The Ontario Securities Commission

OSC Bulletin

March 4, 2005

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

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Notices / News Releases

1.1 Notices

1.1.1 Current Proceedings Before The Ontario Securities Commission

MARCH 4, 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
M5H 3S8

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THE COMMISSIONERS

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

SCHEDULED OSC HEARINGS

TBA	**Yama Abdullah Yaqeen** s. 8(2) J. Superina in attendance for Staff Panel: RLS/ST/DLK
TBA	**Cornwall *et al*** s. 127 K. Manarin in attendance for Staff Panel: HLM/RWD/ST
March 10, 2005 10:00 a.m.	**In the matter of Gregory and Walter Hryniw** s. 127 K. Wootton in attendance for Staff Panel: **WSW/RLS**
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** * Sally Daub settled December 14, 2004.
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 17, 2005
10:00 a.m.

Portus Alternative Asset Management Inc., and Portus Asset Management, Inc.

s. 127

M. MacKewn in attendance for Staff

Panel: TBD

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: RLS/ST/DLK

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, 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: PMM/RWD/DLK

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

June 14, 2005
2:30 p.m.

June 15–30, 2005
10:00 a.m.

June 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: WSW/PKB/ST

* 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 Notice of Commission Approval of OSC Rule 48-501 – Trading During Distributions, Formal Bids and Share Exchange Transactions and Companion Policy 48-501CP to OSC Rule 48-501 and Revocation of OSC Policy 5.1, Paragraph 26 and OSC Policy 62-601 – Securities Exchange Take-Over Bids – Trades in the Offeror's Securities

NOTICE OF COMMISSION APPROVAL

**OSC RULE 48-501 – TRADING DURING DISTRIBUTIONS,
FORMAL BIDS AND SHARE EXCHANGE TRANSACTIONS AND
COMPANION POLICY 48-501CP TO OSC RULE 48-501**

AND

**REVOCATION OF ONTARIO SECURITIES COMMISSION POLICY 5.1, PARAGRAPH 26 AND
ONTARIO SECURITIES COMMISSION POLICY 62-601 – SECURITIES EXCHANGE TAKE-OVER BIDS – TRADES IN THE OFFEROR'S SECURITIES**

On February 15, 2005, the Ontario Securities Commission (the Commission) made as a rule under the *Securities Act* OSC Rule 48-501 – *Trading during Distributions, Formal Bids and Share Exchange Transactions* (Rule) and adopted Companion Policy 48-501CP to the Rule (Companion Policy). The Commission also revoked Ontario Securities Commission Policy 5.1, paragraph 26 and Ontario Securities Commission Policy 62-601 effective on the coming into force of the Rule.

The draft Rule was first published for comment on August 29, 2003 at (2003) 26 OSCB 6157. Further to comments received, changes were made, and the Rule was republished for comment and the Companion Policy was published for comment on September 10, 2004 at (2004) 27 OSCB 7766.

The Rule and Companion Policy were delivered to the Minister on February 21, 2005. If the Minister does not reject the Rule or return it for further consideration, it will come into force on May 9, 2005. The Rule, Companion Policy and a summary of the comments and the Commission's responses are published in Chapter 5 of this Bulletin.

1.1.3 RS Market Integrity Notice – Notice of Amendment Approval – Provisions Respecting Trading During Certain Securities Transactions

MARKET REGULATION SERVICES INC.

**AMENDMENT TO THE UNIVERSAL MARKET INTEGRITY RULES –
AMENDMENTS TO RULES 7.7 AND 7.8 - PROVISIONS RESPECTING TRADING
DURING CERTAIN SECURITIES TRANSACTIONS**

NOTICE OF COMMISSION APPROVAL

The Ontario Securities Commission has approved amendments to Rules 7.7 and 7.8 of the Universal Market Integrity Rules (UMIR), regarding trading during certain securities transactions. In addition, the Alberta Securities Commission, British Columbia Securities Commission, Manitoba Securities Commission and the Autorité des marchés financiers have also approved the amendments. The amendments govern the activities of dealers, issuers and others in connection with a distribution of securities, securities exchange take-over bid, issuer bid or amalgamation, arrangement, capital reorganization or similar transaction. The amendments prescribe what is an acceptable activity and otherwise restrict trading activities to preclude manipulative conduct by persons with an interest in the outcome of the distribution of securities or other transactions.

A copy and description of the amendments was published for comment on August 29, 2003 at (2003) 26 OSCB 6231. Further to comments received, changes were made and the amendments were again published for comment on September 10, 2004 at (2004) 27 OSCB 7881. Eleven comment letters were received in response to the September request for comment. The final version of the amendments is published in Chapter 13 of this Bulletin. A joint summary of the comments with the Commission's and RS's responses to the comments received is published in Chapter 5 of this Bulletin as Appendix A to the Notice of Commission Approval of OSC Rule 48-501.

1.1.4 Notice of Commission Approval – Proposed Amendments to IDA Policy No. 6, Parts I and II

THE INVESTMENT DEALERS ASSOCIATION OF CANADA (IDA)

PROPOSED AMENDMENTS TO POLICY NO. 6, PARTS I AND II

NOTICE OF COMMISSION APPROVAL

The Ontario Securities Commission approved proposed amendments to IDA Policy No. 6, Parts I and II, regarding proficiency and education. In addition, the Alberta Securities Commission approved and the British Columbia Securities Commission did not object to the proposed amendments. The proposed amendments recognize additional courses and exemptions without reducing the rigour of the existing proficiency requirements, eliminate outdated requirements and references and add a provision for an exemption fee. A copy and description of the proposed amendments were published on July 9, 2004, at (2004) 27 OSCB 6424. The IDA received three comment letters, but no changes were required to the revised Policy. The IDA's summary of comments and responses is published in Chapter 13 of this Ontario Securities Commission Bulletin — *SRO Notices and Disciplinary Proceedings*.

1.1.5 OSC Staff Notice 11-744 IOSCO and International Joint Forum Publish Final Recommendations about Outsourcing of Financial Services

OSC STAFF NOTICE 11-744

IOSCO AND INTERNATIONAL JOINT FORUM PUBLISH FINAL RECOMMENDATIONS ABOUT OUTSOURCING OF FINANCIAL SERVICES

Background

On August 2, 2004, Standing Committee 3 (SC3) of the Technical Committee of the International Organization of Securities Commissions (IOSCO) and the International Joint Forum (IJF) coordinated the simultaneous release for public comment of two consultation reports relating to the outsourcing of financial services.[1] SC3's Consultation Report, *Principles on Outsourcing of Financial Services for Market Intermediaries*, focused specifically on outsourcing by securities firms. The IJF's Consultation Report, *Outsourcing in Financial Services*, proposed high-level, cross-sectoral principles that would apply collectively to the banking, insurance and securities sectors.

Staff Notice 11-735 about these Consultation Reports was published in the OSC Bulletin on August 13, 2004. Both Consultation Reports were posted on IOSCO's website at www.iosco.org (Public Documents 171 and 172, respectively) and the Commission's website at **www.osc.gov.on.ca** (International Affairs – Current Consultations). The comment period closed on September 20, 2004.

To supplement the information received during the consultation process, SC3 surveyed industry participants to collect information about existing outsourcing practices in the securities industry. SC3 also continued to work closely with the IJF after the consultation period closed to ensure that each group's final recommendations were consistent with each other.

IOSCO and IJF Finalize Recommendations

On February 15, 2005, IOSCO and the IJF simultaneously published final reports. These reports, together with news releases issued by IOSCO and the IJF, have been posted on IOSCO's website at www.iosco.org (Public Documents 187 and 184, respectively) and the OSC's website at **www.osc.gov.on.ca** (International Affairs – Current Consultations - Recently Completed Consultations).

Both the IJF and IOSCO have also indicated how they addressed comments made during the Consultation Period. IOSCO included a summary of the comments it received and its response to those comments in its *Notice of Final Report, Survey and Summary of Comments*. It also published its *Survey Results on Outsourcing of Financial Services*. Both of these documents have been posted on IOSCO's website (Public Documents 186 and 185, respectively) and on the OSC's website (International Affairs – Current Consultations – Recently Completed Consultations). The IJF included a discussion of how it addressed certain issues raised by commenters in Section 8 (Issues in Approaching the Principles) of its final report.

Questions about IOSCO's publications on outsourcing may be referred to:

Randee Pavalow
Director, Capital Markets
Ontario Securities Commission
(416) 593-8257
rpavalow@osc.gov.on.ca

Antoinette Leung
Senior Accountant
Market Regulation, Capital Markets
Ontario Securities Commission
(416) 595-8901
aleung@osc.gov.on.ca

[1] The Commission is a member of IOSCO and its Technical Committee, and it chairs Standing Committee 3. It is also a member of the IJF, which brings together regulators from the banking, insurance and securities sectors to address cross-sectoral issues. More information about IOSCO, the IJF and the Commission's participation in these organizations can be found on the Commission's website at **www.osc.gov.on.ca** (International Affairs – Who's Who).

Questions about the IJF's publications on outsourcing may be referred to:

Janet Holmes
Manager, International Affairs
Ontario Securities Commission
(416) 593 8282
jholmes@osc.gov.on.ca

March 4, 2005

1.1.6 OSC Staff Notice 11-745 IOSCO Publishes for Consultation Best Practice Standards on Anti-Market Timing and Anti-Money Laundering Guidance for Collective Investment Schemes

OSC STAFF NOTICE 11-745

IOSCO PUBLISHES FOR CONSULTATION BEST PRACTICE STANDARDS ON ANTI-MARKET TIMING AND ANTI-MONEY LAUNDERING GUIDANCE FOR COLLECTIVE INVESTMENT SCHEMES

On February 17, 2005, Standing Committee 5 (SC5)[1] of the Technical Committee of the International Organization of Securities Commissions (IOSCO) published two Consultation Reports concerning collective investment schemes[2] (CIS): *Best Practice Standards on Anti-Market Timing and Associated Issues for CIS* and *Anti-Money Laundering Guidance for CIS*.

Proposed Best Practice Standards on Anti-Market Timing

In May 2004, the Technical Committee asked SC5 to examine the steps being taken by regulators to address issues arising from market timing[3] with a view to developing best practice standards for regulators in this area. SC5 commenced this project by conducting a survey of regulatory approaches to market timing in SC5 members' jurisdictions. Using the results of this survey, SC5 prepared the Consultation Report, which describes market timing, explains how it can occur and why it can detrimentally affect CIS investors, and proposes three high-level standards that regulators should incorporate into their regulatory schemes to deal with market timing and associated issues (such as late trading):

1 CIS operators should act in the best interests of CIS investors.

2 CIS operators should ensure that their operations and disclosure in respect of market timing and late trading are consistent with Standard 1.

3 The regulatory regime should allow operators appropriate flexibility in addressing the risk of detriment to investors arising from market timing.

Each of the three high-level standards is accompanied by more detailed guidance as to what the standard means and how it can be implemented.

The Consultation Report concludes by noting that regulators should act pro-actively to look for evidence of market timing and related issues in other pooled products that are marketed to the general public, such as unitized investment funds linked to life insurance policies.

Proposed Anti-Money Laundering Guidance for CIS

IOSCO has adopted a high-level principle that regulators should require market intermediaries to have policies and procedures designed to minimize the use of the intermediary's business as a vehicle for money laundering.[4] IOSCO has also developed *Principles on Client Identification and Beneficial Ownership for the Securities Industry* (CIBO Principles),[5] which provide guidance as to the kinds of "client due diligence" (CDD) processes that securities firms should employ to verify the identity of their clients and the underlying beneficial owners of client accounts, learn about and monitor their clients' circumstances and investment objectives, and maintain appropriate records about this information. The CDD standards described in the CIBO Principles complement the *40 Recommendations* on combating money laundering and the financing of terrorism developed by the Financial Action Task Force.[6]

Responding to a request from the Technical Committee, SC5 has published for comment draft guidance on how the high-level global standards described in the preceding paragraph should be applied to the operation of CIS. The proposed guidance in the

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1 The Commission is a member of IOSCO, the Technical Committee and SC5. More information about IOSCO and the Commission's participation in IOSCO can be found on the Commission's website at **www.osc.gov.on.ca** (International Affairs – Who's Who).

2 The term "collective investment schemes" encompasses open-ended funds that redeem units or shares, closed-end funds whose units or shares are traded in securities markets, unit investment trusts, and collective investment vehicles based on contractual models and the European UCITS (Undertakings for Collective Investments in Transferable Securities) model.

