAGIN Diagnostic Centres, Inc. - Common Share Purchase Warrant	43,500.00	43,500.00
05-Jan-2005	3 Purchasers	InterOil Corporation - Common Shares	0.00	8,000.00
28-Dec-2004	Hero Ventures Ltd Robert A. Young	Jatheon Technologies Inc. - Preferred Shares	322,399.00	2,858,875.00

14-Jan-2005	Sheann Holdings	KBSH Enhanced Income Fund - Units	242,100.00	21,979.00
10-Jan-2005	Ratgo Holdings	KBSH Enhanced Income Fund - Units	500,000.00	45,525.00
10-Jan-2005	Robalton Investments	KBSH Enhanced Income Fund - Units	500,000.00	45,525.00
14-Jan-2005	Sheann Holdings	KBSH Private - Pacific Basin Fund - Units	81,000.00	6,311.00
14-Jan-2005	Sheann Holdings	KBSH Private - Special Equity Fund - Units	322,500.00	16,612.00
10-Jan-2005	Ratgo Holdings	KBSH Private - Special Equity Fund - Units	100,000.00	5,176.00
10-Jan-2005	Robalton Investments	KBSH Private - Special Equity Fund - Units	200,000.00	10,353.00
14-Jan-2005	Sheann Holdings	KBSH Private - U.S. Equity Fund - Units	161,300.00	13,160.00
01-Dec-2004	3 Purchasers	King Street Capital, Ltd. - Redeemable Shares	23,221,045.85	94,345.00
31-Dec-2004	4 Purchasers	Kingwest Avenue Portfolio - Units	301,389.97	1,348.00
12-Jan-2005	Augen Limited Partnership 2004-1	Knight Resources Ltd. - Flow-Through Shares	150,000.00	600,000.00
23-Dec-2004	4 Purchasers	Lucid Entertainment Inc. - Units	1,396,000.00	1,396.00
01-Oct-2004 to 01-Dec-2004	6 Purchasers	Mapleridge Trading Fund Limited Partnership - Limited Partnership Units	531,326.43	237.00
14-Jan-2005	Rustom and Zarina Satchu	Media Rights Capital LP - Limited Partnership Interest	500,000.00	500,000.00
01-Jan-2004 to 31-Dec-2004	The Manufacturers Life Insurance Company	MFC Global Asset Management Pooled Short Term Fund - Units	2,918,653.00	363,462.00
01-Jan-2004 to 31-Dec-2004	The Manufacturers Life Insurance Company	MFC Global Asset Management Pooled US Index Fund - Units	19,158,882.00	2,145,561.00
01-Jan-2004 to 31-Dec-2004	The Manufacturers Life Insurance Company	MFC Global Investment Management Corporate Bond Fund - Units	870,767.00	87,126.00
01-Jan-2004 to 31-Dec-2004	The Manufacturers Life Insurance Company	MFC Global Investment Management Pooled Balanced Fund - Units	440,587.00	44,516.00
01-Jan-2004 to 31-Dec-2004	The Manufacturers Life Insurance Company	MFC Global Investment Management Pooled Bond Fund - Units	1,867,642.00	185,067.00

01-Jan-2004 to 31-Dec-2004	The Manufacturers Life Insurance Company	MFC Global Investment Management Pooled Canadian Bond Index Fund - Units	28,014,578.00	2,645,757.00
01-Feb-2004 to 31-Dec-2004	The Manufacturers Life Insurance Company	MFC Global Investment Management Pooled Canadian Equity Fund - Units	495,271.00	59,014.00
01-Jan-2004 to 31-Dec-2004	The Manufacturers Life Insurance Company	MFC Global Investment Management Pooled Canadian Index Fund - Units	16,090,856.00	1,353,142.00
01-Jan-2004 to 31-Dec-2004	The Manufacturers Life Insurance Company	MFC Global Investment Management Pooled U.S. Equity Fund - Units	1,642,587.00	290,146.00
31-Dec-2004	LBS Group Limited Claude Elgner Holdings Inc.	Newport Alternative Income Fund - Units	177,500.00	189.00
30-Nov-2004	17 Purchasers	Newport Strategic Yield Fund Limited Partnership - Units	3,007,008.48	297,385.00
12-Jan-2005	3 Purchasers	Nikos Explorations Ltd. - Units	80,000.00	400,000.00
14-Jan-2005	3 Purchasers	O'Donnell Emerging Companies Fund - Units	72,794.80	8,899.00
07-Jan-2005	Thomasina Hayhoe Douglas Carl	O'Donnell Emerging Companies Fund - Units	36,710.80	4,280.00
30-Nov-2004	Charles Tarnocai Claire Caron	Oro Gold Resources Ltd. - Common Shares	10,000.00	40,000.00
06-Jan-2005	5 Purchasers	Pacific Safety Products Inc. - Units	257,125.00	93,500.00
12-Jan-2005	46 Purchasers	Peat Resources Limited - Units	1,739,240.00	8,696,200.00
06-Jan-2005	12 Purchasers	Pioneering Technology Inc. - Units	372,500.00	1,241,667.00
23-Dec-2004	Dynamic Venture Opportunities Fund Ltd	RDM Corporation - Units	1,400,000.00	1,400,000.00
14-Jan-2005	Nursing Homes and Related Industries Pension Plan	Real Assets US Social Equity Index Fund - Units	26,503.65	3,799.00
07-Jan-2005	Nursing Homes & Related Industries Pension Plan	Real Assets US Social Equity Index Fund - Units	5,046.80	714.00
30-Nov-2004	Norman Schipper	SD Baker & Associates Inc - Units	200,000.00	13,567.00
31-Oct-2004	David Berry	SD Baker & Associates Inc - Units	150,000.00	10,481.00
30-Jun-2004	Bonnie Pike Inc	SD Baker & Associates Inc - Units	150,000.00	10,483.00
31-Jul-2004	KJ Harrison & Partners	SD Baker & Associates Inc - Units	100,000.00	7,194.00
31-Jul-2004	Jim Harrison	SD Baker & Associates Inc - Units	100,000.00	7,194.00
30-Sep-2004	Edwin Cass	SD Baker & Associates Inc - Units	250,000.00	17,604.00
31-Dec-2004	Cal Bruner Michael Cappuccitti	Sea Green Capital Corp. - Units	29,850.00	370,000.00

11-Jan-2005	147 Purchasers	Second World Trader Inc. - Units	208,776.00	1,081.00
23-Dec-2004	9 Purchasers	Silverwing Energy Inc. - Flow-Through Shares	522,450.00	232,200.00
23-Dec-2004	20 Purchasers	Silverwing Energy Inc. - Units	2,342,475.00	1,041,100.00
30-Nov-2004	YMCA of Greater Toronto	Sprott Foundation Unit Trust - Trust Units	158,000.00	4,309.00
16-Dec-2004	RioCan Real Estate Investment Trust	Sterling Centrecorp Inc. - Debentures	3,000,000.00	3,333,300.00
14-Jan-2005	Ernest Kolenda Corporation - Notes	Straight Forward Marketing	40,000.00	1.00
29-Nov-2004	Acker Finley Asset Management Inc	Sustainable Energy Technologies Ltd. - Common Shares	150,000.00	1,000,000.00
29-Nov-2004	3 Purchasers	Sustainable Energy Technologies Ltd. - Units	60,000.00	6.00
01-Jan-2004 to 31-Dec-2004	TAL Long Term Bond Index	TAL Long Term Bond Index - Units	14,976,594.69	1,338,269.00
01-Jan-2004 to 31-Dec-2004	TAL US Equity S&P 500 Index	TAL US Equity S&P 500 Index - Units	25,000,738.62	3,584,254.00
01-Jan-2004 to 31-Dec-2004	TAL US Equity TS	TAL US Equity TS - Units	1,363,000.00	51,542.00
01-Jan-2004 to 31-Dec-2004	TAL Balanced	TAL Balanced Fund - Units	11,977,126.99	1,072,136.00
01-Jan-2004 to 31-Dec-2004	TAL Canadian Bond Index	TAL Canadian Bond Index Fund - Units	59,326,116.98	4,959,204.00
01-Jan-2004 to 30-Dec-2004	TAL Canadian Equity	TAL Canadian Equity Fund - Units	6,583,663.42	618,640.00
01-Jan-2004 to 31-Dec-2004	TAL Canadian Equity Small Cap Fund	TAL Canadian Equity Small Cap Fund - Units	2,334,421.22	545,700.00
01-Jan-2004 to 31-Dec-2004	TAL Canadian Equity 300 Index	TAL Canadian Equity TSE 300 Index - Units	46,563,730.93	5,620,418.00
01-Jan-2004 to 31-Dec-2004	TAL Canadian Money Market	TAL Canadian Money Market Fund - Units	10,642,379.25	972,517.00
01-Jan-2004 to 31-Dec-2004	TAL EAFE Equity	TAL EAFE Equity Fund - Units	231,074.58	21,782.00

01-Jan-2004 to 31-Dec-2004	TAL Fixed Income	TAL Fixed Income Fund - Units	9,980,795.71	873,636.00
01-Jan-2004 to 31-Dec-2004	TAL Global Balanced	TAL Global Balanced - Units	121,658,315.66	12,165,756.00
01-Jan-2004 to 31-Dec-2004	TAL International Equity Index	TAL International Equity Fund - Units	23,736,178.69	3,346,714.00
01-Jan-2004 to 31-Dec-2004	TAL Short Term Bond	TAL Short Term Bond Fund - Units	75,000.00	8,074.00
01-Jan-2004 to 31-Dec-2004	TAL U.S. Equity	TAL U.S. Equity Fund - Units	517,278.36	73,537.00
01-Jan-2004 to 31-Dec-2004	TAL U.S. EQU S&P SYN Index	TAL U.S. Equity S& P 500 Synthetic Index Fund - Units	240,000.00	33,624.00
04-Jan-2005	5 Purchasers	The Alpha Fund - Limited Partnership Units	5,200,000.00	31.00
04-Jan-2005	Robert Grundleger	The Alpha Fund - Limited Partnership Units	1,465,200.00	6.00
04-Jan-2005	Glenn Graff	The Alpha Fund - Limited Partnership Units	581,970.00	2.00
01-Jan-2004 to 31-Dec-2004	10 Purchasers	The Enterprise AOF LP - Limited Partnership Units	2,024,195.45	58.00
31-Dec-2004	6 Purchasers	The McElvaine Investment Limited Partnership - Trust Units	675,000.00	675,000.00
31-Dec-2004	12 Purchasers	The McElvaine Investment Trust - Trust Units	1,304,000.00	1,304,000.00
30-Nov-2004 to 31-Dec-2004	4 Purchasers	Trafalgar Trading Limited - Units	100,000,000.00	100,000,000.00
30-Nov-2004 to 31-Dec-2004	6 Purchasers	Trafalgar Trading Limited - Units	150,000,000.00	61,572,763.00
21-Jan-2005	Garry Fairhurst	Triacta Power Technologies Inc. - Common Shares	50,000.25	66,667.00
31-Dec-2004	Celtic House Venute Partners Fund IIA L.P. and Ontario Teachers Pension Plan Board	Tropic Networks Inc. - Preferred Shares	4,814,675.00	10,605,652.00
31-Dec-2004	Ross Rowan Legg	Van Arbor Canadian Advantage Fund - Units	10,003.28	825.00

31-Dec-2004	Ian Nakamoto	Vector Wind Energy Inc. - Common Shares	10,000.00	25,000.00
31-Dec-2004	33 Purchasers	Vector Wind Energy Inc. - Flow-Through Shares	1,148,700.00	2,871,750.00
07-Jan-2005	6 Purchasers	Volcanic Metals Exploration Inc. - Units	51,000.45	340,003.00
31-Dec-2004	4 Purchasers	VVC Exploration Corp. - Units	20,400.00	24,000.00
20-Dec-2004	795233 Ontario Inc.	Xplore Technologies Corp. - Units	100,000.00	1.00
01-Jan-2004 to 31-Dec-2004	4 Purchasers	YMG Balanced Pooled Fund - Units	7,661,821.14	665,216.00
01-Jan-2004 to 31-Dec-2004	4 Purchasers	YMG Bond Pooled Fund - Units	459,777.77	94,235.00
01-Jan-2004 to 31-Dec-2004	6 Purchasers	YMG Canadian Equity Pooled Fund - Units	70,450,736.89	5,051,504.00
01-Jan-2004 to 31-Dec-2004	12 Purchasers	YMG Institutional Fixed Income Fund - Units	179,266,633.87	17,755,578.00
01-Jan-2004 to 31-Dec-2004	21 Purchasers	YMG International Equity Pooled Fund - Units	23,479,000.00	1,871,249.00
01-Jan-2004 to 31-Dec-2004	16 Purchasers	YMG Private Wealth Opportunities Fund - Units	1,682,000.00	118,781.00
01-Jan-2004 to 31-Dec-2004	6 Purchasers	YMG Short Term Investment Pooled Fund - Units	30,584,625.08	3,058,463.00
24-Jan-2005 Shares	3 Purchasers	YSV Ventures Inc. - Common	115,000.00	1,450,000.00
31-Dec-2004	Alan Green	Zenda Capital Corp. - Common Shares	12,500.00	100,000.00
31-Dec-2004	19 Purchasers	Zenda Capital Corp. - Flow-Through Shares	292,000.00	2,340,000.00

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Chapter 9

Legislation

9.1.1 Notice of Proposed Amendments to the Securities Act

NOTICE OF AMENDMENTS TO THE SECURITIES ACT

On December 16, 2004, the *Budget Measures Act (Fall), 2004* (Bill 149) received Royal Assent. The Commission published a notice in the January 7, 2005 OSC Bulletin that included the full text of the amendments to the *Securities Act* contained in Schedule 34 of Bill 149.

For your information, we are publishing an unofficial consolidated blackline version of Part XXIII.1 of the *Securities Act* entitled "Civil Liability for Secondary Market Disclosure" to show how it will be amended by Bill 149. We are also publishing an unofficial consolidated blackline version of the changes made by Bill 149 to section 126.2 of the *Securities Act*.

Part XXIII.1 and section 126.2 have not yet been proclaimed into force.

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Unofficial Blackline Consolidation

PART XXIII.1
CIVIL LIABILITY FOR SECONDARY MARKET DISCLOSURE

INTERPRETATION AND APPLICATION

Definitions

138.1 In this Part,

"compensation" means compensation received during the 12 month period immediately preceding the day on which the misrepresentation was made or on which the failure to make timely disclosure first occurred, together with the fair market value of all deferred compensation including, without limitation, options, pension benefits and stock appreciation rights, granted during the same period, valued as of the date that such compensation is awarded; ("rémunération")

"control person" means,

(a) a person or company who holds a sufficient number of the voting rights attached to all outstanding voting securities of an issuer, or

(b) each person or company or combination of persons or companies acting in concert by virtue of an agreement, arrangement, commitment or understanding, which holds in total a sufficient number of the voting rights attached to all outstanding voting securities of an issuer,

to affect materially the control of the issuer, and, where a person or company, or combination of persons or companies, holds more than 20 per cent of the voting rights attached to all outstanding voting securities of an issuer, the person or company, or combination of persons or companies, shall, in the absence of evidence to the contrary, be deemed to hold a sufficient number of the voting rights to affect materially the control of the issuer; ("personne qui a le contrôle")

"core document" means,

(a) where used in relation to,

(i) a director of a responsible issuer who is not also an officer of the responsible issuer,

(ii) an influential person, other than an officer of the responsible issuer or an investment fund manager where the responsible issuer is an investment fund, or

(iii) a director or officer of an influential person who is not also an officer of the responsible issuer, other than an officer of an investment fund manager, ~~who is not also an officer of the responsible issuer,~~

a prospectus, a take-over bid circular, an issuer bid circular, a directors' circular, a rights offering circular, management's discussion and analysis, an annual information form, an information circular, ~~and~~ annual financial statements and interim financial statements of the responsible issuer, ~~or~~

(b) where used in relation to,

(i) a responsible issuer or an officer of the responsible issuer,

(ii) an investment fund manager, where the responsible issuer is an investment fund, or

(iii) an officer of an investment fund manager, where the responsible issuer is an investment fund,

a prospectus, a take-over bid circular, an issuer bid circular, a directors' circular, a rights offering circular, management's discussion and analysis, an annual information form, an information circular, annual financial statements, interim financial statements~~,~~ and a report required by subsection 75 (2)~~,~~ of the responsible issuer, and

(c) such other documents as may be prescribed by regulation for the purposes of this definition; ("document essentiel")

"document" means any written communication, including a communication prepared and transmitted only in electronic form,

(a) that is required to be filed with the Commission, or

(b) that is not required to be filed with the Commission and,

(i) that is filed with the Commission,

(ii) that is filed or required to be filed with a government or an agency of a government under applicable securities or corporate law or with any stock exchange or quotation and trade reporting system under its by-laws, rules or regulations, or

(iii) that is any other communication the content of which would reasonably be expected to affect the market price or value of a security of the responsible issuer; ("document")

"expert" means a person or company whose profession gives authority to a statement made in a professional capacity by the person or company including, without limitation, an accountant, actuary, appraiser, auditor, engineer, financial analyst, geologist or lawyer, but not including an entity that is an approved rating organization for the purposes of National Instrument 44-101 of the Canadian Securities Administrators; ("expert")

"failure to make timely disclosure" means a failure to disclose a material change in the manner and at the time required under this Act; ("non-respect des obligations d'information occasionnelle")

"forward-looking information" means all disclosure regarding possible events, conditions or results ~~(including future~~ that is based on assumptions about future economic conditions and courses of action and includes future oriented financial information with respect to prospective results of operations, ~~a prospective~~ financial position ~~or prospective changes in financial position that is based on assumptions about future economic conditions and courses of action)~~ cash flows that is presented as either a forecast or a projection; ("information prospective") **[This definition was moved to s. 1(1) of the Securities Act.]**

"influential person" means, in respect of a responsible issuer,

(a) a control person,

(b) a promoter,

(c) an insider who is not a director or senior officer of the responsible issuer, or

(d) an investment fund manager, if the responsible issuer is an investment fund; ("personne influente")

"issuer's security" means a security of a responsible issuer and includes a security,

(a) the market price or value of which, or payment obligations under which, are derived from or based on a security of the responsible issuer, and

(b) which is created by a person or company on behalf of the responsible issuer or is guaranteed by the responsible issuer; ("valeur mobilière d'un émetteur")

"liability limit" means,

(a) in the case of a responsible issuer, the greater of,

(i) 5 per cent of its market capitalization (as such term is defined in the regulations), and

(ii) $1 million,

(b) in the case of a director or officer of a responsible issuer, the greater of,

(i) $25,000, and

(ii) 50 per cent of the aggregate of the director's or officer's compensation from the responsible issuer and its affiliates,

(c) in the case of an influential person who is not an individual, the greater of,

(i) 5 per cent of its market capitalization (as defined in the regulations), and

(ii) $1 million,

(d) in the case of an influential person who is an individual, the greater of,

(i) $25,000, and

(ii) 50 per cent of the aggregate of the influential person's compensation from the responsible issuer and its affiliates,

(e) in the case of a director or officer of an influential person, the greater of,

(i) $25,000, and

(ii) 50 per cent of the aggregate of the director's or officer's compensation from the influential person and its affiliates,

(f) in the case of an expert, the greater of,

(i) $1 million, and

(ii) the revenue that the expert and the affiliates of the expert have earned from the responsible issuer and its affiliates during the 12 months preceding the misrepresentation, and

(g) in the case of each person ~~or company~~ who made a public oral statement, other than an individual ~~under~~referred to in clause (~~a), (b), (c), (~~d), (e) or (f), the greater of,

(i) $25,000, and

(ii) 50 per cent of the aggregate of the person~~ or company~~'s compensation from the responsible issuer and its affiliates;~~ ("limite de responsabilité")~~

"management's discussion and analysis" means the section of an annual information form, annual report or other document that contains management's discussion and analysis of the financial condition and results of operations of a responsible issuer as required under Ontario securities law; ("rapport de gestion")

"public oral statement" means an oral statement made in circumstances in which a reasonable person would believe that information contained in the statement will become generally disclosed; ("déclaration orale publique")

"release" means, with respect to information or a document, to file with the Commission or any other securities regulatory authority in Canada or a stock exchange or to otherwise make available to the public; ("publication")

"responsible issuer" means,

(a) a reporting issuer, or

(b) any other issuer with a real and substantial connection to Ontario, any securities of which are publicly traded; ("émetteur responsable")

"trading day" means a day during which the principal market (as defined in the regulations) for the security is open for trading. ("jour de Bourse")

Application.

138.2 This Part does not apply to,

(a) the ~~acquisition~~purchase of ~~an issuer's~~a security ~~under~~offered by a prospectus during the period of distribution;

(b) the acquisition of an issuer's security pursuant to ~~an exemption~~a distribution that is exempt from section 53 or 62, except as may be prescribed by regulation;

(c) the acquisition or disposition of an issuer's security in connection with or pursuant to a take-over bid or issuer bid, except as may be prescribed by regulation; or

(d) such other transactions or class of transactions as may be prescribed by regulation.