3 Market timing involves short-term trading of investment fund securities to take advantage of short-term discrepancies between the price of the collective investment scheme's securities and the stale values of the securities within the CIS' portfolio.

4 See paragraph 8.5 in IOSCO, *Objectives and Principles of Securities Regulation* (February 2002) (IOSCO Public Document #125). This document can be downloaded from IOSCO's On-Line Library at www.iosco.org.

5 The CIBO Principles can be downloaded from IOSCO's On-Line Library at www.iosco.org (Public Document #167). The Summer 2004 edition of the Commission's International Update contains a summary of the CIBO Principles (go to the International Affairs – International Updates page on the Commission's website at **www.osc.gov.on.ca**).

6 The 40 Principles can be downloaded from FATF's website at www1.oecd.org/fatf/.

Consultation Report focuses on open-ended CIS because they often deal directly with investors (*e.g.* opening accounts and/or processing purchase or redemption requests), thereby providing CIS operators with an opportunity to engage in CDD.

After describing variations in the legal, management and distribution structures of open-ended CIS, the Consultation Report:

- provides guidance as to the types of anti-money laundering (AML) policies and procedures, employee training programs, independent audit programs and compliance management arrangements open-ended CIS (including CIS that are part of larger financial groups) should have;
- explains who has responsibility for performing CDD processes;
- specifies when a client's identity should be verified;
- describes the lower-risk circumstances in which it is appropriate to use simplified CDD processes and describes what those simplified processes should involve; and
- discusses the circumstances in which it is appropriate for a CIS to sub-contract the performance of CDD processes or rely upon an authorized securities service provider to perform CDD procedures.

Responding to the Request for Comments

Copies of the Consultation Reports have been posted on the Ontario Securities Commission's website at **www.osc.gov.on.ca** (International Affairs – Current Consultations) and on the website of the International Organization of Securities Commissions at www.iosco.org. (Library – Public Documents 188 and 189).

The Commission encourages the Canadian investment funds industry to comment on the Consultation Reports. In particular, the Commission encourages industry to consider, in light of the way CIS are marketed and managed in Canada, the practical impact of the proposed *Anti-Money Laundering Guidance for CIS* on the division of responsibility for CDD on a day-to-day basis.

The comment period for each Consultation Report will remain open until May 18, 2005. Please submit comments by email to mail@oicv.iosco.org. Please include in the subject line of the email "Public Comment on Consultation Report: *Best Practice Standards on Anti-Market Timing for CIS*" or "Public Comment on Consultation Report: *Anti-Money Laundering Guidance for CIS*", as appropriate.

Please do not submit comments to the Commission.

Questions may be referred to:

Susan Silma
Director, Investment Funds
Ontario Securities Commission
Tel: (416) 593-2302
Fax: (416) 593-3699
email:ssilma@osc.gov.on.ca

March 4, 2005

1.1.7 OSC Staff Notice 11-746 IOSCO Publishes Consultation Report: *Policies on Error Trades*

OSC STAFF NOTICE 11-746

IOSCO PUBLISHES CONSULTATION REPORT: *POLICIES ON ERROR TRADES*

On February 18, 2005, Standing Committee 2 (SC2)[1] of the Technical Committee of the International Organization of Securities Commissions (IOSCO) published a Consultation Report, *Policies on Error Trades*.

In February 2004, the Technical Committee of IOSCO asked SC2, in coordination with the IOSCO SRO Consultative Committee,[2] to examine the policies of regulated securities and derivatives exchanges and their regulators concerning the resolution of "error trades". Error trades are transactions that are executed in error, either due to the actions of a market user or through malfunction of a trading system. This inquiry was prompted, not by concerns about the effectiveness of electronic systems, but by the recognition that error trade policies can affect market integrity and users' confidence in the markets. In addition, the surveillance and resolution of erroneous trades can assist in deterring and detecting market abuse.

Twenty-seven SRO Consultative Committee members and one non-member responded to SC2's survey regarding their existing error trade policies and procedures. Using the survey data and taking into account IOSCO's existing high-level principles regarding secondary markets, SC2 has developed the following draft recommendations for the design of error trade policies:

- Exchanges should evaluate the need for and consider adopting error trade policies.
- Exchanges should have, and regulators should take into account, an exchange's need for flexibility in the design of error trade policies.
- Exchange error trade policies should be comprehensive in order to promote the predictability, fairness and consistency of actions taken under the policy.
- Policies concerning the resolution of error trades should be designed to provide a predictable and timely process.
- Exchange error trade policies should be made transparent to market users.
- Cancellation decisions involving material transactions and resulting from the invocation of error trade policies should be made transparent to market users.
- Exchanges should be encouraged to develop and adopt measures to specifically identify or "highlight" error trade messages to market users.
- Exchanges should be prepared to share information with other markets when possible concerning the cancellation of trades.
- Exchanges should evaluate the need for measures to prevent error trades.
- Market supervisors should support the implementation of error trade policies that are consistent with the above recommendations.
- Market supervisors should take affirmative steps to help ensure that there is adequate surveillance conducted in the markets they supervise to detect whether error trades are related to problematic market activity.

Copies of the Consultation Report have been posted on the Ontario Securities Commission's website at **www.osc.gov.on.ca** (International Affairs – Current Consultations) and on the website of the International Organization of Securities Commissions at www.iosco.org. (Library – Public Document #190).

The Commission encourages the Canadian securities industry to comment on the Consultation Paper. The comment period will remain open until May 18, 2005. Please submit comments by email to mail@oicv.iosco.org. Please include in the subject line of the email "Public Comment on Consultation Report: *Policies on Error Trades*".

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1 The Commission is a member of IOSCO, the Technical Committee and SC 2. More information about IOSCO and the Commission's participation in IOSCO can be found on the Commission's website at **www.osc.gov.on.ca** (International Affairs – Who's Who).

2 The SRO Consultative Committee consists of the 53 IOSCO Affiliate Members who represent self regulatory organizations, securities market operators and/or derivatives market operators. The Investment Dealers Association of Canada, the Mutual Fund Dealers Association of Canada and TSX Inc. are members of the SRO Consultative Committee.

Please do not submit comments to the Commission.

Questions may be referred to:

Cindy Petlock
Manager, Market Regulation
Ontario Securities Commission
Tel: (416) 593-2351
Fax: (416) 593-8240
email: cpetlock@osc.gov.on.ca

March 4, 2005

1.1.8 Notice of Amendments to OSC Rule 51-501 – AIF and MD&A, OSC Rule 51-801 – Implementing National Instrument 51-102 Continuous Disclosure Obligations and Companion Policy 51-501CP – to OSC Rule 51-501 AIF and MD&A

NOTICE OF AMENDMENTS TO ONTARIO SECURITIES COMMISSION RULE 51-501 – AIF AND MD&A, ONTARIO SECURITIES COMMISSION RULE 51-801 – IMPLEMENTING NATIONAL INSTRUMENT 51-102 CONTINUOUS DISCLOSURE OBLIGATIONS AND COMPANION POLICY 51-501CP – TO ONTARIO SECURITIES COMMISSION RULE 51-501 AIF AND MD&A

On February 28, 2005, the Commission approved amendments to:

- Ontario Securities Commission Rule 51-501 – *AIF and MD&A*,
- Ontario Securities Commission Rule 51-801 – *Implementing National Instrument 51-102 Continuous Disclosure Obligations*, and
- Companion Policy 51-501CP – *To Ontario Securities Commission Rule 51-501 AIF and MD&A*.

The amendments were delivered to the Chair of Management Board of Cabinet on February 28, 2005. If the Minister does not reject the amendments or return them for further consideration by April 29, 2005, the amendments will come into force on May 16, 2005. The amendments are being published in Chapter 5 of the Bulletin.

1.1.9 Notice of Commission Approval – Housekeeping Amendments to IDA By-law No. 2.4 Regarding Membership

THE INVESTMENT DEALERS ASSOCIATION (IDA)

AMENDMENTS TO IDA BY-LAW No. 2.4 REGARDING MEMBERSHIP

NOTICE OF COMMISSION APPROVAL

The Ontario Securities Commission approved amendments to IDA By-law No. 2.4 regarding Membership. In addition, the Alberta Securities Commission did not disapprove and the British Columbia Securities Commission did not object to the amendments. The amendments require that when the application process for IDA membership is not completed within 6 months, the applicant's $10,000 deposit would be forfeited to the IDA and the applicant would be required to start the application process over. The IDA further revised the proposed amendments, which had been approved by the Board of Directors of the IDA on October 20, 2004, to exclude alternative trading systems applications. The amendments are housekeeping in nature. The description and a copy of the amendments are contained in Chapter 13 of this Ontario Securities Commission Bulletin.

1.2 Notices of Hearing

1.2.1 Franklin Templeton Investments Corp. - s. 127

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

AND

FRANKLIN TEMPLETON INVESTMENTS CORP.

NOTICE OF HEARING
(Section 127)

TAKE NOTICE that the Ontario Securities Commission (the "Commission") will hold a hearing pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c.S.5, as amended (the "Act") at the Commission offices, 20 Queen Street West, 17th Floor, in the Large Hearing Room, Toronto, Ontario, commencing on the 3rd day of March, 2005 at 10:00 a.m. or as soon thereafter as the hearing can be held.

AND TAKE NOTICE that the purpose of the Hearing is for the Commission to consider whether it is in the public interest to approve the settlement of the proceeding entered into between Staff of the Commission ("Staff") and the respondent;

BY REASON OF the allegations set out in the Notice of Allegations of Staff and such additional allegations as counsel may advise and the Commission may permit.

AND TAKE FURTHER NOTICE that any party to the proceeding may be represented by counsel if that party attends or submits evidence at the hearing.

AND TAKE FURTHER NOTICE that upon the failure of any party to attend at the time and place aforesaid, the hearing may proceed in the absence of that party and such party is not entitled to any further notice of the proceeding.

February 28, 2005.

"John P. Stevenson"

TO: FRANKLIN TEMPLETON INVESTMENTS CORP.
c/o James D.G. Douglas
Borden Ladner Gervais LLP
Scotia Plaza
40 King St. W.
Toronto, Ontario
M5H 3Y4

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

AND

FRANKLIN TEMPLETON INVESTMENTS CORP.

STATEMENT OF ALLEGATIONS

Staff of the Ontario Securities Commission ("Staff") make the following allegations:

I. Background

1. In November 2003, the Commission, in co-operation with the Investment Dealers' Association of Canada and the Mutual Fund Dealers Association of Canada, began an inquiry into potential late trading and market timing in the Canadian mutual fund industry. The inquiry involved 105 Canadian mutual fund companies, and has been carried out in three phases. The inquiry was completed in December 2004, and involved a number of mutual fund managers.

II. The Respondent

2. Franklin Templeton Investments Corp. ("Franklin Templeton") is registered in Ontario as a mutual fund dealer, and adviser, and is responsible for the management of approximately 90 mutual funds ("Franklin Templeton Funds") with mutual fund assets under management of approximately $18.6 billion (as of October 31, 2004).

III. Market Timing: Cause and Effect

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

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

IV. The Harm Caused by Market Timing of Mutual Funds

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

V. The Disclosure of Franklin Templeton Simplified Prospectus and AIF

6. Specific statements contained in the Prospectuses and AIFs filed by Franklin Templeton for the years 1999 to 2003 (although not identical from year to year) disclosed that Franklin Templeton could take certain steps, including the right to limit switches between Franklin Templeton Funds and to impose short term trading fees of up to 2% in circumstances where an investor seeks to redeem units of a Franklin Templeton Fund within 90 days of having purchased the units.

VI. Market Timing in Franklin Templeton Funds

7. Certain investors holding accounts in Franklin Templeton Funds have been identified as having profited as a result of frequent trading market timing strategies that were pursued in certain Franklin Templeton Funds (the "Market Timing Traders"). The Market Timing Traders traded in Franklin Templeton Funds through one or more Canadian investment dealers.

VII. The Fund Manager's Duty

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

VIII. CONDUCT CONTRARY TO THE PUBLIC INTEREST

9. In allowing certain investors to engage in frequent trading market timing, Franklin Templeton did not implement appropriate measures to protect the funds against the harm arising from frequent trading market timing activity.

10. The conduct of Franklin Templeton in failing to protect fully the best interests of the Relevant Funds in respect of the frequent trading market timing was contrary to the public interest.

11. Staff reserve the right to make such other allegations as Staff may advise and the Commission may permit.

February 28, 2005.