LIABILITY

Liability for secondary market disclosure
Documents released by responsible issuer

138.3 (1) Where a responsible issuer or a person or company with actual, implied or apparent authority to act on behalf of a responsible issuer releases a document that contains a misrepresentation, a person or company who acquires or disposes of ~~an~~the issuer's security during the period between the time when the document was released and the time when the misrepresentation contained in the document was publicly corrected has, without regard to whether the person or company relied on the misrepresentation, a right of action for damages against,

(a) the responsible issuer;

(b) each director of the responsible issuer at the time the document was released;

(c) each officer of the responsible issuer who authorized, permitted or acquiesced in the release of the document;

(d) each influential person, and each director and officer of an influential person, who knowingly influenced,

(i) the responsible issuer or any person or company acting on behalf of the responsible issuer to release the document, or

(ii) a director or officer of the responsible issuer to authorize, permit or acquiesce in the release of the document; and

(e) each expert where,

(i) the misrepresentation is also contained in a report, statement or opinion made by the expert,

(ii) the document includes, summarizes or quotes from the report, statement or opinion of the expert, and

(iii) if the document was released by a person or company other than the expert, the expert consented in writing to the use of the report, statement or opinion in the document.

Public oral statements by responsible issuer

(2) Where a person with actual, implied or apparent authority to speak on behalf of a responsible issuer makes a public oral statement that relates to the business or affairs of the responsible issuer and that contains a misrepresentation, a person or company who acquires or disposes of ~~an~~the issuer's security during the period between the time when the public oral statement was made and the time when the misrepresentation contained in the public oral statement was publicly corrected has, without regard to whether the person or company relied on the misrepresentation, a right of action for damages against,

(a) the responsible issuer;

(b) the person who made the public oral statement;

(c) each director and officer of the responsible issuer who authorized, permitted or acquiesced in the making of the public oral statement;

(d) each influential person, and each director and officer of the influential person, who knowingly influenced,

(i) the person who made the public oral statement to make the public oral statement, or

(ii) a director or officer of the responsible issuer to authorize, permit or acquiesce in the making of the public oral statement; and

(e) each expert where,

(i) the misrepresentation is also contained in a report, statement or opinion made by the expert,

(ii) the person making the public oral statement includes, summarizes or quotes from the report, statement or opinion of the expert, and

(iii) if the public oral statement was made by a person other than the expert, the expert consented in writing to the use of the report, statement or opinion in the public oral statement.

Influential persons

(3) Where an influential person or a person or company with actual, implied or apparent authority to act or speak on behalf of the influential person releases a document or makes a public oral statement that relates to a responsible issuer and that contains a misrepresentation, a person or company who acquires or disposes of ~~an~~the issuer's security during the period between the time when the document was released or the public oral statement was made and the time when the misrepresentation contained in the document or public oral statement was publicly corrected has, without regard to whether the person or company relied on the misrepresentation, a right of action for damages against,

(a) the responsible issuer, if a director or officer of the responsible issuer, or where the responsible issuer is an investment fund, the investment fund manager, authorized, permitted or acquiesced in the release of the document or the making of the public oral statement;

(b) the person who made the public oral statement;

(c) each director and officer of the responsible issuer who authorized, permitted or acquiesced in the release of the document or the making of the public oral statement;

(d) the influential person;

(e) each director and officer of the influential person who authorized, permitted or acquiesced in the release of the document or the making of the public oral statement; and

(f) each expert where,

(i) the misrepresentation is also contained in a report, statement or opinion made by the expert,

(ii) the document or public oral statement includes, summarizes or quotes from the report, statement or opinion of the expert, and

(iii) if the document was released or the public oral statement was made by a person other than the expert, the expert consented in writing to the use of the report, statement or opinion in the document or public oral statement.

Failure to make timely disclosure

(4) Where a responsible issuer fails to make a timely disclosure, a person or company who acquires or disposes of ~~an~~the issuer's security between the time when the material change was required to be disclosed in the manner required under this Act and the subsequent disclosure of the material change has, without regard to whether the person or company relied on the responsible issuer having complied with its disclosure requirements, a right of action for damages against,

(a) the responsible issuer;

(b) each director and officer of the responsible issuer who authorized, permitted or acquiesced in the failure to make timely disclosure; and

(c) each influential person, and each director and officer of an influential person, who knowingly influenced,

(i) the responsible issuer or any person or company acting on behalf of the responsible issuer in the failure to make timely disclosure, or

(ii) a director or officer of the responsible issuer to authorize, permit or acquiesce in the failure to make timely disclosure.

Multiple roles

(5) In ~~a proceeding~~an action under this section, a person who is a director or officer of an influential person is not liable in that capacity if the person is liable as a director or officer of the responsible issuer.

Multiple misrepresentations

(6) In ~~a proceeding~~an action under this section,

(a) multiple misrepresentations having common subject matter or content may, in the discretion of the court, be treated as a single misrepresentation; and

(b) multiple instances of failure to make timely disclosure of a material change or material changes concerning common subject matter may, in the discretion of the court, be treated as a single failure to make timely disclosure.

No implied or actual authority

(7) In ~~a proceeding~~an action under subsection (2) or ~~subsection~~ (3), if the person who made the public oral statement had apparent authority, but not implied or actual authority, to speak on behalf of the issuer, no other person is liable with respect to any of the responsible issuer's securities that were acquired or disposed of before that other person became, or should reasonably have become, aware of the misrepresentation.

Burden of proof and defences

Non-core documents and public oral statements

138.4 (1) In ~~a proceeding~~an action under section 138.3 in relation to a misrepresentation in a document that is not a core document, or a misrepresentation in a public oral statement, a person or company is not liable, subject to subsection (2), unless the plaintiff proves that the person or company,

(a) knew, at the time that the document was released or public oral statement was made, that the document or public oral statement contained the misrepresentation;

(b) at or before the time that the document was released or public oral statement was made, deliberately avoided acquiring knowledge that the document or public oral statement contained the misrepresentation; or

(c) was, through action or failure to act, guilty of gross misconduct in connection with the release of the document or the making of the public oral statement that contained the misrepresentation.

Same

(2) A plaintiff is not required to prove any of the matters set out in subsection (1) in ~~a proceeding~~an action under section 138.3 in relation to an expert.

Failure to make timely disclosure

(3) In ~~a proceeding~~an action under section 138.3 in relation to a failure to make timely disclosure, a person or company is not liable, subject to subsection (4), unless the plaintiff proves that the person or company,

(a) knew, at the time that the failure to make timely disclosure first occurred, of the change and that the change was a material change;

(b) at the time or before the failure to make timely disclosure first occurred, deliberately avoided acquiring knowledge of the change or that the change was a material change; or

(c) was, through action or failure to act, guilty of gross misconduct in connection with the failure to make timely disclosure.

Same

(4) A plaintiff is not required to prove any of the matters set out in subsection (3) in ~~a proceeding~~an action under section 138.3 in relation to,

(a) a responsible issuer;

(b) an officer of a responsible issuer;

(c) an investment fund manager; or

(d) an officer of an investment fund manager.

Knowledge of the misrepresentation or material change

(5) A person or company is not liable in ~~a proceeding~~an action under section 138.3 in relation to a misrepresentation or a failure to make timely disclosure if that person or company proves that the plaintiff acquired or disposed of the issuer's security,

(a) with knowledge that the document or public oral statement contained a misrepresentation; or

(b) with knowledge of the material change.

Reasonable investigation

(6) A person or company is not liable in ~~a proceeding~~an action under section 138.3 in relation to,

(a) a misrepresentation if that person or company proves that,

(i) before the release of the document or the making of the public oral statement containing the misrepresentation, the person or company conducted or caused to be conducted a reasonable investigation, and

(ii) at the time of the release of the document or the making of the public oral statement, the person or company had no reasonable grounds to believe that the document or public oral statement contained the misrepresentation; or

(b) a failure to make timely disclosure if that person or company proves that,

(i) before the failure to make timely disclosure first occurred, the person or company conducted or caused to be conducted a reasonable investigation, and

(ii) the person or company had no reasonable grounds to believe that the failure to make timely disclosure would occur.

Factors to be considered by court

(7) In determining whether an investigation was reasonable under subsection (6), or whether any person or company is guilty of gross misconduct under subsection (1) or (3), the ~~courts~~court shall consider all relevant circumstances, including,

(a) the nature of the responsible issuer;

(b) the knowledge, experience and function of the person or company;

(c) the office held, if the person was an officer;

(d) the presence or absence of another relationship with the responsible issuer, if the person was a director;

(e) the existence, if any, and the nature of any system designed to ensure that the responsible issuer meets its continuous disclosure obligations;

(f) the reasonableness of reliance by the person or company on the responsible issuer's disclosure compliance system and on the responsible issuer's officers, employees and others whose duties would in the ordinary course have given them knowledge of the relevant facts;

(g) the period within which disclosure was required to be made under the applicable law;

(h) in respect of a report, statement or opinion of an expert, any professional standards applicable to the expert;

(i) the extent to which the person or company knew, or should reasonably have known, the content and medium of dissemination of the document or public oral statement;

(j) in the case of a misrepresentation, the role and responsibility of the person or company in the preparation and release of the document or the making of the public oral statement containing the misrepresentation or the ascertaining of the facts contained in that document or public oral statement; and

(k) in the case of a failure to make timely disclosure, the role and responsibility of the person or company involved in a decision not to disclose the material change.

Confidential disclosure

(8) A person or company is not liable in ~~a proceeding~~an action under section 138.3 in respect of a failure to make timely disclosure if,

(a) the person or company proves that the material change was disclosed by the responsible issuer in a report filed on a confidential basis with the Commission under subsection 75 (3);

(b) the responsible issuer had a reasonable basis for making the disclosure on a confidential basis;

(c) where the information contained in the report filed on a confidential basis remains material, disclosure of the material change was made public promptly when the basis for confidentiality ceased to exist;

(d) the person or company or responsible issuer did not release a document or make a public oral statement that, due to the undisclosed material change, contained a misrepresentation, and

(e) where the material change became publicly known in a manner other than the manner required under this Act, the responsible issuer promptly disclosed the material change in the manner required under this Act.

Forward-looking information

(9) A person or company is not liable in ~~a proceeding~~an action under section 138.3 for a misrepresentation in forward-looking information if the person or company proves ~~that,~~all of the following things:

~~(a) the~~1. The document or public oral statement containing the forward-looking information contained, proximate to ~~the forward-looking~~that information,

~~(i)~~. reasonable cautionary language identifying the forward-looking information as such, and identifying material factors that could cause actual results to differ materially from a conclusion, forecast or projection in the forward-looking information, and

~~(ii)~~. a statement of the material factors or assumptions that were applied in drawing a conclusion or making a forecast or projection set out in the forward-looking information~~; and~~.

~~(b) the~~2. The person or company had a reasonable basis for drawing the conclusions or making the forecasts ~~or~~and projections set out in the forward-looking information.

Same

(~~10) Subsection (9) does not apply to a person or company in respect of forward-looking information contained in the prospectus of the responsible issuer filed in connection with the initial public distribution of securities of the responsible issuer or contained in financial statements prepared by the responsible issuer.~~9.1) The person or company shall be deemed to have satisfied the requirements of paragraph 1 of subsection (9) with respect to a public oral statement containing forward-looking information if the person who made the public oral statement,

(a) made a cautionary statement that the oral statement contains forward-looking information;

(b) stated that,

(i) the actual results could differ materially from a conclusion, forecast or projection in the forward-looking information, and

(ii) certain material factors or assumptions were applied in drawing a conclusion or making a forecast or projection as reflected in the forward-looking information; and

(c) stated that additional information about,

(i) the material factors that could cause actual results to differ materially from the conclusion, forecast or projection in the forward-looking information, and

(ii) the material factors or assumptions that were applied in drawing a conclusion or making a forecast or projection as reflected in the forward-looking information,

is contained in a readily-available document or in a portion of such a document and has identified that document or that portion of the document.

Same

(9.2) For the purposes of clause (9.1) (c), a document filed with the Commission or otherwise generally disclosed shall be deemed to be readily available.

Exception

(10) Subsection (9) does not relieve a person or company of liability respecting forward-looking information in a financial statement required to be filed under this Act or forward-looking information in a document released in connection with an initial public offering.

Expert report, statement or opinion

(11) A person or company, other than an expert, is not liable in ~~a proceeding~~an action under section 138.3 with respect to any part of a document or public oral statement that includes, summarizes or quotes from a report, statement or opinion made by the expert in respect of which the responsible issuer obtained the written consent of the expert to the use of the report, statement or opinion if the consent had not been withdrawn in writing before the document was released or the public oral statement was made, if the person or company proves that,

(a) the person or company did not know and had no reasonable grounds to believe that there had been a misrepresentation in the part of the document or public oral statement made on the authority of the expert; and

(b) the part of the document or oral public statement fairly represented the report, statement or opinion made by the expert.

Same

(12) An expert is not liable in ~~a proceeding~~an action under section 138.3 with respect to any part of a document or public oral statement that includes, summarizes or quotes from a report, statement or opinion made by the expert, if the expert proves that, the written consent previously provided was withdrawn in writing before the document was released or the public oral statement was made.

Release of documents

(13) A person or company is not liable in ~~a proceeding~~an action under section 138.3 in respect of a misrepresentation in a document, other than a document required to be filed with the Commission, if the person or company proves that, at the time of release of the document the person or company did not know and had no reasonable grounds to believe that the document would be released.

Derivative information

(14) A person or company is not liable in ~~a proceeding~~an action under section 138.3 for a misrepresentation in a document or a public oral statement, if the person or company proves that,

(a) the misrepresentation was also contained in a document filed by or on behalf of another person or company, other than the responsible issuer, with the Commission or any other securities regulatory authority in Canada or a stock exchange and was not corrected in another document filed by or on behalf of that other person or company with the Commission or that other securities regulatory authority in Canada or stock exchange before the release of the document or the public oral statement made by or on behalf of the responsible issuer;

(b) the document or public oral statement contained a reference identifying the document that was the source of the misrepresentation; and

(c) when the document was released or the public oral statement was made, the person or company did not know and had no reasonable grounds to believe that the document or public oral statement contained a misrepresentation.

Where corrective action taken

(15) A person or company, other than the responsible issuer, is not liable in ~~a proceeding~~an action under section 138.3 if the misrepresentation or failure to make timely disclosure was made without the knowledge or consent of the person or company and, if, after the person or company became aware of the misrepresentation before it was corrected, or the failure to make timely disclosure before it was disclosed in the manner required under this Act,

(a) the person or company promptly notified the board of directors of the responsible issuer or other persons acting in a similar capacity of the misrepresentation or the failure to make timely disclosure; and

(b) if no correction of the misrepresentation or no subsequent disclosure of the material change in the manner required under this Act was made by the responsible issuer within two business days after the notification under clause (a), the person or company, unless prohibited by law or by professional confidentiality rules, promptly and in writing notified the Commission of the misrepresentation or failure to make timely disclosure.

DAMAGES

Assessment of damages

138.5 (1) Damages shall be assessed in favour of a person or company that acquired an issuer's securities after the release of a document or the making of a public oral statement containing a misrepresentation or after a failure to make timely disclosure as follows:

1. In respect of any of the securities of the responsible issuer that the person or company subsequently disposed of on or before the 10th trading day after the public correction of the misrepresentation or the disclosure of the material change in the manner required under this Act, assessed damages shall equal the difference between the average price paid for those securities (including any commissions paid in respect thereof) and the price received upon the disposition of those securities (without deducting any commissions paid in respect of the disposition), calculated taking into account the result of hedging or other risk limitation transactions.

2. In respect of any of the securities of the responsible issuer that the person or company subsequently disposed of after the 10th trading day after the public correction of the misrepresentation or the disclosure of the material change in the manner required under this Act, assessed damages shall equal the lesser of,

    i. an amount equal to the difference between the average price paid for those securities (including any commissions paid in respect thereof) and the price received upon the disposition of those securities (without deducting any commissions paid in respect of the disposition), calculated taking into account the result of hedging or other risk limitation transactions, and

    ii. an amount equal to the number of securities that the person disposed of, multiplied by the difference between the average price per security paid for those securities (including any commissions paid in respect thereof determined on a per security basis) and,

        A. if the issuer's securities trade on a published market, the trading price of the issuer's securities on the principal market (as those terms are defined in the regulations) for the 10 trading days following the public correction of the misrepresentation or the disclosure of the material change in the manner required under this Act, or

        B. if there is no published market, the amount that the court considers just.

3. In respect of any of the securities of the responsible issuer that the person or company has not disposed of, assessed damages shall equal the number of securities acquired, multiplied by the difference between the average price per security paid for those securities (including any commissions paid in respect thereof determined on a per security basis) and,

    i. if the issuer's securities trade on a published market, the trading price of the issuer' securities on the principal market (as those terms are defined in the regulations) for the 10 trading days following the public correction of the misrepresentation or the disclosure of the material change in the manner required under this Act, or

    ii. if there is no published market, the amount that the court considers just.

Same

(2) Damages shall be assessed in favour of a person or company that disposed of securities after a document was released or a public oral statement made containing a misrepresentation or after a failure to make timely disclosure as follows:

1. In respect of any of the securities of the responsible issuer that the person or company subsequently acquired on or before the 10th trading day after the public correction of the misrepresentation or the disclosure of the material change in the manner required under this Act, assessed damages shall equal the difference between the average price received upon the disposition of those securities (deducting any commissions paid in respect of the disposition) and the price paid for those securities (without including any commissions paid in respect thereof), calculated taking into account the result of hedging or other risk limitation transactions.

2. In respect of any of the securities of the responsible issuer that the person or company subsequently acquired after the 10th trading day after the public correction of the misrepresentation or the disclosure of the material change in the manner required under this Act, assessed damages shall equal the lesser of,

    i. an amount equal to the difference between the average price received upon the disposition of those securities (deducting any commissions paid in respect of the disposition) and the price paid for those

securities (without including any commissions paid in respect thereof), calculated taking into account the result of hedging or other risk limitation transactions, and

ii. an amount equal to the number of securities that the person disposed of, multiplied by the difference between the average price per security received upon the disposition of those securities (deducting any commissions paid in respect of the disposition determined on a per security basis), and,

A. if the issuer's securities trade on a published market, the trading price of the issuer's securities on the principal market (as those terms are defined in the regulations) for the 10 trading days following the public correction of the misrepresentation or the disclosure of the material change in the manner required under this Act, or

B. if there is no published market, the amount that the court considers just.

3. In respect of any of the securities of the responsible issuer that the person or company has not acquired, assessed damages shall equal the number of securities that the person or company disposed of, multiplied by the difference between the average price per security received upon the disposition of those securities (deducting any commissions paid in respect of the disposition determined on a per security basis) and,

i. if the issuer's securities trade on a published market, the trading price of the issuer's securities on the principal market (as such terms are defined in the regulations) for the 10 trading days following the public correction of the misrepresentation or the disclosure of the material change in the manner required under this Act, or

ii. if there is no published market, then the amount that the court considers just.

Same

(3) Despite subsections (1) and (2), assessed damages shall not include any amount that the defendant proves is attributable to a change in the market price of securities that is unrelated to the misrepresentation or the failure to make timely disclosure.

Proportionate liability

138.6 (1) In ~~a proceeding~~an action under section 138.3, the court shall determine, in respect of each defendant found liable in the action, the defendant's responsibility for the damages assessed in favour of all plaintiffs in the action, and each such defendant shall be liable, subject to the limits set out in subsection 138.7 (1), to the plaintiffs for only that portion of the aggregate amount of damages assessed in favour of the plaintiffs that corresponds to that defendant's responsibility for the damages.

Same

(2) Despite subsection (1), where, in ~~a proceeding~~an action under section 138.3 in respect of a misrepresentation or a failure to make timely disclosure, a court determines that a particular defendant, other than the responsible issuer, authorized, permitted or acquiesced in the making of the misrepresentation or the failure to make timely disclosure while knowing it to be a misrepresentation or a failure to make timely disclosure, the whole amount of the damages assessed in the action may be recovered from that defendant.

Same

(3) Each defendant in respect of whom the court has made a determination under subsection (2) is jointly and severally liable with each other defendant in respect of whom the court has made a determination under subsection (2).

Same

(4) Any defendant against whom recovery is obtained under subsection (2) is entitled to claim contribution from any other defendant who is found liable in the action.

Limits on damages

138.7 (1) Despite section 138.5, the damages payable by a person or company in ~~a proceeding~~an action under section 138.3 is the lesser of,

(a) the aggregate damages assessed against the person or company in the action, and,

(b) the liability limit for the person or company less the aggregate of all damages assessed after appeals, if any, against the person or company in all other actions brought under section 138.3, and under comparable legislation in other provinces or territories in Canada in respect of that misrepresentation or failure to make timely disclosure, and less any amount paid in settlement of any such actions.

Same

(2) Subsection (1) does not apply to a person or company, other than the responsible issuer, if the plaintiff proves that the person or company authorized, permitted or acquiesced in the making of the misrepresentation or the failure to make timely disclosure while knowing that it was a misrepresentation or a failure to make timely disclosure, or influenced the making of the misrepresentation or the failure to make timely disclosure while knowing that it was a misrepresentation or a failure to make timely disclosure.