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

1.3 News Releases

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

FOR IMMEDIATE RELEASE
February 25, 2005

OSC CONCLUDES HEARING IN RESPECT OF FOREIGN CAPITAL CORP., MONTPELLIER GROUP INC. AND PIERRE ALFRED MONTPELLIER

Toronto –The Ontario Securities Commission has completed its hearing in the matter of Foreign Capital Corp., Montpellier Group Inc. and Pierre Alfred Montpellier.

On April 14, 2004, Pierre Montpellier pled guilty 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 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 alleged that Montpellier, the Montpellier Group Inc. and Foreign Capital Corporation had engaged in conduct contrary to the public interest.

In its hearing today, the Commission heard arguments from Staff of the Commission and from Mr. Montpellier who appeared in person. At the conclusion of the hearing, the Commission stated that it would reserve its decision until at least March 31, 2005 to permit Mr. Montpellier to file written submissions. 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: OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

1.3.2 OSC to Consider Settlement Reached Between Staff and Franklin Templeton Investments Corp.

FOR IMMEDIATE RELEASE
February 28, 2005

OSC TO CONSIDER SETTLEMENT REACHED BETWEEN STAFF AND FRANKLIN TEMPLETON INVESTMENTS CORP.

Toronto – On Thursday March 3, 2005, the Ontario Securities Commission will convene a hearing at 10:00 a.m. to consider a settlement reached between Staff of the Commission and Franklin Templeton Investments Corp.

The terms of the settlement agreement are confidential until approved by the Commission. Copies of the Notice of Hearing dated February 28, 2005 and the related Statement of Allegations are made available on the Commission's website (**www.osc.gov.on.ca**) or from the Commission's offices at 20 Queen Street West.

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

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

1.3.3 IOSCO Action Plan to Strengthen Capital Markets Against Financial Fraud

1 MARCH 2005

MEDIA RELEASE

IOSCO ACTION PLAN TO STRENGTHEN CAPITAL MARKETS AGAINST FINANCIAL FRAUD

The Technical Committee of the International Organization of Securities Commissions (IOSCO) today released its Report on Strengthening Capital Markets Against Financial Fraud. The Report is the result of an in-depth study of recent financial scandals involving large, global companies and represents a top-to-bottom review of securities market regulation aimed at identifying possible weaknesses to the international financial system and how these weaknesses can be addressed.

The past few years have seen several well-known companies with significant international operations become mired in financial scandal. In some of these cases, investors have lost hundreds of millions or even billions of dollars. A number of the companies involved have been forced into bankruptcy as a direct or indirect result of the scandals. Collectively, these financial scandals caused many to be concerned about investors' confidence in the integrity of global capital markets.

In the wake of these scandals, IOSCO, as the principal international securities regulatory standards-setting organization, recognized that reassuring investors about the integrity of global capital markets was essential to financial stability and economic prosperity. Consequently, the IOSCO Technical Committee formed a high-level Task Force charged with inquiring into the regulatory issues exposed by these scandals and identifying any broad trends. After considering the Task Force's work, the Technical Committee agreed on an action plan to address these issues. The Report released today outlines the issues and the action plan. The Report also includes a description of priority work designed to rectify the most pressing concerns. A list of specific actions that IOSCO will undertake is included as an appendix to the Report's Executive Summary.

Significantly, the Report also sets out two overarching operational priorities for IOSCO's future: (1) promoting implementation of existing international standards and principles; and (2) improving the abilities of securities regulators to cooperate with each other in enforcing existing securities laws and regulations. The Report notes that, in many cases, there already exist international standards and principles designed to address the weaknesses identified by the Task Force. However, absent thorough implementation and enforcement by all securities regulators, these weaknesses will remain. Consequently, by emphasizing implementation and enforcement cooperation, the Technical Committee believes it can significantly enhance the effectiveness of the international infrastructure supporting securities markets.

The Report notes that the Technical Committee is adopting three policies to help achieve these goals:

1. Emphasizing implementation of all existing IOSCO standards and principles by assessing IOSCO members on their implementation, setting implementation benchmarks, and making implementation a cornerstone of IOSCO's program to provide technical assistance and advice to securities regulators in developing markets;

2. Confirming that the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information is the benchmark for enforcement cooperation among IOSCO members, with the goal of eventually making the ability to sign on to the Multilateral MOU a primary benchmark for continued membership in IOSCO;[1]

3. Prioritizing those historically under-regulated and uncooperative jurisdictions posing the most significant threat to global financial system and engaging these jurisdictions in a dialogue on how they can improve their regulatory oversight and abilities to cooperate with foreign counterparts.

Commenting on the Report, Hong Kong Securities and Futures Commission and IOSCO Technical Committee Chairman Andrew Sheng noted "The Technical Committee's Report on Strengthening Capital Markets Against Financial Fraud is a blueprint for IOSCO's future. By reviewing the regulation of global capital markets as an entire interlocking system, the Technical Committee has been able to identify where the weaknesses in the system are and set its priorities accordingly."

The Task Force charged with inquiring into recent financial scandals was jointly chaired by Commissioner Roel C. Campos of the US Securities and Exchange Commission and Chairman Lamberto Cardia of the Italian Commissione Nazionale per le Societa e la Borsa. Commissioner Campos noted, "Through this Report, the Technical Committee has looked at securities regulation from the ground up. Recent scandals have involved issues ranging from weak corporate governance to auditing failures to the use of complex corporate structures. By looking at the system as a whole, patterns emerge that may not be as

[1] When signing the IOSCO Multilateral MOU, securities regulators agree to assist other signatories in their enforcement investigations and prosecutions by collecting and sharing certain enforcement-related information with each other, such as bank and brokerage account information and witness testimony. A copy of the IOSCO Multilateral MOU can be found on IOSCO's website, along with a list of current signatories.

easily identified when these scandals are viewed in isolation."

Chairman Cardia, however, warned that strengthening capital markets against financial fraud is not something securities regulators can do alone. "Even with the highest quality regulatory standards, fully implemented and enforced, it will not be possible to totally eliminate financial fraud. It takes constant vigilance by all stakeholders — corporate issuers, investors, auditors, analysts, intermediaries, and regulators alike — to minimize market misconduct."

Further details of the IOSCO Action Plan and this project can be found in the report located on the IOSCO website at www.iosco.org.

For further information contact

Philippe Richard, IOSCO Secretary General
34 91 417 5549 or 34 650 378 898

Andrew Larcos, Public Affairs Officer
34 91 417 5549 or 34 679 969 004

1.4 Notices from the Office of the Secretary

1.4.1 Franklin Templeton Investments Corp.

FOR IMMEDIATE RELEASE
February 28, 2005

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

AND

FRANKLIN TEMPLETON INVESTMENTS CORP.

TORONTO – The Commission issued a Notice of Hearing scheduling a settlement hearing on March 3, 2005 at 10:00 a.m. in the above matter.

A copy of the Notice of Hearing and the Statement of Allegations are available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

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

Chapter 2

Decisions, Orders and Rulings

2.1 Decision

2.1.1 Knowlton Capital 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.

February 23, 2005

BCF LLP
1100 René-Lévesque Blvd. W.
25th Floor
Montreal, QC H3B 5C9

ATTN: Lily Germain

Dear Ms. Germain:

Re: Knowlton Capital Inc. (the "Applicant") - Application to Cease to be a Reporting Issuer under the securities legislation of Alberta and Ontario (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 Maker that,

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

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

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

2.1.2 Student Transportation of America Ltd. and Student Transportation of America ULC - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – issuer of subordinated notes exempt subject to certain conditions from continuous disclosure requirements in National Instrument 51-102 Continuous Disclosure Obligations – subordinated notes issued as part of offering of income participating securities consisting of subordinated notes of issuer and common shares of issuer's indirect parent – conditions to relief intended to ensure that continuous disclosure of issuer's direct parent will contain the relevant information to a holder of subordinated notes and will be accessible to such holders.

Rules Cited

National Instrument 51-102 Continuous Disclosure Obligations.

February 23, 2005

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

AND

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

AND

IN THE MATTER OF
STUDENT TRANSPORTATION OF AMERICA LTD. AND STUDENT TRANSPORTATION OF AMERICA ULC

MRRS DECISION DOCUMENT

Background

The local securities regulatory authority or regulator (the Decision Maker), in each of the Jurisdictions has received an application from Student Transportation of America Ltd. (STA Ltd.) and Student Transportation of America ULC (STA ULC, and together with STA Ltd., the Filers) for a decision under the securities legislation of the Jurisdictions (the Legislation) and in Québec for an exemption to be granted by a revision of general order No. 2004 – PDG – 0020 dated March 26, 2004, that STA ULC be exempt from

1. except in the Northwest Territories, the requirements under the Legislation to:

   (a) issue press releases and file reports regarding material changes (the Material Change Reporting Requirements);

   (b) file annual financial statements together with an auditor's report and annual MD&A, as well as interim financial statements together with a notice regarding auditor review or a written review report, if required, and interim MD&A;

   (c) send annually a request form to the registered holders and beneficial owners of STA ULC's securities, other than debt instruments, that the registered holders and beneficial owners may use to request a copy of STA ULC's annual financial statements and annual MD&A, interim financial statements and interim MD&A, or both, and to send a copy of financial statements and MD&A to registered holders and beneficial owners;

   (d) send a form of proxy and information circular with a notice of meeting to registered holders of voting securities and to file the information circular, form of proxy and all other material required to be sent in connection with the meeting to which the information circular or form of proxy relates;

   (e) where applicable, file a business acquisition report including any required financial statement disclosure, if STA ULC completes a significant acquisition (the BAR Requirement);

   (f) file a copy of any disclosure material that it sends to its securityholders;

   (g) file an annual information form; and

   (h) where applicable, file a copy of any contract that it or any of its subsidiaries is a party to, other than a contract entered into in the ordinary course of business, that is material to STA ULC and was entered into within the last financial year, or before the last financial year but is still in effect (the Material Contracts Requirement),

   (collectively, the Continuous Disclosure Requirements); and

2. the requirements under the Legislation except in British Columbia and Québec to:

   (a) file annual certificates (Annual Certificates) in accordance with section 2.1 of Multilateral Instrument 52-109

Certification of Disclosure in Issuer's Annual and Interim Filings (MI 52-109); and

(b) file interim certificates (Interim Certificates) in accordance with section 3.1 of MI 52-109,

(collectively, the Certification Filing Requirements).

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 Issuer:

1. STA Ltd. is a corporation formed under the laws of Ontario, with its head office located at Suite 2400, 250 Yonge Street, Toronto, Ontario, M5B 2M6.

2. STA Ltd. owns all of the Class A common shares of Student Transportation of America Holdings, Inc. (STA Holdco), representing an approximate 93.6% voting interest.

3. STA ULC is an unlimited liability company organized under the laws of Nova Scotia, with its head office located at Suite 2400, 250 Yonge Street, Toronto, Ontario, M5B 2M6.

4. The authorized share capital of STA ULC is 1,000,000,000 common shares. STA Holdco owns all of the common shares of STA ULC, and STA ULC owns all of the preferred shares of STA Holdco.

5. STA Holdco is a Delaware corporation, with its head office located at 3349 Highway 138, Building B, Suite D, Wall, New Jersey. STA Holdco, through its subsidiaries, is the fifth largest provider of school bus transportation services in the United States, having in excess of 105 contracts and a fleet of over 2,900 school buses, vans and other vehicles. Through its subsidiaries, STA Holdco provides school bus transportation services in eleven states: California, Connecticut, Maine, New Hampshire, New Jersey, New York, Oklahoma, Oregon, Pennsylvania, Texas and Vermont.

6. The Filers each filed a preliminary prospectus dated November 9, 2004, an amended and restated preliminary prospectus dated November 16, 2004 and a (final) prospectus dated December 13, 2004 in connection with an initial public offering (the Offering) of income participating securities (IPSs).

7. STA Ltd. issued the common shares (the STA Common Shares) that form part of the IPSs and will satisfy dividends declared on these common shares with the dividends it receives on the Class A common shares that it owns in STA Holdco.

8. STA ULC issued the subordinated notes (the Subordinated Notes) that form part of the IPSs and will satisfy its obligations under the Subordinated Notes with the dividends it receives from STA Holdco.

9. Mutual Reliance Review System decision documents were issued for the Filers' (a) prospectus and the amended and restated preliminary prospectus on November 10, 2004 and November 18, 2004, respectively; and (b) the (final) prospectus on December 13, 2004.

10. STA Ltd. and STA ULC became reporting issuers or the equivalent in each of the Jurisdictions on December 13, 2004 and the initial public offering closed on December 21, 2004.