PROCEDURAL MATTERS

Leave to proceed

138.8 (1) No ~~proceeding~~action may be commenced under section 138.3 without leave of the court granted upon motion with notice to each defendant. The court shall grant leave only where it is satisfied that,

(a) the action is being brought in good faith; and

(b) there is a reasonable possibility that the action will be resolved at trial in favour of the plaintiff.

Same

(2) Upon an application under this section, the plaintiff and each defendant shall serve and file one or more affidavits setting forth the material facts upon which each intends to rely.

Same

(3) The maker of such an affidavit may be examined on it in accordance with the rules of court.

Same

(4) A copy of the application for leave to proceed and any affidavits filed with the court shall be sent to the Commission when filed.

Notice

138.9 A person or company that has been granted leave to commence ~~a proceeding~~an action under section 138.3 shall,

(a) promptly issue a news release disclosing that leave has been granted to commence ~~a proceeding~~an action under section 138.3;

(b) send a written notice to the Commission within seven days, together with a copy of the news release; and

(c) send a copy of the statement of claim or other originating document to the Commission when filed.

Restriction on discontinuation, etc., of ~~proceeding~~action

138.10 ~~A proceeding~~ An action under section 138.3 shall not be ~~stayed,~~ discontinued, abandoned or settled ~~or dismissed for delay~~ without the approval of the court given on such terms as the court thinks fit including, without limitation, terms as to costs, and in determining whether to approve the settlement of the ~~proceeding~~action, the court shall consider, among other things, whether there are any other ~~proceedings~~actions outstanding under section 138.3 or under comparable legislation in ~~the~~ other provinces or territories in Canada in respect of the same misrepresentation or failure to make timely disclosure.

Costs

138.11 Despite the *Courts of Justice Act* and the *Class Proceedings Act, 1992*, the prevailing party in ~~a proceeding~~an action under section 138.3 is entitled to costs determined by a court in accordance with applicable rules of civil procedure.

Power of the Commission

138.12 The Commission may intervene in ~~a proceeding~~an action under section 138.3 and in an application for leave under section 138.8.

No derogation from other rights

138.13 The right of action for damages and the defences to ~~a proceeding~~an action under section 138.3 are in addition to~~,~~ and without derogation from~~,~~ any other rights or defences the plaintiff or defendant may have in ~~a proceeding~~an action brought otherwise than under this Part.

Limitation period

138.14 No ~~proceeding~~action shall be commenced under section 138.3,

(a) in the case of misrepresentation in a document, later than the earlier of,

(i) three years after the date on which the document containing the misrepresentation was first released, and

(ii) six months after the issuance of a news release disclosing that leave has been granted to commence ~~a proceeding~~an action under section 138.3 or under comparable legislation in the other provinces or territories in Canada in respect of the same misrepresentation;

(b) in the case of a misrepresentation in a public oral statement, later than the earlier of,

(i) three years after the date on which the public oral statement containing the misrepresentation was made, and

(ii) six months after the issuance of a news release disclosing that leave has been granted to commence ~~a proceeding~~an action under section 138.3 or under comparable legislation in another province or territory of Canada in respect of the same misrepresentation; and

(c) in the case of a failure to make timely disclosure, later than the earlier of,

(i) three years after the date on which the requisite disclosure was required to be made, and

(ii) six months after the issuance of a news release disclosing that leave has been granted to commence ~~a proceeding~~an action under section 138.3 or under comparable legislation in another province or territory of Canada in respect of the same failure to make timely disclosure.

Unofficial Blackline Consolidation

Misleading or untrue statements

126.2 A person or company shall not make a statement that the person or company knows or reasonably ought to know,

(a) in a material respect and at the time and in the light of the circumstances under which it is made, is misleading or untrue or does not state a fact that is required to be stated or that is necessary to make the statement not misleading; and

(b) ~~significantly affects, or~~ would reasonably be expected to have a significant effect on~~,~~ the market price or value of a security.

Same

(2) A breach of subsection (1) does not give rise to a statutory right of action for damages otherwise than under Part XXIII or XXIII.1.

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Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:
AGS Energy 2005-1 Limited Partnership
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated January 28, 2005
Mutual Reliance Review System Receipt dated February 1, 2005
Offering Price and Description:
$30,000,000.00 - 1,200,000 Units Subscription Price: $25.00 (Minimum Purchase: 200 Units)
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
RBC Dominion Securities Inc.
Scotia Capital Inc.
TD Securities Inc.
FirstEnergy Capital Corp.
Tristone Capital Inc.
Dundee Securities Corporation
First Associates Investments Inc.
HSBC Securities (Canada) Inc.
Raymond James Ltd.
Queensbury Securities Inc.
Richardson Partners Financial Ltd.
Wellington West Capital Inc.
Promoter(s):
AGS Resource 2005-1 GP Inc.
Project #734440

Issuer Name:
Beauce Investments Inc.
Principal Regulator - Quebec
Type and Date:
Preliminary CPC Prospectus dated January 25, 2005
Mutual Reliance Review System Receipt dated January 26, 2005
Offering Price and Description:
MINIMUM OFFERING: $500,000 or 1,000,000 common shares
MAXIMUM OFFERING: $1,500,000 or 3,000,000 common shares
PRICE: $0.50 per common share
Underwriter(s) or Distributor(s):
Desjardins Securities Inc.
Promoter(s):
Louis Lessard
Project #732371

Issuer Name:
Brascan SoundVest Rising Distribution Split Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated January 26, 2005
Mutual Reliance Review System Receipt dated January 26, 2005
Offering Price and Description:
$ * (Maximum); $ *(Maximum) - Preferred Securities * Capital Units Price: $10.00 per Preferred Security and $15.00 per Capital Unit
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
Scotia Capital Inc.
TD Securities Inc.
Raymond James Ltd.
Canaccord Capital Corporation
Desjardins Securities Inc.
Dundee Securities Corporation
HSBC Securities (Canada) Inc.
Trilon Securities Corporation
First Associates Investments Inc.
Wellington West Capital Inc.
Promoter(s):
Brascan Rising Distribution Management Ltd.
Project #732543

Issuer Name:
ConjuChem Inc.
Principal Regulator - Quebec
Type and Date:
Preliminary Short Form Prospectus dated January 31, 2005
Mutual Reliance Review System Receipt dated January 31, 2005
Offering Price and Description:
$21,737,500.00 - 4,625,400 Common Shares Price: $4.70 per Common Share
Underwriter(s) or Distributor(s):
Orion Securities Inc.
GMP Securities Ltd.
Promoter(s):
-
Project #734189

Issuer Name:
FAMILY MEMORIALS INC.
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated January 31, 2005
Mutual Reliance Review System Receipt dated February 1, 2005
Offering Price and Description:
$1,250,000.00 - 5,000,000 Common Shares Price: $0.25 per Common Share
Underwriter(s) or Distributor(s):
First Associates Investments Inc.
Promoter(s):
-
Project #734225

Issuer Name:
First Premium Income Trust PLUS
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated January 27, 2005
Mutual Reliance Review System Receipt dated January 31, 2005
Offering Price and Description:
$ * - * Units - Price: $25.00 per Unit - Minimum Purchase: * Units
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
CIBC World Markets Inc.
Scotia Capital Inc.
TD Securities Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
HSBC Securities (Canada) Inc.
Canaccord Capital Corporation
Desjardins Securities Inc.
Dundee Securities Corporation
First Associates Investments Inc.
Raymond James Ltd.
Promoter(s):
Mulvihill Capital Management Inc.
Project #733638

Issuer Name:
Ketch Resources Trust
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated January 28, 2005
Mutual Reliance Review System Receipt dated January 31, 2005
Offering Price and Description:
$56,400,000.00 - 4,000,000 Trust Units Price: $14.10 per Trust Unit
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
Canaccord Capital Corporation
National Bank Financial Inc.
RBC Dominion Securities Inc.
TD Securities Inc.
GMP Securities Ltd.
Tristone Capital Inc.
First Associates Investments Inc.
Promoter(s):
-
Project #733775

Issuer Name:
MRF 2005 Resource Limited Partnership
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated January 31, 2005
Mutual Reliance Review System Receipt dated January 31, 2005
Offering Price and Description:
$100,000,000.00 (maximum) (maximum – 4,000,000 Units); $10,000,000.00 (minimum)
(minimum –400,000 Units)
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
Scotia Capital Inc.
TD Securities Inc.
Canaccord Capital Corporation
Dundee Securities Corporation
First Associates Investments Inc.
HSBC Securities (Canada) Inc.
Raymond James Ltd.
Wellington West Capital Inc.
Berkshire Securities Inc.
Desjardins Securities Inc.
Haywood Securities Inc.
MiddleField Capital Corporation
Research Capital Corporation
Richardson Partners Financial Limited
Promoter(s):
MRF 2005 Resource Management Limited
Middlefield Group Limited
Project #734117

Issuer Name:
Prairie Schooner Petroleum Ltd.
Principal Regulator - Alberta
Type and Date:
Preliminary Prospectus dated January 27, 2005
Mutual Reliance Review System Receipt dated January 28, 2005
Offering Price and Description:
$ * - * Common Shares Price: $ * per Common Shares
Underwriter(s) or Distributor(s):
GMP Securities Ltd.
Peters & Co. Limited
Sprott Securities Inc.
FirstEnergy Capital Corp.
Tristone Capital Inc.
Promoter(s):
-
Project #733698

Issuer Name:
Richards Oil & Gas Limited
Principal Regulator - Alberta
Type and Date:
Preliminary Prospectus dated January 28, 2005
Mutual Reliance Review System Receipt dated February 1, 2005
Offering Price and Description:
Maximum Offering: $6,300,000 (up to * Equity Units and * Flow Through Shares) Minimum Offering: $2,025,000 (* Equity Units) Each Equity Unit consists of one Common Share at $ * per Common Share and one Warrant to purchase Common Shares at $ * per Common Share, expiring 24 months from the Closing. Price: $ * per Equity Unit and $ * per Flow Through Share 1,813,750 Common Shares
(Issuable upon the Exercise of Special Warrants)
Underwriter(s) or Distributor(s):
Union Securities Ltd.
Promoter(s):
Richard Cohen
Project #733582

Issuer Name:
ROC Pref III Corp.
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated January 27, 2005
Mutual Reliance Review System Receipt dated January 31, 2005
Offering Price and Description:
$ * Maximum (* Preferred Shares) Price: $25.00 per Preferred Share
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
TD Securities Inc.
National Bank Financial Inc.
HSBC Securities (Canada) Inc.
HSBC Securities (Canada) Inc.
Desjardins Securities Inc.
Wellington West Capital Inc.
Canaccord Capital Corporation
First Associates Investments Inc.
McFarlane Gordon Inc.
Raymond James Ltd.
Richardson Partners Financial Ltd.
Promoter(s):
Connor, Clark & Lunn Capital Markets Inc.
Project #733854