11. In connection with the Offering, the Filers filed an undertaking (the Undertaking), with the Ontario Securities Commission to provide investors with separate financial statements for any "major subsidiary" (Major Subsidiary) as defined in National Instrument 55-101 Exemption from Certain Insider Reporting Requirements where GAAP prohibits consolidation of financial information of such subsidiary and the Issuer.

12. STA ULC's obligations under the Subordinated Notes represent its primary liability.

13. STA ULC will satisfy its obligations under the Subordinated Notes through the dividends that it will receive on the preferred shares that it owns in the capital of STA Holdco and it is not currently anticipated that STA ULC will have any other meaningful assets or sources of income.

14. STA ULC's obligations under the Subordinated Notes are guaranteed by STA Holdco and each of its subsidiaries.

15. In order to understand and assess the ability of STA ULC (and the guarantors) to satisfy the obligations under the Subordinated Notes, a holder of the Subordinated Notes will need to determine (a) the ability of STA Holdco to satisfy its dividend requirements under the preferred shares held by STA ULC and (b) the STA group's

ability to satisfy the guarantee obligations of the Subordinated Notes.

16. Because STA Ltd. is the ultimate parent of the STA group (including STA ULC) and is required to:

    (a) include in its public disclosure (e.g., annual information form and material change reports) information concerning all of its material subsidiaries (including STA Holdco), and

    (b) consolidate the financial position and results of operations of all of the other members of the group,

    it is the public disclosure, including the consolidated financial statements, relating to STA Ltd. that is relevant from the perspective of a potential investor. Specifically, it is that information (not information relating solely to STA ULC) that permits an investor to determine (a) the ability of STA Holdco to satisfy its dividend requirements under the preferred shares held by STA ULC and (b) the STA group's ability to satisfy its guarantee obligations of the Subordinated Notes.

17. STA Ltd. has no operations other than minimal operations that are independent of STA Holdco, no material assets other than its holding of the Class A common shares of STA Holdco and no material liabilities.

18. STA ULC will send a form of proxy and information circular to holders of the Subordinated Notes resident in Canada in connection with any meeting of holders of Subordinated Notes.

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 the Continuous Disclosure Requirements and the Certification Requirements shall not apply to STA ULC, provided that:

1. STA Holdco owns all voting securities of STA ULC;

2. STA Ltd. continues to consolidate the financial information of its subsidiaries including STA Holdco in STA Ltd's financial information, or if GAAP prohibits the consolidation of the financial information of STA Holdco or other Major Subsidiary and STA Ltd., STA Ltd. complies with its Undertaking to provide holders of Subordinated Notes with separate financial statements for such entity;

3. STA ULC continues to have no operations other than minimal operations that are independent of STA Holdco, no material assets other than its holding of the preferred shares of STA Holdco and no material liabilities other than the Subordinated Notes:

4. STA Ltd. has no operations other than minimal operations that are independent of STA Holdco, no material assets other than its holding of the Class A common shares of STA Holdco and no material liabilities;

5. STA Ltd. remains a reporting issuer in each of the Jurisdictions that provides for such a regime and complies with all of its reporting issuer obligations under the regime;

6. STA ULC's obligations under the Subordinated Notes continue to be guaranteed by every other subsidiary of STA Ltd.;

7. STA Ltd. files copies of all documents that STA Ltd. is required to file pursuant to the Continuous Disclosure Requirements on STA ULC's SEDAR profile at the same time that such documents are required to be filed by STA Ltd. on its own SEDAR profile;

8. STA ULC complies with the Material Change Reporting Requirements in respect of material changes in the affairs of STA ULC that are not also material changes in the affairs of STA Ltd.;

9. STA ULC complies with the Material Contract Requirements in respect of contracts of STA ULC that would be material to STA ULC but would not be material to STA Ltd.;

10. STA ULC complies with the BAR Requirements in respect of business acquisitions that would be significant acquisitions to STA ULC but not to STA Ltd.;

11. STA ULC has not issued any securities to the public other than the Subordinated Notes; and

12. STA Ltd. files copies of its own Annual Certificates and Interim Certificates on STA ULC's SEDAR profile at the same time as those documents are required to be filed by STA Ltd. on its own SEDAR profile.

"Iva Vranic"
Manager, Corporate Finance
Ontario Securities Commission

2.1.3 Explorer II Resource Limited Partnership - MRRS Decision

Headnote

Issuer exempted from interim financial reporting requirements for first and third quarter of each financial year - issuer also exempted from requirements to file annual information forms and management's discussion and analysis - exemption terminates upon i) the occurrence of a material change in the business affairs of the issuer unless the Decision Makers are satisfied that the exemption should continue; and ii) National Instrument 81-106 – Investment Fund Continuous Disclosure coming into force.

Applicable Ontario Statutory Provisions

Securities Act, R.S.O. 1990, c. S.5, as am, ss. 77, 79 and 80(b)(iii).

Applicable Ontario Rules

OSC Rule 51-501- AIF and MD&A, (2000) 23 OSCB 8365, as am., ss. 1.2(2), 2.1(1), 3.1, 4.1(1), 4.3 and 5.1.

February 21, 2005

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

AND

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

AND

IN THE MATTER OF
EXPLORER II RESOURCE LIMITED PARTNERSHIP (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"):

1. that the requirements contained in the Legislation that the Filer file with the Decision Makers and send to its securityholders (the "Limited Partners") its interim financial statements for each of the first and third quarters of each of the Filer's fiscal years (the "First & Third Quarter Interim Financials"), shall not apply to the Filer; and

2. in Ontario only, a decision pursuant to the securities legislation of Ontario that the requirements to file and send to the Limited Partners, its:

   (a) annual information form (the "AIF");

   (b) annual management discussion and analysis of financial condition and results of operations (the "Annual MD&A"); and

   (c) interim management discussion and analysis of financial condition and results of operations (the "Interim MD&A"),

shall not apply to the Filer.

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 a limited partnership formed pursuant to the *Limited Partnerships Act* (Ontario) on January 16, 2004.

2. The principal office of the Filer is located at 1 First Canadian Place, 58th Floor, P.O. Box 192, Toronto, Ontario, M5X 1A6.

3. The Filer was formed to invest in certain common shares or warrants ("Flow-Through Shares") of companies involved primarily in oil and gas or mining exploration and development ("Resource Companies") pursuant to agreements between the Filer and the relevant Resource Company or to otherwise invest in or purchase Flow-Through Shares, including via a trade made through the facilities of a stock exchange or other market ("Resource Agreement").

4. Under the terms of each Resource Agreement, the Filer will subscribe for Flow-Through Shares of the Resource Company or otherwise invest in or purchase a combination of Flow-Through and non-Flow-Through Shares when they are offered at the same time by the same Resource Company and, under the terms of each Resource

Agreement for the purchase of Flow-Through Shares, the Resource Company will incur and renounce to the Filer, in amounts equal to the subscription price of the Flow-Through Shares, expenditures in respect of resource exploration and development which qualify as Canadian exploration expense or as Canadian development expense which may be renounced as Canadian exploration expense to the Filer.

5. On November 25, 2004, the Decision Makers, together with the securities regulatory authority or regulator for Manitoba, Quebec, Prince Edward Island and the Yukon Territory (in which jurisdictions no legislative requirement exists to file first and third quarter interim financial statements), issued a receipt under the Mutual Reliance Review System for Exemptive Relief Application for the prospectus of the Filer dated November 25, 2004 (the "Prospectus") relating to an offering of up to 1,200,000 units of the Filer (the "Partnership Units").

6. The Prospectus contained disclosure that the Filer intends to apply for an order from the Decision Makers exempting it from the requirements to file and distribute financial statements of the Filer in respect of the first and third quarters of each fiscal year of the Filer and from the requirements to prepare an annual information form and interim and annual management discussion and analysis.

7. The Partnership Units will not be listed or quoted for trading on any stock exchange or market.

8. At the time of purchase or transfer of Partnership Units, each purchaser or transferee consents to the application by the Filer for an order from the Decision Makers exempting the Filer from the requirements to file and distribute financial statements of the Filer in respect of the first and third quarters of each fiscal year of the Filer, and from the requirements to prepare an annual information form and interim and annual management discussion analysis.

9. On or about March 30, 2007, the Filer will be liquidated and the Limited Partners will receive their pro rata share of the net assets of the Filer; and it is the current intention of the general partner of the Filer that the Filer enter into an agreement with Middlefield Mutual Funds Limited (the "Mutual Fund"), an open end mutual fund, whereby assets of the Filer would be exchanged for shares of the Resource Class of the Mutual Fund; and upon dissolution, Limited Partners would then receive their pro rata share of the shares of the Resource Class of the Mutual Fund.

10. Since its formation on January 16, 2004, the Filer's activities primarily included (i) collecting the subscriptions from the Limited Partners, (ii) investing the available funds in Flow-Through Shares of Resource Companies, and (iii) incurring expenses to maintain the fund.

11. Unless a material change takes place in the business and affairs of the Filer, the Limited Partners will obtain adequate financial information concerning the Filer from the semi-annual financial statements and the annual report containing audited financial statements of the Filer together with the auditors' report thereon distributed to the Limited Partners and that the Prospectus and the semi-annual financial statements provide sufficient background materials and the explanations necessary for a Limited Partner to understand the Filer's business, its financial position and its future plans, including dissolution on March 30, 2007.

12. Given the limited range of business activities to be conducted by the Filer and the nature of the investment of the Limited Partners in the Filer, the provision by the Filer of the First and Third Quarter Interim Financials, the AIF, the Annual MD&A and the Interim MD&A will not be of significant benefit to the Limited Partners and may impose a material financial burden on the Filer.

13. It is disclosed in the Prospectus that the General Partner will apply on behalf of the Filer for relief from the requirements to send to Limited Partners the First and Third Quarter Interim Financials and from the requirements to prepare the AIF, the Annual MD&A and the Interim MD&A.

14. Each of the Limited Partners has, by subscribing for the units offered by the Filer in accordance with the Prospectus, agreed to the irrevocable power of attorney contained in Article XIX of the Amended and Restated Limited Partnership Agreement scheduled to the Prospectus and has thereby consented to the making of this application for the exemption requested herein.

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 requirements contained in the Legislation to file and send to the Limited Partners its First & Third Quarter Interim Financials shall not apply to the Partnership provided that this exemption shall terminate upon:

(i) the occurrence of a material change in the affairs of the Filer unless the Filer satisfies the Decision Makers that the exemptions should continue, which satisfaction shall be evidenced in writing; or

(ii) National Instrument 81-106 – Investment Fund Continuous Disclosure coming into force.

"Paul Moore"
Vice-Chair
Ontario Securities Commission

"David L. Knight"
Commissioner
Ontario Securities Commission

The further decision of the securities regulatory authority or securities regulator in Ontario is that the requirements contained in the legislation of Ontario to file and send to its Limited Partners its AIF, Annual MD&A and Interim MD&A shall not apply to the Filer provided that this exemption shall terminate upon:

(i) the occurrence of a material change in the affairs of the Filer unless the Filer satisfies the Decision Makers that the exemptions should continue, which satisfaction shall be evidenced in writing; or

(ii) National Instrument 81-106 – Investment Fund Continuous Disclosure coming into force.

"Leslie Byberg"
Manager, Investment Funds Branch

2.1.4 Elliott & Page Limited - MRRS Decision

Headnote

MRRS Exemptive Relief Application – Variation order varying prior order of various mutual funds to permit exemption, until proposed National Instrument 81-106 is in force, from the requirement to deliver comparative annual financial statements of those mutual funds to securityholders unless requested by the securityholders.

Statutes Cited

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

February 22, 2005

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

AND

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

AND

IN THE MATTER OF
ELLIOTT & PAGE LIMITED ("EPL")

AND

IN THE MATTER OF

ELLIOTT & PAGE MONEY FUND
ELLIOTT & PAGE ACTIVE BOND FUND
ELLIOTT & PAGE CANADIAN UNIVERSE BOND FUND
ELLIOTT & PAGE CORPORATE BOND FUND
ELLIOTT & PAGE DIVIDEND FUND
ELLIOTT & PAGE MONTHLY HIGH INCOME FUND
ELLIOTT & PAGE GROWTH & INCOME FUND
ELLIOTT & PAGE VALUE EQUITY FUND
ELLIOTT & PAGE CANADIAN EQUITY FUND
ELLIOTT & PAGE GENERATION WAVE FUND
ELLIOTT & PAGE SECTOR ROTATION FUND
ELLIOTT & PAGE GROWTH OPPORTUNITIES FUND
ELLIOTT & PAGE SMALL-CAP VALUE FUND
ELLIOTT & PAGE AMERICAN GROWTH FUND
ELLIOTT & PAGE U.S. MID-CAP FUND
ELLIOTT & PAGE GLOBAL MULTISTYLE FUND
ELLIOTT & PAGE ASIAN GROWTH FUND
E&P RSP AMERICAN GROWTH FUND
E&P RSP U.S. MID-CAP FUND AND
E&P RSP MIX SEAMARK TOTAL GLOBAL EQUITY FUND
E&P MANULIFE BALANCED ASSET ALLOCATION PORTFOLIO
E&P MANULIFE MAXIMUM GROWTH ASSET ALLOCATION PORTFOLIO
E&P MANULIFE TAX-MANAGED GROWTH PORTFOLIO
ELLIOTT & PAGE CORE CANADIAN EQUITY FUND; AND
ELLIOTT & PAGE DIVERSIFIED FUND;
(INDIVIDUALLY, A "FUND", AND COLLECTIVELY, THE "FUNDS");

MIX AIM AMERICAN MID-CAP GROWTH CLASS
MIX AIM CANADIAN FIRST CLASS
MIX ELLIOTT & PAGE GROWTH OPPORTUNITIES CLASS
MIX ELLIOTT & PAGE U.S. MID-CAP CLASS
MIX F.I. CANADIAN DISCIPLINED EQUITY CLASS
MIX F.I. GROWTH AMERICA CLASS
MIX F.I. INTERNATIONAL PORTFOLIO CLASS
MIX SEAMARK TOTAL CANADIAN EQUITY CLASS
MIX SEAMARK TOTAL GLOBAL EQUITY CLASS
MIX SEAMARK TOTAL U.S. EQUITY CLASS
MIX TRIMARK GLOBAL CLASS
MIX TRIMARK SELECT CANADIAN CLASS
MIX SHORT TERM YIELD CLASS
MIX STRUCTURED BOND CLASS
MIX CANADIAN EQUITY VALUE CLASS
MIX CANADIAN LARGE CAP CORE CLASS
MIX CANADIAN LARGE CAP GROWTH CLASS
MIX CANADIAN LARGE CAP VALUE CLASS
MIX GLOBAL EQUITY CLASS
MIX GLOBAL SECTOR CLASS
MIX GLOBAL VALUE CLASS
MIX INTERNATIONAL GROWTH CLASS
MIX INTERNATIONAL VALUE CLASS
MIX JAPANESE CLASS
MIX CHINA OPPORTUNITIES CLASS
MIX U.S. LARGE CAP CORE CLASS
MIX U.S. LARGE CAP GROWTH CLASS
MIX U.S. LARGE CAP VALUE CLASS, AND
MIX U.S. MID-CAP VALUE CLASS
(INDIVIDUALLY, A "MIX FUND", AND COLLECTIVELY, THE "MIX FUNDS")

MRRS DECISION DOCUMENT

Background

The local securities regulatory authority or regulator (the "**Decision Maker**") in each of the Jurisdictions has received an application from EPL for a decision pursuant to the securities legislation of the Jurisdictions (the "**Legislation**") for a variation of the decision issued to the Funds and the MIX Funds on February 2, 2004 (the "**Prior Decision**"), to continue the relief from the requirement to deliver comparative annual financial statements of the Funds and the MIX Funds to certain Securityholders of the Funds and the MIX Funds unless they have requested to receive them, until such time as proposed National Instrument 81-106 - Investment Fund Continuous Disclosure ("**NI 81-106**") comes into force;

Under the Mutual Reliance Review System ("**MRRS**") 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 EPL:

1. Each Fund is an open-ended mutual fund trust established under the laws of Ontario. Each MIX Fund is a class of shares of Manulife Investment Exchange Funds Corp., an open-ended mutual fund corporation incorporated under the laws of Ontario.

2. EPL is a corporation incorporated under the laws of Ontario with its registered office located in Toronto, Ontario and is the manager, trustee, primary portfolio adviser, principal distributor, promoter and the registrar and transfer agent of the

Funds. EPL is also the manager, primary portfolio adviser, principal distributor, promoter and the registrar and transfer agent of the MIX Funds.

3. The Funds and the MIX Funds are reporting issuers in each of the Jurisdictions and are not in default of any requirements of the Legislation.

4. As many as five classes of units of each Fund and as many as three series of shares of each MIX Fund are offered for sale continuously to the public in each of the provinces and territories of Canada pursuant to a combined simplified prospectus and annual information form dated August 24, 2004, as amended.

5. Each of the Funds and the MIX Funds is required to deliver annually, within 140 days of its financial year-end, to each holder of its securities ("**Securityholders**"), comparative financial statements in the prescribed form pursuant to the Legislation. The financial year-ends of the Funds and the MIX Funds are December 31 and April 30, respectively.

6. EPL proposes to send to Securityholders who hold securities of the Funds and the MIX Funds in client name (whether or not EPL is the dealer) (the "**Direct Securityholders**"), either together with their semi-annual account statement or otherwise, a notice advising them that they will not receive annual financial statements unless they complete and return a request for such documents (the "**Request**"). The Request will form part of the notice and may be returned by pre-paid mail. The notice will advise the Direct Securityholders that the annual financial statements of the Funds and the MIX Funds may be found on the websites referred to in paragraph 8 and downloaded. EPL would send the annual financial statements to any Direct Securityholder who requests them in response to such notice or who subsequently requests them.

7. Securityholders who hold their securities in the Funds and the MIX Funds through a nominee will be dealt with pursuant to National Instrument 54-101 – Communication with Beneficial Owners of Securities of a Reporting Issuer.

8. Securityholders will be able to access the annual financial statements of the Funds and the MIX Funds either on the SEDAR website or at www.manulife.ca/investments or by calling EPL's toll-free phone line. Top ten holdings which are updated on a monthly basis will also be accessible to Securityholders at www.manulife.ca/investments or by calling EPL's toll-free phone line.

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

10. In September, 2002, the Canadian Securities Administrators (the "**CSA**") published for comment proposed NI 81-106 which, among other things, would permit a mutual fund to not deliver annual financial statements to those of its Securityholders who do not request them, if the mutual fund provides each Securityholder with a request form under which the Securityholder may request, at no cost to the Securityholder, to receive the mutual fund's annual financial statements for that financial year.

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

12. The Prior Decision granted to the Funds and the MIX Funds exemptive relief from the requirement to deliver comparative annual financial statements of such funds to the Direct Securityholders unless the Direct Securityholders requested to receive them. The relief was granted for only one annual reporting period based upon the Decision Makers' assumption that NI 81-106 would be in force by the end of 2004.

13. CSA Staff Notice 81-313 states that it is anticipated that the requirements of NI 81-106 for annual financial statements will apply for financial years ending on or after June 30, 2005.

14. As a result of NI 81-106 not yet being in force, the Funds and the MIX Funds that were granted relief under the Prior Decision will require the relief to be extended until such time as NI 81-106 comes into force in order to permit during the interim period the Funds and the MIX Funds affected by the Prior Decision to not have to deliver their comparative annual financial statements to the Direct Securityholders unless the Direct Securityholders requested to receive them.

15. Extending the relief granted to the Funds and the MIX Funds in the Prior Decision would not be prejudicial to the public interest since it would be consistent with the proposed requirements under NI 81-106 and, moreover, consistent with relief that has been granted to numerous other mutual fund families.

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. The Prior Decision is hereby varied such that the Funds, the MIX Funds and mutual funds created subsequent to the date hereof that are offered by way of simplified prospectus and managed by EPL or a division thereof shall not be required to deliver their comparative annual financial statements to the Direct Securityholders other than those Direct Securityholders who have requested to receive the financial statements until such time as NI 81-106 comes into force provided that the same terms and conditions as in the Prior Decision shall continue to apply.

2. This Decision shall terminate upon NI 81-106 coming into force.

“Paul Moore”
Vice-Chair
Ontario Securities Commission

“Wendell S. Wigle”
Commissioner
Ontario Securities Commission

2.1.5 GMP Private Client Ltd. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – Registered dealer exempted from the requirements of section 36 of the Act, subject to certain conditions, to send trade confirmations for trades that the dealer executes on behalf of client where: client's account is fully managed by the dealer; account fees paid by the client are based on the amount of assets, and not the trading activity in the account; trades in the account are only made on the client's adviser's instructions; the client agreed in writing that confirmation statements will not be delivered to them; confirmations are provided to the client's adviser; and, the client is sent monthly statements that include the confirmation information.

Applicable Ontario Statutory Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 36 and 147.

February 22, 2005

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

AND

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

AND

IN THE MATTER OF
GMP PRIVATE CLIENT LTD. (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 requirement in the Legislation:

(a) except in Ontario, to be registered as an adviser for certain investment advisers (Sub-Advisers) who provide investment counselling and portfolio management services to the Filer for the benefit of its clients (Clients) who are resident in Jurisdictions where the Sub-Advisers are not registered (Registration Relief); and

(b) except in Prince Edward Island, that a registered dealer send to its clients a written confirmation of any trade in securities for transactions that the Filer conducts on behalf of its Clients with respect to transactions under the Filer's managed account program (Confirmation Relief).

Under the System

(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. the Filer is a corporation incorporated under the laws of Ontario with its head office located in Toronto, Ontario;

2. the Filer is registered under the Legislation as an investment dealer or its equivalent and is a member of the Investment Dealers Association of Canada;

3. the Filer is authorized to act as an adviser, without registering as an adviser, under exemptions in the Legislation;

4. the Filer plans to offer its Clients a managed account program (Managed Account Program) comprised of two different types of managed accounts as part of its Managed Account Program:

   (a) accounts that will be fully managed by a portfolio manager of the Filer (the PM Program); and

   (b) accounts that will be invested by a portfolio manager of the Filer in a model portfolio(s) of a Sub-Adviser, which has entered into a sub-advisory agreement with the Filer (the Model Portfolio Program);

5. to participate in the Filer's Managed Account Program, the Client will:

   (a) enter into a written agreement (the Managed Account Agreement) with the Filer establishing an account and setting out the terms and conditions and the respective rights, duties and obligations of the Client and the Filer; and

(b) with the assistance of the Filer, complete an investment policy statement that outlines the Client's investment objectives and level of risk tolerance;

6. under the Managed Account Agreement:

(a) the Client will grant full discretionary trading authority to the Filer and the Filer will be authorized to make investment decisions and to trade in securities on behalf of that Client's account without obtaining the specific consent of the Client to individual trades;

(b) the Client will agree to pay a flat annual fee and an annual fee calculated on the basis of the assets in the Client's account, which will be payable monthly or quarterly in arrears, and will not based on transactions effected in the Client's account; and

(c) unless otherwise requested, the Client will waive receipt of trade confirmations as required under the Legislation;

7. for a Client that participates in the Filer's Model Portfolio Program, the Filer will, based on the Client's investment policy statement, choose which model portfolios that Client's account (a Model Portfolio Account) will track;

8. each model portfolio will have its own investment focus and will be comprised of a portfolio of securities compiled and maintained by a Sub-Adviser;

9. based on the portfolio manager's assessment of which model portfolio(s) is appropriate for a Client, the portfolio manager will invest the Client's Model Portfolio Account in accordance with the securities and weightings used in that model portfolio(s);

10. a portfolio manager at the Filer will be responsible for reviewing and approving each trade for a Client's Model Portfolio Account to ensure that each trade meets the investment mandate of that Client;

11. Sub-Advisers will be selected by the Filer based on a variety of criteria developed by the Filer for determining their suitability for specific investment mandates;

12. in retaining the Sub-Advisers, the Filer will comply with the requirements of section 7.3 of Ontario Securities Commission Rule 35-502 *Non-Resident Advisers* and, accordingly:

(a) the obligations and duties of each Sub-Adviser will be set out in a written agreement between the Sub-Adviser and the Filer;

(b) the Filer will contractually agree with each Client on whose behalf investment counselling or portfolio management services are to be provided by a Sub-Adviser to be responsible for any loss that arises out of the failure of the Sub-Adviser:

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

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

(c) the Filer will not be relieved by its Clients from its responsibility for loss under paragraph 12(b) above;

13. Sub-Advisers may or may not be resident in Canada; each Sub-Adviser that is resident in a province or territory of Canada will be registered as an adviser under the securities legislation of that province or territory; each Sub-Adviser that is not resident in Canada will be licensed or otherwise legally permitted to provide investment advice and portfolio management services under the applicable laws of the jurisdiction in which it resides;

14. if there is any direct contact between a Client and a Sub-Adviser, a representative of the Filer, duly registered to provide portfolio management and investment counselling services in the Jurisdiction where the Client is resident, will be present at all times, either in person or by telephone;

15. a Sub-Adviser that provides investment counselling or portfolio management services to the Filer for the benefit of its Clients would be considered to be acting as an "adviser" under the Legislation and, in the absence of the Registration Relief or an existing exemption, would be subject to the adviser registration requirement;

16. Sub-Advisers who are not registered in Ontario will not be required to register as advisers under the *Securities Act* (Ontario) as they can rely on the exemption from registration in section 7.3 of Ontario Rule 35-502 *Non-Resident Advisers*;

17. the Filer will send each Client participating in its Managed Account Program, who has waived receipt of trade confirmations, a statement of account, not less than once a month;

18. the monthly statement of account will identify the assets being managed on behalf of that Client, including for each trade made during that month the information that the Filer would otherwise have been required to provide to that Client in a trade confirmation in accordance with the Legislation, except for the following information (the Omitted Information):

    (a) the day and the stock exchange or commodity futures exchange upon which the trade took place;

    (b) the fee or other charge, if any, levied by any securities regulatory authority in connection with the trade;

    (c) the name of the salesman, if any, in the transaction;

    (d) the name of the dealer, if any, used by the Filer as its agent to effect the trade; and

    (e) if acting as agent in a trade upon a stock exchange the name of the person or company from or to or through whom the security was bought or sold;

19. the Filer will maintain the Omitted Information with respect to a Client in its books and records and will make the Omitted Information available to the Client on request.