Issuer Name:
RYM Capital Corp.
Principal Regulator - Ontario
Type and Date:
Preliminary CPC Prospectus dated January 26, 2005
Mutual Reliance Review System Receipt dated January 28, 2005
Offering Price and Description:
Minimum Offering: $1,000,000 or 5,000,000 common shares
Maximum Offering: $1,900,000 or 9,500,000 common shares
Price: $0.20 per common share
Underwriter(s) or Distributor(s):
Research Capital Corporation
Promoter(s):
Thomas Taylor
Project #733097

Issuer Name:
Sprott International Equity Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectus dated January 28, 2005
Mutual Reliance Review System Receipt dated January 31, 2005
Offering Price and Description:
Series A, I and F Units
Underwriter(s) or Distributor(s):
Sprott Asset Management Inc.
Promoter(s):
Sprott Asset Management Inc.
Project #733964

Issuer Name:
StarPoint Energy Trust
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated January 27, 2005
Mutual Reliance Review System Receipt dated January 27, 2005
Offering Price and Description:
$60,120,000 - 3,340,000 Trust Units Price: $18.00 per Trust Unit
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
Orion Securities Inc.
Scotia Capital Inc.
FirstEnergy Capital Corp.
CIBC World Markets Inc.
GMP Securities Ltd.
Tristone Capital Inc.
National Bank Financial Inc.
Canaccord Capital Corp.
Haywood Securities Inc.
First Associates Investments Inc.
Promoter(s):
-
Project #733219

Issuer Name:
Sterling Leaf Income Trust
Principal Regulator - Alberta
Type and Date:
Preliminary Prospectus dated January 28, 2005
Mutual Reliance Review System Receipt dated January 28, 2005
Offering Price and Description:
Minimum Offering: 500,000 Units ($5,000,000); Maximum Offering: 1,000,000 Units ($10,000,000) Price: $10.00 per Unit
Underwriter(s) or Distributor(s):
Investpro Securities Inc.
Promoter(s):
Mount Real Financial Management Services Corporation
Mount Real Corporation
Project #733688

Issuer Name:
Advantage Energy Income Fund
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated January 31, 2005
Mutual Reliance Review System Receipt dated January 31, 2005
Offering Price and Description:
$113,662,500.00 - 5,250,000 Trust Units Price: $21.65 per Trust Unit
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
RBC Dominion Securities Inc.
CIBC World Markets Inc.
Raymond James Ltd.
FirstEnergy Capital Corp.
Promoter(s):
-
Project #731645

Issuer Name:
CPII Inc.
Principal Regulator - Manitoba
Type and Date:
Final CPC Prospectus dated January 27, 2005
Mutual Reliance Review System Receipt dated January 31, 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 (4,000 Common Shares)
Underwriter(s) or Distributor(s):
Canaccord Capital Corporation
Promoter(s):
-
Project #728116

Issuer Name:
First Trust/Highland Capital Floating Rate Income Fund
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated January 27, 2005
Mutual Reliance Review System Receipt dated January 31, 2005
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
TD Securities Inc.
National Bank Financial Inc.
Scotia Capital Inc.
HSBC Securities (Canada) Inc.
Canaccord Capital Corporation
Desjardins Securities Inc.
Dundee Securities Corporation
First Associates Investments Inc.
Raymond James Ltd.
Richardson Partners Financial Limited
Promoter(s):
First Defined Portfolio Management Co.
Project #725459

Issuer Name:
K-Bro Linen Income Fund
Principal Regulator - Alberta
Type and Date:
Final Prospectus dated January 26, 2005
Mutual Reliance Review System Receipt dated January 27, 2005
Offering Price and Description:
$43,438,620.00 - 4,343,862 Units Price: $10.00 per Unit
Underwriter(s) or Distributor(s):
TD Securities Inc.
National Bank Financial Inc.
Canaccord Capital Corporation
Promoter(s):
K-Bro Holdings, L.P.
Project #721400

Issuer Name:
Keystone North America Inc.
Keystone Newport ULC
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated January 31, 2005
Mutual Reliance Review System Receipt dated January 31, 2005
Offering Price and Description:
-
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 #725599 & 725600

Issuer Name:
MACCs Sustainable Yield Trust
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated January 28, 2005
Mutual Reliance Review System Receipt dated January 31, 2005
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
National Bank Financial Inc.
Scotia Capital Inc.
TD Securities Inc.
HSBC Securities (Canada) Inc.
Canaccord Capital Corporation
Desjardins Securities Inc.
Dundee Securities Corporation
First Associates Investments Inc.
Raymond James Ltd.
Wellington West Capital Inc.
Promoter(s):
MACCs Administrator Inc.
Project #724247

Issuer Name:
MATRIX Income Fund
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated January 28, 2005
Mutual Reliance Review System Receipt dated January 28, 2005
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
Scotia Capital Inc.
TD Securities Inc.
National Bank Financial Inc.
HSBC Securities (Canada) Inc.
Canaccord Capital Corporation
First Associates Investments Inc.
Wellington West Capital Inc.
Desjardins Capital Corporation
Dundee Securities Corporation
Raymond James Ltd.
Acadian Securities Incorporated
Middlefield Capital Corporation
Research Capital Corporation
Promoter(s):
Midddlefield Group Limited
Middlefield Matrix Management Limited
Project #725057

Issuer Name:
NAL Oil & Gas Trust
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated January 27, 2005
Mutual Reliance Review System Receipt dated January 27, 2005
Offering Price and Description:
$232,900,000.00 - (17,000,000 Trust Units) Price: $13.70 per Trust Unit
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
Scotia Capital Inc.
TD Securities Inc.
Canaccord Capital Corporation
National Bank Financial Inc.
Desjardins Capital Corporation
National Bank Financial Inc.
Desjardins Securities Inc.
Raymond James Ltd.
Dundee Securities Corporation
Peters & Co. Limited
Promoter(s):
-
Project #731354

Issuer Name:
New Generation Biotech (Equity) Fund Inc.
Type and Date:
Amended and Restated Prospectus dated January 26, 2005
Receipted on January 28, 2005
Offering Price and Description:
CLASS A SHARES, SERIES II AND CLASS A SHARES, SERIES III
Underwriter(s) or Distributor(s):
TD Securities Inc.
Promoter(s):
CFPA Sponsor Inc.
NGB Management Inc.
Project #711598

Issuer Name:
Premier Value Income Trust
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated January 27, 2005
Mutual Reliance Review System Receipt dated January 28, 2005
Offering Price and Description:
Maximum: 30,000,000 Units @ $10 per Unit = $300,000,000.00
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
CIBC World Markets Inc.
National Bank Financial Inc.
BMO Nesbitt Burns Inc.
Scotia Capital Inc.
TD Securities Inc.
Canaccord Capital Corporation
HSBC Securities (Canada) Inc.
Raymond James Ltd.
Berkshire Securities Inc.
Dundee Securities Corporation
First Associates Investments Inc.
Desjardins Securities Inc.
Richareson Partners Financial Limited
Wellington West Capital Inc.
Promoter(s):
Sentry Select Capital Corp.
Project #721667

Issuer Name:
US Financial 15 Split Corp.
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated January 27, 2005
Mutual Reliance Review System Receipt dated January 28, 2005
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
CIBC World Market Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
TD Securities Inc.
National Bank Financial Inc.
Desjardins Securities Inc.
HSBC Securities (Canada) Inc.
Bieber Securities Inc.
Canaccord Capital Corporation
Dundee Securities Corporation
First Associates Investments Inc.
Raymond James Ltd.
Promoter(s):
Quadravest Capital Management Inc.
Project #725108

Issuer Name:
VisionSky Corporation
Principal Regulator - Alberta
Type and Date:
Final Prospectus dated January 26, 2005
Mutual Reliance Review System Receipt dated January 28, 2005
Offering Price and Description:
MINIMUM OFFERING: $1,500,000.00 (3,333,334 Units); MAXIMUM OFFERING: $2,250,000.00 (5,000,000 Units) PRICE: $0.45 PER UNIT
Underwriter(s) or Distributor(s):
First Associates Investments Inc.
Promoter(s):
Benoit Cote
Ringo Chan
Project #721084

Issuer Name:
Western Financial Group Inc.
Principal Regulator - Alberta
Type and Date:
Final Prospectus dated January 27, 2005
Mutual Reliance Review System Receipt dated January 28, 2005
Offering Price and Description:
$19,350,000.00 - 9,000,000 Subscription Receipts, each representing the right to receive one Common Share Price: $2.15 per Subscription Receipt
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
Canaccord Capital Corporation
First Associates Investments Inc.
Jennings Capital Inc.
Promoter(s):
-
Project #723406

Issuer Name:
YTW Weslea Growth Capital Corporation
Principal Regulator - Ontario
Type and Date:
Final CPC Prospectus dated January 28, 2005
Mutual Reliance Review System Receipt dated February 1, 2005
Offering Price and Description:
MINIMUM OFFERING: $1,000,000 or 4,000,000 Common Shares; MAXIMUM OFFERING: $1,600,000 or 6,400,000 Common Shares PRICE: $0.25 per Common Share
Underwriter(s) or Distributor(s):
Desjardins Securities Inc.
Promoter(s):
YTW Growth Capital Management Corporation
Project #709761

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Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
Change in Category	Cornerstone Asset Management L.P.	From: Investment Counsel and Portfolio Manager To: Limited Market Dealer and Investment Counsel and Portfolio Manager	January 31, 2005
Change of Name	From: BLC-Edmond de Rothschild Asset Management Inc./BLC-Edmond de Rothschild gestion d'actifs inc. To: Industrial Alliance Fund Management Inc./Industrielle Alliance, Gestion de fonds inc.	Investment Counsel and Portfolio Manager and Commodity Trading Counsel and Commodity Trading Manager	January 19, 2005
Change of Name	From: ASHFORD CAPITAL CANADA, INC To: ASHFORD CONSULTING GROUP (CANADA) INC.	Investment Counsel and Portfolio Manager	January 5, 2005

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Chapter 13

SRO Notices and Disciplinary Proceedings

13.1.1 MFDA Notice of Hearing - Raymond Brown-John

IN THE MATTER OF A DISCIPLINARY HEARING
PURSUANT TO SECTIONS 20 AND 24 OF BY-LAW NO. 1
OF THE MUTUAL FUND DEALERS ASSOCIATION OF CANADA

RE: RAYMOND BROWN-JOHN

NOTICE OF HEARING

NOTICE is hereby given that a first appearance in this hearing will take place by teleconference before a Hearing Panel (the "Hearing Panel") of the Regional Council of the Pacific Region of the Mutual Fund Dealers Association of Canada (the "MFDA"), in the hearing room located at 650 West Georgia Street, Suite 1220 on Wednesday, March, 2, 2005 at 10:00 a.m. (Pacific) or as soon thereafter as the hearing can be held, concerning a disciplinary proceeding commenced by the MFDA against Raymond Brown-John (the "Respondent").