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 Ontario, the Registration Relief is granted provided that

    (i) the obligations and duties of each Sub-Adviser are set out in a written agreement between the Sub-Adviser and the Filer;

    (ii) the Filer contractually agrees with each Client on whose behalf investment counselling or portfolio management services are to be provided by a Sub-Adviser to be responsible for any loss that arises out of the failure of the Sub-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 and the Client(s) for whose benefit the investment counselling 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;

    (iii) the Filer is not relieved by its Clients from its responsibility for loss under paragraph (ii) above;

    (iv) each Sub-Adviser that is resident in a province or territory of Canada will be registered as an adviser under the securities legislation of that province or territory;

    (v) each Sub-Adviser that is not resident in Canada will be licensed or otherwise legally permitted to provide investment advice and portfolio management services under the applicable laws of the jurisdiction in which it resides;

    (vi) a Sub-Adviser will not have any direct and personal contact with a Client residing in New Brunswick or Alberta if the Sub-Adviser is not registered under the securities legislation of that province;

    (vii) in Manitoba, the Registration Relief is available only to Sub-Advisers who are not registered in any Canadian jurisdiction; and

(b) except in Prince Edward Island, the Confirmation Relief is granted, provided that

    (i) the Client has previously informed the Filer that the Client

does not wish to receive trade confirmations for the Client's accounts under the Managed Account Program; and

(ii) in the case of each trade for an account under the Managed Account Program, the Filer sends to the Client the corresponding statement of account that includes the information for the trade referred to in paragraph 18.

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

2.1.6 LOR Capital Inc. and Time Industrial, Inc. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – Exemption granted from the take-over bid requirements in connection with an arm's length acquisition of shares of a non-reporting issuer. Target's shareholders have all entered into one of two shareholders agreements which allow a certain percentage of shareholders to decide to tender to an offer and drag the other shareholders along with them. Shareholders being dragged along have no investment decision to make.

Applicable Ontario Statute

Securities Act, R.S.O. 1990, c. s.5, as am., ss. 95-100 and 104(2)(c).

February 17, 2005

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ALBERTA, BRITISH COLUMBIA AND ONTARIO
(THE JURISDICTIONS)

AND

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

AND

IN THE MATTER OF
LOR CAPITAL INC. (THE FILER) AND TIME INDUSTRIAL, INC. (THE TARGET)

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 requirements contained in the Legislation relating to take-over bids (the Take-over Bid Requirements) shall not apply to the acquisition by the Filer of all of the issued and outstanding shares of the Target (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.

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 under the *Canada Business Corporations Act* on November 18, 2003.

4.2 The head office of the Filer is located in Montreal, Quebec.

4.3 The Filer is authorized to issue an unlimited number of common shares (the Common Shares) of which there are 10,500,000 Common Shares issued and outstanding.

4.4 The Common Shares have been listed on the TSX Venture Exchange since March 10, 2004.

4.5 The Filer is a reporting issuer in each of the Jurisdictions and Quebec.

4.6 The Target was incorporated on July 5, 2000 under the *Business Corporations Act* (Alberta) as Exceedia Inc. (Exceedia) and was continued under the laws of the state of Delaware on November 30, 2000. Exceedia changed its name to Time Industrial, Inc. on October 16, 2001.

4.7 The head office of the Target is located in Edmonton, Alberta.

4.8 The Target is not and has never been a reporting issuer in any jurisdiction, nor are any of its securities listed or posted for trading on any exchange or marketplace.

4.9 The Target is authorized to issue 70,000,000 Class A voting common shares (the Class A Shares), 20,000,000 Class B non-voting common shares (the Class B Shares), 5,000,000 Series I Class C preferred shares, 5,200,000 Class D non-cumulative convertible voting preferred shares (the Class D Shares) and 38,000,000 Class E non-cumulative convertible voting preferred shares (the Class E Shares) of which there are 10,834,669 Class A Shares, 4,466,566 Class B Shares, 4,446,535 Class D Shares and 21,963,110 Class E Shares issued and outstanding. Each of the Class B Shares, the Class D Shares and the Class E Shares are convertible into Class A Shares.

4.10 The Target has 95 shareholders of record (the Target Shareholders), all of whom are residents of Alberta, British Columbia, Ontario or the United States.

4.11 89 Target Shareholders hold Class B Shares (the Class B Shareholders) and 6 Target Shareholders (the Other Shareholders) hold Class A Shares, Class D Shares and/or Class E Shares.

4.12 80 of the Class B Shareholders (holding a total of 4,304,566 Class B Shares) are resident in Alberta, two of the Class B Shareholders (holding a total of 30,000 Class B Shares) are resident in British Columbia, two of the Class B Shareholders (holding a total of 42,000 Class B Shares) are resident in Ontario and five of the Class B Shareholders (holding a total of 90,000 Class B Shares) are resident in the United States.

4.13 Five of the Other Shareholders are resident in Ontario (holding a total of 1,421,874 Class A Shares, 4,446,535 Class D Shares and 21,963,110 Class E Shares) and one of the Other Shareholders is resident in the United States (holding a total of 9,412,795 Class A Shares).

4.14 Each of the Class B Shareholders has entered into a shareholders' agreement dated October 11, 2001 (the Class B Agreement) which provides, amongst other things, that if a holder of Class A Shares, Class C Shares or Class D Shares, owning at least 55% of such shares (on an as if converted to Class A basis) proposes to sell to an arm's length purchaser, the Class B Shareholders are required to sell their Class B Shares on identical terms and conditions.

4.15 Each of the Other Shareholders has entered into a shareholders' agreement dated October 4, 2004, as amended and restated (the Other Shareholders' Agreement), which provides, among other things, for a carry-along right which provides that shareholders representing 75% of the shares of the Target (on an as if converted to Class A Share basis) shall have the right to compel the remaining Other Shareholders to sell their shares to a third party who has made a bona fide offer to purchase such

shares, provided that the Other Shareholders carried along obtain the same terms and conditions as the carrying along parties.

4.16 The Filer, the Target and four of the six Other Shareholders which collectively hold 91.3% of the shares of the Target (on an as if converted to Class A Share basis) entered into a letter of agreement dated December 23, 2004 pursuant to which the Filer has agreed to acquire all of the issued and outstanding shares of the Target for an aggregate purchase price of approximately $18.7 million, payable by the issuance of up to 81,668,055 Common Shares at a deemed price of $0.23 per share (the Acquisition).

4.17 The board of directors of the Target has determined that the Acquisition is fair, from a financial point of view, to the Target Shareholders and is in the best interests of the Target and the Target Shareholders.

4.18 There are no exemptions from the Take-over Bid Requirements available to allow the Acquisition to occur.

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 Acquisition is completed in compliance with the Class B Agreement and the Other Shareholders' Agreement.

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

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

2.1.7 The Investment Dealers Association of Canada - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – application by the Investment Dealers Association of Canada on behalf of its intermediary members – decision that the requirement under amendments to National Instrument 54-101 to use amended Form 54-101F1 to obtain client instructions shall not apply to intermediaries in respect of (a) clients for whom an account is opened between the date of the decision and December 31, 2005, (b) clients who have provided instructions since the coming into force of NI 54-101, and (c) clients who wish to change their instructions between the date of the decision and December 31, 2005, provided the intermediaries obtain instructions using the unamended form.

National Instruments

National Instrument 54-101 Communication with Beneficial Owners of Securities of a Reporting Issuer.

February 23, 2005

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

AND

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

AND

IN THE MATTER OF
THE INVESTMENT DEALERS ASSOCIATION OF CANADA

MRRS DECISION DOCUMENT

The local securities regulatory authority or regulator (the **Decision Makers**) in each of the Jurisdictions has received an application from the Investment Dealers Association of Canada (the **IDA**) on behalf of its intermediary members (collectively, the **Members** and individually, a **Member**) for a decision under Section 9.2 of National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer* (the **Instrument**) in connection with amendments (the **Amendments**) to the Instrument which came into force on February 9, 2005 (the **Effective Date**) to enable them:

(i) to continue to rely on their clients' instructions received pursuant to Section 3.2 in the unamended Form 54-101F1 (the **Unamended Form**) after July 1, 2002 (the date the Instrument came into effect) but prior to the Effective Date without being required to obtain new instructions from such clients;

(ii) to continue to use and rely on the Unamended Form under the Instrument when obtaining new instructions from clients after the Effective Date until January 1, 2006, without being required to obtain new instructions from such clients thereafter, so as to be able to efficiently and economically implement the operational, systems and business changes required to comply with the requirement in Section 3.2 of the Instrument, with respect to the form amendments; and

(iii) in connection with the foregoing to deem any client instructions obtained using the Unamended Form to represent choices under the amended Form 54-101F1 (the **Amended Form**).

Under the Mutual Reliance Review System for Exemptive Relief Applications the Ontario Securities Commission is the principal regulator for this application and this MRRS decision document evidences the decision of each Decision Maker.

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

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

1. The Decision Makers have published amendments to the Instrument (the Amendments) that came into force on the Effective Date.

2. Under section 3.2 of the Instrument, an intermediary that opens an account for a client shall send to the client an explanation to clients and a client response form (the Unamended Form) and, before the intermediary holds securities on behalf of that client, obtain instructions from the client on the matters to which the Unamended Form pertains.

3. The Amendments include amendments to the Unamended Form (the Amended Form), with the result that, as of the Effective Date, the Members will be required to use the Amended Form to comply with section 3.2 (the **Amended Form Requirement**).

4. The Amendments provide a transition for clients who provided instructions under National Policy 41 *Shareholder Communication*. The Amendments do not provide a transition for clients who provided instructions since the coming into force of the Instrument.

5. The Unamended Form provides two choices to the client in respect of the delivery of securityholder materials:

   (i) receive all of the securityholder materials sent to beneficial owners of securities; or

   (ii) decline to receive, subject to specific requests, all (a) proxy-related materials[1] sent in connection with a securityholder meeting at which only "routine business"[2] is to be conducted, (b) financial statements and annual reports that are not part of proxy-related materials; and (c) materials sent to securityholders that are not required by corporate or securities law to be sent.

   The result of these choices is that the intermediary must always deliver non-routine business materials to the client.

6. The Amended Form provides that clients may choose to:

   (i) receive all securityholder materials sent to beneficial owners of securities;

   (ii) decline to receive all securityholder materials sent to beneficial owners of securities; or

   (iii) receive only proxy-related materials that are sent in connection with a special meeting, as defined in the Amendments.

7. The Amendments will require the Members to replace the Unamended Form with the Amended Form. The Members will have to make significant operational and systems changes to replace the Unamended Form and educate staff on the Amended Form. The Members currently have stocks of the Unamended Form that would have to be destroyed or supplemented if they must use the Amended Form.

8. The Members will be in a position to use the Amended Form by January 1, 2006.

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[1] This would include financial statements and annual reports that are proxy-related materials.