DATED at Toronto, Ontario this 21st day of January, 2005.

"Gregory J. Ljubic"
Gregory J. Ljubic
Corporate Secretary

Mutual Fund Dealers Association of Canada
121 King St. West, Suite 1000
Toronto, Ontario
M5H 3T9
Telephone: (416) 943-5836
E-mail: gljubic@mfda.ca

NOTICE is further given that the MFDA alleges the following violations of the By-laws, Rules, Regulations or Policies of the MFDA:

Allegation #1 Between December 1999 and February 2003, the Respondent failed to deal, fairly, honestly and in good faith with his clients RG and MO by misappropriating from them the total amount of $83,000, more or less, contrary to MFDA Rule 2.1.1.

Allegation #2 Between May 2001 and February 2003, the Respondent preferred his own interests to those of his client RG and failed to exercise responsible business judgment influenced only by the best interests of his client RG by recommending that RG redeem certain mutual fund investments in the total amount of $67,000 and lend the proceeds to him in the form of an unsecured personal loan, which loan the Respondent subsequently failed to repay, contrary to MFDA Rule 2.1.4.

Allegation #3 Commencing on or about July 31, 2003, the Respondent failed to comply with requests by the MFDA to provide documents and information to the MFDA for the purpose investigating a complaint made against the Respondent by RG, contrary to section 22.1 of MFDA By-Law No. 1.

Allegation #4 Commencing on or about September 22, 2003, the Respondent failed to carry out an agreement with the MFDA made on August 20, 2003 to provide the MFDA with copies of certain financial account statements on or before September 22, 2003, thereby engaging the jurisdiction of the Regional Council to impose a penalty on the Respondent pursuant to section 24.1.1(g) of MFDA By-Law No. 1.

PARTICULARS

NOTICE is further given that the following is a summary of the facts alleged and intended to be relied upon by the MFDA at the hearing:

Registration History

1. From May 13, 1998 to February 3, 2003, the Respondent was registered in British Columbia as a mutual fund salesperson for Partners in Planning Financial Services Ltd. ("PIP").

2. Effective February 3, 2003, PIP terminated the Respondent. The Uniform Termination Notice ("UTN") for the Respondent filed by PIP with the British Columbia Securities Commission stated that the Respondent's termination was for cause as a result of the matters described herein. The Respondent has not been registered in any capacity since February 3, 2003.

3. Prior to being registered as a mutual fund salesperson for PIP, the Respondent had been registered in British Columbia as a mutual fund salesperson with three other mutual fund dealers, dating back to June 2, 1989.

4. On January 8, 2002, PIP became a member of the MFDA.

Allegation #1 Misappropriation - $83,000

Client MO

5. MO was a client of the Respondent. MO is 74 years old.

6. Between December 3, 1999 and December 24, 2002, the Respondent met with MO on fifteen occasions and during the course of those meetings misled her into believing that errors had been made in her account which he had rectified by depositing his own funds into her account. The Respondent asked MO to pay him the funds which he had purportedly paid on her behalf by writing him a personal cheque or by endorsing a mutual fund redemption cheque to him personally.

7. Relying on the Respondent's representations as to the status of her account, MO made fifteen such payments to the Respondent, on the dates and in the amounts set out below:

DATE OF CHEQUE	AMOUNT
December 3, 1999	$3,000
December 3, 1999	$3,000
February 23, 2000	$2,000
April 7, 2000	$1,600
September 26, 2000	$4,000
October 2, 2000	$3,500
February 11, 2001	$1,800
April 20, 2001	$3,500
April 30, 2001	$2,000
July 10, 2001	$4,400
November 23, 2001	$2,100
February 20, 2002	$2,366.68
May 7, 2002	$1,500
May 29, 2002	$1,600
December 24, 2002	$1,800
	$38, 166.68

8. In fact, no errors had been made in MO's account nor had the Respondent deposited any of his own funds into MO's account. The Respondent misappropriated all of the funds, in the total amount of $38,166.68, which MO paid to him under the mistaken belief that she was reimbursing the Respondent for the payments he claimed to have made on her behalf.

Client RG

9. RG was a client of the Respondent. RG is 68 years old. In July 1999, RG's "know your client" form, which she had completed with the Respondent, stated that her investment knowledge was "none" and her investment experience was "low".

10. Between April 18, 2000 and January 18, 2003, the Respondent met with RG on five occasions and during the course of those meetings led her to believe that she should pay for the purchase of mutual fund investments in her account by

writing cheques payable to the Respondent personally. RG provided the Respondent with five cheques payable to him personally in the total amount of $19,324.83, as set out in the chart below. The Respondent cashed the five cheques but did not use the proceeds to purchase mutual funds for RG's account. Instead, the Respondent misappropriated the funds for his own benefit.

DATE OF CHEQUE	AMOUNT
April 18, 2000	$5,400
December 14, 2001	$3,440.19
February 11, 2002	$3,275
July 6, 2002	$2,827
January 18, 2003	$4,382.64
	$19,324.83

11. Commencing in August 2000, the Respondent met with RG on several occasions and advised her to switch some of her investments between mutual funds. During the course of those meetings, the Respondent obtained RG's signature on blank Redemption/Switch/Conversion Forms (the "Forms"). The Respondent led RG to believe that he would complete the blank, signed Forms and process the switches. Instead, the Respondent completed the Forms so as to cause mutual fund investments in RG's account to be redeemed. The Respondent then deposited the redemption cheques received from the mutual fund company into his personal bank account. The Respondent misappropriated all of the funds obtained by way of these redemptions, in the total amount of $25,686.31. The following chart sets out the dates and amounts of the redemptions misappropriated by the Respondent:

DATE OF CHEQUE	AMOUNT
August 21, 2000	$1,750
August 21, 2000	$1,750
August 21, 2000	$1,750
August 23, 2000	$1,750
August 23, 2000	$1,950
August 23, 2000	$1,750
December 15, 2000	$2,000
February 16, 2001	$1,400
February 16, 2001	$1,400
February 16, 2001	$1,400
March 7, 2001	$4,371.76
March 7, 2001	$4,414.55
	$25,686.31

Allegation #2 Conflict of Interest

12. In May 2001, the Respondent asked RG to lend him a sum of money to assist him with the purchase of a residential property. The Respondent recommended that RG redeem a portion of her mutual fund holdings in order to finance the loan.

13. RG agreed to provide the loan to the Respondent. Between May 16, 2001 and June 8, 2001, RG, acting on the advice of the Respondent, authorized the Respondent to redeem mutual fund investments in her account in the total amount $67,000, which she then advanced to the Respondent as an unsecured loan (the "Loan").

14. The Respondent provided RG with a Promissory Note, dated June 8, 2001, in respect of part of the Loan. The terms of the Promissory Note were as follows:

Principle: $57,000
Interest: 6¼% per annum
Term: 5 years
Payments: $3,552.50 annually commencing June 8, 2002

15. On June 8, 2002, the Respondent defaulted on the first payment due under the Loan. The Respondent has since failed, in spite of continuing demands by RG, to make any payments on account of the Loan.

16. In recommending to RG that she provide the Loan and that she redeem mutual funds held in her account in order to do so, the Respondent preferred his own interests to those of RG. The Respondent did not disclose the existence of this

conflict of interest to RG or to PIP, nor did he take any steps to address the conflict of interest by the exercise responsible business judgment influenced only by the best interests of RG, contrary to MFDA Rule 2.1.4.

Allegation #3 and #4 – Failure to Provide Documents and Information

17. By letter dated May 26, 2003, sent by regular and registered mail, the MFDA notified the Respondent that it was investigating the circumstances surrounding his termination by PIP.

18. By letter dated July 31, 2003, sent by regular and registered mail, the MFDA requested pursuant to s. 23.1 of MFDA By-Law No. 1 (now s. 22.1) that the Respondent provide copies of certain bank statements for the period April 1, 2000 to February 1, 2003 (the "Bank Statements"), on or before August 14, 2003.

19. The Respondent did not provide the Bank Statements to the MFDA by August 14, 2003 or at any time thereafter, save for that portion of the Bank Statements described in paragraph 21 below.

20. On August 20, 2003, the Respondent attended at the offices of the MFDA to give information at an examination pursuant to a request made under s. 23.1 of MFDA By-Law No. 1 (now s. 22.1). During the course of this examination, the Respondent gave an undertaking on the record to provide the Bank Statements to the MFDA on or before September 22, 2003.

21. By way of fax dated September 22, 2003, the Respondent provided the MFDA with a portion of the Bank Statements. The Respondent stated that he had requested copies of the remaining Bank Statements from the bank and anticipated receiving them within two weeks. The Respondent agreed to provide the remaining Bank Statements to the MFDA on or before October 31, 2003.

22. By letter dated October 14, 2003, sent by regular and registered mail, the MFDA requested pursuant to s. 23.1 of MFDA By-Law No. 1 (now s. 22.1) that the Respondent provide the MFDA with additional information and account statements pertaining to the period April 1, 2000 to February 1, 2003 (the "Additional Information"), on or before October 31, 2003.

23. The Respondent failed to provide the Additional Information by October 31, 2003 or at any time thereafter.

24. By letter dated November 3, 2003, sent to the Respondent by regular and registered mail, the MFDA confirmed that it had still not received the remaining Bank Statements and the Additional Information.

25. By letter dated November 13, 2003, sent to the Respondent by regular and registered mail, the MFDA gave the Respondent a final opportunity to provide the remaining Bank Statements and the Additional Information and confirmed that his failure to do so may result in disciplinary action.

26. The Respondent has still not provided the remaining Bank Statements or the Additional Information to the MFDA.

NOTICE is further given that the Respondent shall be entitled to appear and be heard and be accompanied by counsel or agent at the hearing and to call, examine and cross-examine witnesses.