[2] "Routine business" means: (i) consideration of the minutes of an earlier meeting; (ii) consideration of financial statements of the reporting issuer or an auditors' report on the financial statements of the reporting issuer; (iii) election of directors of the reporting issuer; (iv) the setting or changing of the number of directors to be elected within a range permitted by corporate law if no change to the constating documents of the reporting issuer is required in connection with that action; or (v) reappointment of an incumbent auditor of the reporting issuer.

9. Clients who have provided instructions since the coming into force of the Instrument will not be prejudiced by the use of the Unamended Form, as section 3.4 of the Instrument provides that clients may at any time change their instructions.

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

The decision of the Decision Makers under the Instrument is that:

1. the Amended Form Requirement shall not apply to the Members in respect of:

   (a) clients for whom a Member opens an account between the date of this Decision and December 31, 2005;

   (b) clients who have provided instructions since the coming into force of the Instrument; and

   (c) clients who wish to change their instructions between the date of this Decision and December 31, 2005;

   provided the Member obtains instructions using the Unamended Form.

2. The Members shall, where a client's instructions are given in the Unamended Form, deem the instructions given by the client:

   (i) to deliver all materials sent to beneficial owners of securities, to continue to be instructions to deliver all materials sent to beneficial owners of securities in the Amended Form; and

   (ii) to decline to receive (x) proxy-related materials sent in connection with a securityholder meeting at which only "routine business" is to be conducted; (y) financial statements and annual reports that are not part of proxy-related materials; and (z) materials sent to securityholders that are not required by corporate or securities law to be sent, to be an instruction to deliver only proxy-related materials that are sent in connection with a special meeting in the Amended Form.

"Iva Vranic"
Manager, Corporate Finance
Ontario Securities Commission

2.1.8 Peyto Energy Trust - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Application - relief from the requirement to be registered to trade in a security and to file and obtain a receipt for a preliminary prospectus and a prospectus with respect to certain securities issued pursuant to a distribution reinvestment and optional trust unit purchase plan – first trade relief provided for additional units of trust, subject to conditions.

Statutes Cited

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

Multilateral Instruments Cited

Multilateral Instrument 45-102 Resale of Securities 24 OSCB 7029.

March 1, 2005

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA, MANITOBA, ONTARIO, QUÉBEC, NOVA SCOTIA, NEWFOUNDLAND AND LABRADOR, PRINCE EDWARD ISLAND, 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
PEYTO ENERGY TRUST (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 under the securities legislation of the Jurisdictions (the Legislation) for an exemption (the Requested Relief) from 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 prospectus (the Prospectus and Registration Requirements) with respect to certain trades in trust units of the Filer (Units) issued pursuant to a distribution reinvestment plan (the Plan).

2. 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

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:

(a) the Filer is an open-ended investment trust formed under the laws of the Province of Alberta pursuant to a trust indenture dated May 22, 2003;

(b) the Filer is a reporting issuer in the Provinces of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador. To its knowledge, the Filer is not in default of any requirements under the Legislation;

(c) the trustee of the Filer is Valiant Trust Company. The entire beneficial interest in the Filer is held by the holders of Units issued by the Filer;

(d) Peyto Exploration & Development Corp. (the Corporation), an indirect wholly-owned subsidiary of the Filer, manages and administers the Filer;

(e) the Units are listed and posted for trading on the Toronto Stock Exchange (the TSX);

(f) the head office and principal place of business of each of the Filer and the Corporation is located at Suite 2900, 450 – 1st Street S.W., Calgary, Alberta, T2P 5H1;

(g) the Filer currently makes and expects to continue to make monthly distributions of distributable income (Cash Distributions), if any, to the holders of Units (Unitholders). The distributable income of the Filer for any month is a function of the amounts received by the Filer pursuant to certain royalties, other income and certain expenses;

(h) the Filer is not 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 Filer, as contemplated by the definition of "mutual fund" in the Legislation;

Distribution Reinvestment Plan

(i) the Filer has authorized the establishment of the Plan pursuant to which eligible Unitholders may, at their option, purchase additional Units (Additional Units) of the Filer by directing that Cash Distributions be applied to the purchase of Additional Units (the Distribution Reinvestment Option);

(j) Except as described below, a registered holder of Units is eligible to join the Plan at any time by completing an enrolment and authorization form and sending it to Valiant Trust Company (the Plan Agent);

(k) A registered holder shall become a participant (a Participant) in the Plan in regard to the investment of distributions as of the first distribution record date following receipt by the Plan Agent of a duly completed enrolment and authorization form no later than five (5) business days prior to the distribution record date. Beneficial owners of Units which are registered through a nominee in the name of CDS & Co., or its nominee, must deliver such authorization form to CDS & Co. no later than five (5) business days prior to such distribution record date and also prior to such other deadline as may be set by CDS & Co. from time to time;

(l) except as provided below, all Additional Units purchased under the Plan will be purchased by the Plan Agent directly from the Filer on the relevant distribution payment date at a price determined by reference to the Average Market Price (defined in the Plan as the arithmetic average of the daily volume weighted average trading prices of the Units on the TSX for the trading days from and including the second business day prior to the last distribution payment date to and including the third business day prior to the current distribution payment date on which at least a board lot of Units was traded such period not to exceed 20 trading days). Additional Units purchased under the Distribution Reinvestment Option will be purchased

at a 5% discount to the Average Market Price;

(m) at the discretion of the Corporation, Units purchased under the Distribution Reinvestment Option will either be acquired from treasury at 95% of Average Market Price or will be purchased at prevailing market prices through the facilities of the TSX following the distribution record date. Additional Units which are purchased through the facilities of the TSX will be acquired during the 20 business day period following the relevant distribution record date but will only be acquired at prices that are equal to or less than 115% of the volume weighted trading price of the Units on the TSX for the 10 trading days immediately preceding the date that Units are purchased;

(n) under the Distribution Reinvestment Option, Cash Distributions will be paid to the Plan Agent and applied by the Plan Agent to the purchase of Additional Units, which will be held under the Plan for the account of eligible Unitholders who have chosen to participate in the Plan;

(o) no brokerage fees or service charges will be payable by Participants in connection with the purchase of Additional Units under the Plan;

(p) Additional Units purchased and held under the Plan will be registered in the name of the Plan Agent or its nominee as agent for the Participants, and all cash distributions on Units so held for the account of a Participant will be automatically reinvested in Additional Units in accordance with the terms of the Plan and the election of the Participant;

(q) the Plan permits full investment of reinvested Cash Distributions because fractions of Units, as well as whole Units, may be credited to Participants' accounts with the Plan Agent;

(r) the Filer reserves the right to determine for any distribution payment date how many Additional Units will be available for purchase under the Plan;

(s) if, in respect of any distribution payment date, fulfilling all of the elections under the Plan would result in the Filer exceeding the limit on Additional Units set by the Filer, then elections for the purchase of Additional Units on such distribution payment date will be pro rated among all Participants in that category according to the number of Additional Units sought to be purchased;

(t) if the Filer determines that no Additional Units will be available for purchase under the Plan for a particular distribution payment date, then all Participants will receive the Cash Distribution announced by the Filer for that distribution payment date;

(u) a Participant may terminate its participation in the Plan at any time by submitting a termination form to the Plan Agent. A termination form received between a distribution record date and a distribution payment date will become effective after that distribution payment date;

(v) the Filer reserves the right to amend, suspend or terminate the Plan at any time, provided that such action shall not have a retroactive effect which would prejudice the interests of the Participants. All Participants will be sent written notice of any such amendment, suspension or termination; the Plan will not be available to Unitholders who are "non-residents" within the meaning of the *Income Tax Act* (Canada) and the regulations thereunder; and

(w) Legislation in certain of the Jurisdictions provides exemptions from the Registration and Prospectus Requirements for trades undertaken pursuant to distribution reinvestment plans. Such exemptions are not available for trades under the Plan for technical reasons in certain of the Jurisdictions.

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:

(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 or distribution;

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

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

(ii) instructions on how to exercise the Withdrawal Right;

(d) except in Québec, the first trade in Units acquired pursuant to this decision will be a distribution or primary distribution to the public unless the conditions in subsection 2.6(3) of Multilateral Instrument 45 - 102 - *Resale of Securities* are satisfied; and

(e) in Québec, the alienation (or first trade) of Units acquired pursuant to this decision will be a distribution unless:

(i) the issuer is and has been a reporting issuer in Québec for the four (4) months preceding the alienation;

(ii) no unusual effort is made to prepare the market or to create a demand for the securities that are the subject of the alienation;

(iii) no extraordinary commission or other consideration is paid in respect of the alienation; and

(iv) if the seller of the securities is an insider of the issuer, the seller has no reasonable grounds to believe that the issuer is in default of any requirement of securities legislation.

"Paul Moore"
Commissioner
Ontario Securities Commission

"Wendell S. Wigle"
Commissioner
Ontario Securities Commission

2.2 Orders

2.2.1 Legg Mason Canada Inc. - ss. 147

Headnote

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

Statutes Cited

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

Regulations Cited

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

Rules Cited

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

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

AND

IN THE MATTER OF
LEGG MASON CANADA INC.

AND

POOLED FUNDS LISTED IN SCHEDULE A
(THE "EXISTING POOLED FUNDS")

ORDER
(Subsection 147 of the Act)

UPON the application (the "Application") of Legg Mason Canada Inc. ("Legg Mason"), the manager of the Existing Pooled Funds and other pooled funds established or to be established and managed by Legg Mason from time to time (collectively, the "Pooled Funds"), to the Ontario Securities Commission (the "Commission") for an order pursuant to subsection 147 of the Act exempting the Pooled Funds from filing with the Commission the interim and annual financial statements prescribed by sections 77(2) and 78(1), respectively, of the Act;

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

AND UPON Legg Mason having represented to the Commission that:

1. Legg Mason is a corporation under the laws of Ontario with its head office in Toronto, Ontario. Legg Mason is, or will be, the manager of the

Pooled Funds. Legg Mason is registered with the Commission as an advisor in the categories of investment counsel and portfolio manager, and as a dealer in the category of mutual fund dealer, and has an exemption from membership in the Mutual Fund Dealers Association.

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

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

4. While the Pooled Funds are structured as mutual funds, they are not public mutual funds. The Pooled Funds are not reporting issuers and are not sold to the general public.

5. Unitholders of the Pooled Funds ("Unitholders") receive the Financial Statements for the Pooled Funds they hold. The Financial Statements are prepared and delivered to Unitholders in the form and for the periods required under the Act and the regulation or rules made thereunder (the "Regulation"). Legg Mason and the Pooled Funds may continue to rely on subsection 94.1 of the Regulation and will omit statements of portfolio transactions from the Financial Statements (such statements from which the statements of portfolio transactions have been omitted, the "Permitted Financial Statements").

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

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

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

7. Section 2.1(1)1 of National Instrument 13-101 - System for Electronic Document Analysis and Retrieval (SEDAR) ("Rule 13-101") requires that every issuer required to file a document under securities legislation make its filing through SEDAR. The Financial Statements filed with the Commission thus become publicly available.

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

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

(a) In the absence of other regulatory relief, the Pooled Funds will prepare and deliver to the Unitholders, the Permitted Financial Statements, in the form and for the periods required under the Act and the Regulation;

(b) The Pooled Funds will retain the Financial Statements indefinitely;

(c) The Pooled Funds will provide the Financial Statements to the Commission or any member, employee or agent of the Commission immediately upon request of the Commission or any member, employee or agent of the Commission;

(d) Legg Mason will provide a list of the Pooled Funds relying on this Order to the Investment Funds Branch of the Commission on an annual basis;

(e) Unitholders will be notified that the Pooled Funds are exempted from the requirements in sections 77(2) and 78(1) of the Act to file the Financial Statements with the Commission;

(f) In all other aspects, the Pooled Funds will comply with the requirements in Ontario securities law for financial statements; and

(g) This decision, as it relates to the Commission, will terminate after the coming into force of any legislation or rule of the Commission dealing with the matters regulated by sections 77(2) and 78(1) of the Act.

February 18, 2005.