NOTICE is further given that MFDA By-laws provide that if, in the opinion of the Hearing Panel, the Respondent:

- has failed to carry out any agreement with the MFDA;
- has failed to comply with or carry out the provisions of any federal or provincial statute relating to the business of the Member or of any regulation or policy made pursuant thereto;
- has failed to comply with the provisions of any By-law, Rule or Policy of the MFDA;
- has engaged in any business conduct or practice which such Regional Council in its discretion considers unbecoming or not in the public interest; or
- is otherwise not qualified whether by integrity, solvency, training or experience,

the Hearing Panel has the power to impose any one or more of the following penalties:

(a) a reprimand;

(b) a fine not exceeding the greater of:

(i) $5,000,000.00 per offence; and

(ii) an amount equal to three times the profit obtained or loss avoided by such person as a result of committing the violation;

(c) suspension of the authority of the person to conduct securities related business for such specified period and upon such terms as the Hearing Panel may determine;

(d) revocation of the authority of such person to conduct securities related business;

(e) prohibition of the authority of the person to conduct securities related business in any capacity for any period of time;

(f) such conditions of authority to conduct securities related business as may be considered appropriate by the Hearing Panel;

NOTICE is further given that the Hearing Panel may, in its discretion, require that the Respondent pay the whole or any portion of the costs of the proceedings before the Hearing Panel and any investigation relating thereto.

NOTICE is further given that the Respondent has twenty (20) days from the date of service of this Notice of Hearing, to serve a **Reply** upon:

Mutual Fund Dealers Association of Canada
121 King St. West, Suite 1000
Toronto, ON, M5H 3T9
Attention: William Donegan, Enforcement Counsel.

A **Reply** may either:

(i) specifically deny (with a summary of the facts alleged and intended to be relied upon by the Respondent, and the conclusions drawn by the Respondent based on the alleged facts) any or all of the facts alleged or the conclusions drawn by the MFDA in the Notice of Hearing; or

(ii) admit the facts alleged and conclusions drawn by the MFDA in the Notice of Hearing and plead circumstances in mitigation of any penalty to be assessed.

NOTICE is further given that the Hearing Panel may accept as having been proven any facts alleged or conclusions drawn by the MFDA in the Notice of Hearing that are not specifically denied in the **Reply**.

NOTICE is further given that if the Respondent fails:

(a) to serve a **Reply;** or

(b) attend at the hearing specified in the Notice of Hearing, notwithstanding that a **Reply** may have been served,

the Hearing Panel may proceed with the hearing of the matter on the date and the time and place set out in the Notice of Hearing (or on any subsequent date, at any time and place), without any further notice to and in the absence of the Respondent, and the Hearing Panel may accept the facts alleged or the conclusions drawn by the MFDA in the Notice of Hearing as having been proven and may impose any of the penalties described in the By-Laws.

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Chapter 25

Other Information

25.1 Exemptions

25.1.1 Anacle I Corporation - 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 pooled funds from paying an activity fee of $5,500 in connection with an application brought under subsection 147 of the Act, provided an activity fee be paid on the basis that the application be treated as an application for other regulatory relief under item 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

January 14, 2005

Borden Ladner Gervais LLP
Scotia Plaza
40 King Street West
Toronto, Ontario
M5H 3Y4

Attention: Derek Smith

Dear Sirs and Mesdames:

Re: Anacle I Corporation "Anacle"
Application under Section 147 of the *Securities Act* (Ontario), as amended (the "Act") and Section 6.1 of OSC Rule 13-502 - Fees (the "Fees Rule")
Application # 1026/04

By letter dated December 6, 2004 amended by letter dated December 22, 2004 (the "Application"), you applied on behalf of Anacle:

(a) to the Commission for an order, pursuant to section 147 of the Act, exempting the Non-ASIC Classes (as defined below) from the Financial Statement Requirements (as defined below); and

(b) to the Director for an exemption, pursuant to section 6.1 of the Fees Rule, from:

(i) the requirement to pay an activity fee of $5,500 pursuant to item F(1) of Appendix C to the Fees Rule for an application under section 147 of the Act; and

(ii) the requirement to pay an activity fee of $1,500 pursuant to item F(3) of Appendix C to the Fees Rules for an application under section 6.1 of the Fees Rule;

on the condition that Anacle pay, in lieu of those two fees, the $1,500 activity fee that would be applicable under item F(3) of Appendix C to the Fees Rule for an application for other discretionary relief.

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

1. Anacle is a corporation amalgamated under the laws of Ontario.

2. In connection with the proposed distribution in Ontario by Anacle of Series A shares of Anacle Short-Term Investment Class ("ASIC"), one of the classes of Anacle shares, Anacle has filed on the System for Electronic Document Analysis and Retrieval ("SEDAR") a simplified prospectus and an annual information form, each dated November 4, 2004 (the "Ontario prospectus documents"). Anacle has also filed a separate preliminary simplified prospectus and annual information form in respect of the Series A Shares of ASIC in Manitoba and British Columbia, which are virtually identical to the Ontario prospectus documents, on December 17, 2004.

3. Anacle intends to be a "mutual fund corporation" under the *Income Tax Act* (Canada) after it has distributed Series A shares of ASIC to at least 300 purchasers.

4. There are currently four additional Anacle funds, each of which is a separate class of Anacle shares and a "mutual fund" under subsection 1(1) of the Act (the "Existing Non-ASIC Classes"). From time to time, Anacle may create similar

classes for additional funds (together with the Existing Non-ASIC Classes, the "Non-ASIC Classes"). Each Non-ASIC Class has or will have a separate portfolio of assets referable to it.

5. The Existing Non-ASIC Classes are owned entirely by M.R.S. Trust Company ("MRS"), and none of the Non-ASIC Classes will be owned by anyone other than MRS and/or one or more of its affiliates that do not have any direct public shareholders. The Non-ASIC Classes will be distributed only to an "accredited investor" as defined in OSC Rule 45-501 – Exempt Distributions – or similar rules under Multilateral Instrument 45-103.

6. Accordingly, none of the Non-ASIC Classes is or will be a "reporting issuer" under subsection 1(1) of the Act.

7. However, by virtue of Anacle being organized under the laws of Ontario, each of the Non-ASIC Classes is or will be a "mutual fund in Ontario" under subsection 1(1) of the Act.

8. As mutual funds in Ontario, absent the relief requested, each of the Non-ASIC Classes is or will be required to prepare and file semi-annual and audited annual financial statements and send copies of such financial statements to the holder(s) of the Non-ASIC Classes in accordance with subsections 77(2), 78(1), and 79(1) of the Act (the "Financial Statement Requirements").

9. Absent the relief requested, the filings referred to in paragraph 8 are or will be required to be posted on SEDAR, pursuant to subsection 2.1(1) of National Instrument 13-101 – System for Electronic Document Analysis and Retrieval (the "SEDAR Rule").

10. Anacle will prepare semi-annual and audited annual financial statements for ASIC, send such financial statements to the holders of ASIC shares and file such financial statements for ASIC on SEDAR in accordance with subsections 77(2), 78(1), and 79(1) of the Act and the SEDAR Rule.

11. Anacle will also prepare semi-annual and audited annual financial statements for Anacle on a legal entity basis and in accordance with generally Canadian accepted accounting principles.

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 Anacle, pursuant to section 6.1 of the Fees Rule, from:

(i) the requirement to pay an activity fee of $5,500 pursuant to item F(1) of Appendix C to the Fees Rule for an application under section 147 of the Act; and

(ii) the requirement to pay an activity fee of $1,500 pursuant to item F(3) of Appendix C to the Fees Rules for an application under section 6.1 of the Fees Rule;

on the condition that Anacle pay, in lieu of those two fees, the $1,500 activity fee that would be applicable under item F(3) of Appendix C to the Fees Rule for an application for other discretionary relief.

"Leslie Byberg"

25.1.2 Brandes Investment Partners & Co. - s. 6.1 of OSC Rule 13-502

Headnote

Application pursuant to s.6.1 of OSC Rule 13-502 Fees - exemption from requirement to pay activity fee of $5,500 in connection with an application brought under s. 147 of the Act because the application is in substance an application for a lapse date extension under s.62(5) of Act to which an activity fee of only $1,500 should apply.

Statutes Cited

Securities Act, R.S.O. 1990, c. s.5 as am., subsection 62(5) and section 147.

Rules Cited

Ontario Securities Commission Rule 13-502 Fees, Appendix C, Items F(1) and F(3).

January 14, 2005

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

Attention: Wendi Locke

Dear Sirs/Mesdames:

Re: Brandes International Equity Fund II
Application under s. 6.1 of OSC Rule 13-502– Fees (“Rule 13-502”)
App. No. 017/05

By letter dated December 20, 2004 (the “Application”), you applied on behalf of Brandes Investment Partners & Co. (“Brandes”), the manager and trustee of the Brandes International Equity Fund II (the “Fund”), to the Canadian securities regulatory authorities under section 147 of the *Securities Act* (Ontario) (the “Act”) for an extension of the time limits pertaining to the distribution of securities under the simplified prospectus and annual information form of the Fund dated January 23, 2004 (together, the “Fund Prospectus”).

By letter dated January 11, 2005, you additionally applied to the Director on behalf of Brandes for the following:

(i) an exemption, pursuant to subsection 6.1 of Rule 13-502 (the “Fee Exemption”), 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 Rule 13-502, on the condition that fees be paid on the basis that the Application be treated as an application for other regulatory relief under item F(3) of Appendix C of Rule 13-502; and

(ii) an exemption from the requirement to pay an activity fee of $1,500 in connection with the Fee Exemption application.

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

1. The Fund is a reporting issuer in each of the provinces and territories of Canada (the “Jurisdictions”) and is not in default of any filing requirements under the securities legislation of any of the Jurisdictions.

2. The units of the Fund (the “Units”) are qualified for distribution in each of the Jurisdictions by means of the Fund Prospectus that was prepared and filed in accordance with Canadian securities regulatory requirements.

3. The lapse date of the Fund Prospectus is January 23, 2005, however, the Fund is expected to be terminated on or about February 15, 2005.

4. In the Application, Brandes requested under section 147 of the Act an extension of the time limits pertaining to the distribution of Units under the Fund Prospectus. Item F(1) of Appendix C of Rule 13-502 specifies that applications under section 147 of the Act pay an activity fee of $5,500.

5. If Brandes were ultimately renewing the Fund Prospectus, rather than terminating the Fund, it would have sought an extension of the lapse date applicable to the Fund Prospectus pursuant to subsection 62(5) of the Act. The activity fee for such an application would be $1,500 in accordance with item F(3) of Appendix C of Rule 13-502.

Decision

This letter confirms that, based on the information provided in the Application, and the facts and representations above, and for the purposes described in the Application, the Director hereby exempts Brandes and the Fund from:

(a) paying an activity fee of $5,500 in connection with the Application, provided that the Fund 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

(b) paying an activity fee of $1,500 in connection with the Fee Exemption

application under item F(3) of Appendix C to Rule 13-502.

“Leslie Byberg”

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