"Paul Moore" "David L. Knight"

SCHEDULE A

POOLED FUNDS

Legg Mason Canada Liquidity Plus Pool

Legg Mason Brandywine Small/Mid Cap U.S. Value Equity Pool

Legg Mason Brandywine Small/Mid Cap U.S. Value Equity RP Pool

Legg Mason Private Capital Management U.S. Equity Pool

Legg Mason Canada Treasury Plus Pool

Legg Mason Canada Income Plus Pool

Legg Mason Fixed Income Alpha Pool

Legg Mason Canadian Equity Alpha Pool

Legg Mason Balanced Alpha Pool

Legg Mason U.S. Value RP Pool

Legg Mason Absolute Return Master Trust

Legg Mason Absolute Return Fund

2.2.2 Future PLC - s. 104(2)(c)

Headnote

Securities exchange take-over bid made in Ontario - Bid made in accordance with the laws of the United Kingdom and The City Code on Take-overs and Mergers - De minimis exemption unavailable because there is one Ontario holder of offeree's shares holding approximately 4.7% of the class, which exceeds the 2% threshold in section 93(1)(e) of the Securities Act (Ontario) - Bid exempted from the requirements of Part XX, subject to certain conditions.

Statutes Cited

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

Recognition Orders Cited

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

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

AND

IN THE MATTER OF
FUTURE PLC

ORDER
(Section 104(2)(c))

UPON the application (the "Application") of Future plc ("Future" or the "Applicant") to the Ontario Securities Commission (the "Commission") for an order pursuant to section 104(2)(c) of the Act exempting Future and its financial advisor, Morgan Stanley & Co. Limited ("Morgan Stanley" and, together with Future, the "Offering Parties"), from the requirements of sections 95 through 100 of the Act in connection with the offer (the "Offer") by Future to acquire all of the issued and to be issued ordinary shares (the "Highbury Shares") of Highbury House Communications plc ("Highbury") to be made to the shareholders of Highbury (the "Highbury Shareholders") resident in Ontario;

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

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

1. Future is incorporated under the laws of England and Wales. Future's shares are listed on the Official List of the UK Listing Authority and admitted to trading on the London Stock Exchange (the "LSE"). Future is not a reporting issuer in Ontario, nor is it a reporting issuer or the

equivalent in any other province or territory of Canada.

2. Morgan Stanley, which is regulated in the United Kingdom by the Financial Services Authority, is acting as financial adviser to Future.

3. Highbury is incorporated under the laws of England and Wales. The Highbury Shares are listed on the Official List of the UK Listing Authority and admitted to trading on the LSE. Highbury is not a reporting issuer in Ontario, nor is it a reporting issuer or the equivalent in any other province or territory of Canada.

4. The Offer is to acquire all of the Highbury Shares on the basis of 10 newly issued ordinary shares of Future ("Future Shares") for every 83.25 Highbury Shares and so on in proportion for any number of Highbury Shares held. Each Highbury Shareholder may elect to receive 10.0 pence in cash for each Highbury Share, instead of some or all of the Future Shares to which it would otherwise be entitled under the Offer. The aggregate amount of cash payable under the Offer is limited to 10 million pounds sterling and, to the extent to which elections for the partial cash alternative exceed in aggregate this amount, they will be reduced on a pro rata basis.

5. The Offer is being made by Morgan Stanley on behalf of the Offeror (other than in the United States where the Offer is being made directly by Future), and will comply with, and not be exempt from, the requirements of the rules of The City Code on Takeovers and Mergers. The Offer will also comply with the applicable requirements of the Panel on Takeovers and Mergers, the LSE and the UK Listing Authority.

6. The Offer will be subject to the conditions and terms set out in the Offer document. Due to its size, the Offer will be conditional, *inter alia*, on the approval of Future shareholders at an extraordinary general meeting which is expected to be held in late March 2005.

7. Based upon information provided to the Offering Parties by Highbury from its share register, as at January 31, 2005, there were no Highbury Shareholders resident in Canada other than one shareholder resident in Ontario (the "Ontario Highbury Shareholder"), holding 14,750,000 Highbury Shares, representing 4.7% of the issued share capital of Highbury.

8. The Offer document is expected to be mailed to Highbury Shareholders (other than shareholders in certain jurisdictions where the Offer is not permitted) in the week commencing February 28, 2005.

9. All of the Highbury Shareholders to whom the Offer is made, including the Ontario Highbury Shareholder, will be treated equally (though Future reserves the right to sell any Future Shares to which an accepting Highbury Shareholder in an overseas jurisdiction would otherwise be entitled under the Offer and to remit the sale proceeds to the Highbury Shareholder, in order not to contravene the laws of that jurisdiction).

10. If Future receives acceptances under the Offer in respect of, and/or otherwise acquires, 90% or more of the Highbury Shares to which the Offer relates and the Offer becomes unconditional in all respects, Future intends to exercise its rights under the UK Companies Act to acquire compulsorily Highbury Shares in respect of which acceptances have not been received.

11. It is intended that, following the Offer becoming or being declared unconditional in all respects and subject to any applicable requirements of the UK Listing Authority, Future will procure that Highbury applies to the UK Listing Authority for the listing of the Highbury Shares on the Official List to be cancelled and to the LSE for the admission to trading of the Highbury Shares to be cancelled. It is expected that such cancellations will take effect no earlier than 20 business days after the Offer becomes or is declared unconditional in all respects. Following the Offer becoming or being declared unconditional in all respects, it is also the intention of Future to propose a resolution to re-register Highbury as a private company.

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

IT IS ORDERED, pursuant to section 104(2)(c) of the Act that, in connection with the Offer to the Ontario Highbury Shareholder, the Offering Parties be exempt from the requirements of sections 95 through 100 of the Act, provided that all materials relating to the Offer sent by or on behalf of Future to holders of Highbury Shares resident in the United Kingdom are concurrently:

(a) sent to the Ontario Highbury Shareholder; and

(b) filed with the Commission.

February 25, 2005.

"Robert L. Shirriff" "Suresh Thakrar"

2.2.3 Merrill Lynch, Pierce, Fenner & Smith Incorporated - s. 147

Headnote

Relief pursuant to section 147 of the Securities Act (Ontario) from the requirements relating to segregation of funds and securities in section 116, 117 and 118 of the Regulation. Previous order granted U.S. applicant permission to act as custodian for its Ontario clients. Subsequent order granting limited market dealer status to applicant, despite non-residency, required compliance with Regulations, including sections 116, 117 and 118. Therefore sections 116,117 and 118 continue to apply to the applicant despite designation as a limited market dealer which would normally exempt it from those requirements. Compliance with U.S. SEC requirements and additional safeguards, considered equivalent to requirements of the Regulations and exempted was granted.

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

AND

IN THE MATTER OF
MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED

EXEMPTION ORDER

UPON the application of Merrill Lynch, Pierce, Fenner & Smith Incorporated (**Merrill Lynch**) for an exemption order pursuant to section 147 of the Act from the requirements with respect to segregation of funds and securities found in sections 116, 117 and 118 of the Regulation (the **Application**);

AND UPON considering the Application;

AND UPON Merrill Lynch having represented that:

1. Merrill Lynch is a corporation formed under the laws of the State of Delaware and is a wholly owned subsidiary of Merrill Lynch & Co., Inc. (**ML&Co**.). The head office of Merrill Lynch is located in New York, New York.

2. Merrill Lynch provides investment, financing, and related services to individuals and institutions on a global basis. Services provided to clients include securities brokerage, trading, and underwriting; investment banking, strategic services, including mergers and acquisitions, and other corporate finance advisory activities; origination, brokerage, dealer and related activities; securities clearance and settlement services and investment advisory and related record keeping services.

3. Merrill Lynch is registered under the *Securities Act* (Ontario) as an international dealer and an international adviser. Merrill Lynch is also registered as a broker-dealer and an investment adviser with the United States Securities and Exchange Commission.

4. Merrill Lynch has applied for registration under the Act as a limited market dealer. Section 213 of the Regulation provides that a registered dealer that is not an individual must be a company incorporated, or a person formed or created, under the laws of Canada or a province or territory of Canada. Merrill Lynch does not have an office in Ontario or any directors, officers or employees resident in Ontario. Accordingly, Merrill Lynch applied for and on June 25, 2004, obtained, an order of the Commission exempting it from the residency requirement in section 213 (the **Residency Order**).

5. Merrill Lynch has filed an application for registration under the Act as a non-Canadian investment counsel and portfolio manager.

6. On March 28, 2003, Merrill Lynch obtained an order of the Commission permitting it to act as custodian for its Ontario clients. Sections 116, 117 and 118 of the Regulation provide certain requirements with respect to the segregation of client funds and securities where a registrant holds client assets. Pursuant to subsection 2.3(2) of Ontario Securities Commission Rule 31-503 a limited market dealer is exempted from the requirements of sections 116, 117 and 118 of the Regulation. However, a condition of the Residency Order is that if client securities, funds or other assets are held by a custodian or sub-custodian that is Merrill Lynch or an affiliate of Merrill Lynch, that custodian must hold such securities, funds and other assets in compliance with the requirements of the Regulation.

7. In connection with its potentially broader customer base and services to be offered in Ontario, Merrill Lynch seeks an exemption from the requirements of sections 116, 117 and 118 of the Regulation to ensure that its existing global custody services and processes can be used with respect to Ontario clients.

8. As a broker-dealer regulated by the Securities and Exchange Commission (the **SEC**), Merrill Lynch must comply with the SEC's regulations with respect to protection of customer's cash and securities. Merrill Lynch has a number of additional safeguards in place to protect client funds and securities over which it has custody.

9. Merrill Lynch is a member of the Securities Investor Protection Corporation (**SIPC**) which was established by the United States Congress under the Securities Investor Protection Act of 1970, as amended (**SIPA**). SIPA was passed to protect customers of securities firms and to promote

public confidence in the United States securities markets.

10. Merrill Lynch has also obtained additional protection by purchasing a policy (the **Policy**) from Lloyd's of London for potential losses in excess of SIPC's limits.

11. The protections under SIPC and the Policy apply to clients of Merrill Lynch, including clients resident in Ontario.

IT IS ORDERED, pursuant to section 147 of the Act that Merrill Lynch is exempted from the requirements in sections 116, 117 and 118 of the Regulation provided that:

a) it continues to be subject to, and in full compliance with, the SEC's regulations with respect to protection of client's cash and securities; and

b) it maintains additional safeguards to protect client funds and securities over which it has custody, including insurance coverage, in substantially the same form as at present.

February 25, 2005.

"Robert L. Shirriff" "Suresh Thakrar"

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Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 Reasons for Decision

3.1.1 Andre Edouard Boisvert

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

AND

IN THE MATTER OF
ANDRE EDOUARD BOISVERT

Written Submissions to the Director
pursuant to subsection 26(3) of the Act

Date: February 25, 2005

Director: Tracey Stern
Senior Legal Counsel, Market Regulation
Capital Markets Branch

Written submissions provided by:

The Applicant:
Andre Edouard Boisvert (Mr. Boisvert)

Staff of the Ontario Securities Commission (OSC Staff or Staff):
Christopher Jepson Legal Counsel, Registrant Regulation
Jessica Di Renzo, Registration Officer, Registrant Regulation
Leslie Daiter, Registration Research Officer, Registrant Regulation

Background

The applicant, Andre Edouard Boisvert, applied for registration under the *Securities Act* (Ontario) (the Act) as a mutual fund dealer sponsored by Clarica Investco Inc. (Clarica) on July 28, 2004. He has been registered as a life insurance agent by the Financial Services Commission of Ontario (FSCO) since February 4, 1998.

Under Item 14 of his application for registration, Mr. Boisvert disclosed that he has two criminal convictions – Family Disturbance in December, 2001 and Sexual Interference in April, 2003. On September 2, 2004, OSC Staff requested additional information regarding the two convictions by September 16, 2004 and Mr. Boisvert provided the additional information on September 13, 2004. In a letter dated November 8, 2004 (the November 8 letter), OSC Staff advised Mr. Boisvert that Staff was recommending that his application for registration be denied on the basis that his two criminal convictions "raise serious concern about your integrity and trustworthiness and are therefore unsuitable for registration as a securities industry professional." The November 8 letter informed Mr. Boisvert that under subsection 26(3) of the Act, he has a right to be heard before the Director makes a decision by making written or oral submissions to the Director. Mr. Boisvert filed written submissions to the Director on November 18, 2004 (the November 18 letter).

Summary of Mr. Boisvert's Submissions

In the November 18 letter and in a response to OSC Staff submissions dated January 19, 2005, Mr. Boisvert described the circumstances of each conviction and argued that mitigating factors should be considered. He submitted that neither charge was business-related and that the charges were motivated by a desire to "hurt me personally". He argued that he does not pose a public danger and provided a letter from his psychiatrist to support his submission. The letter from Dr. Marcel Roy addresses the issues surrounding the first conviction, but not the second. However, it does support the notion that Mr. Boisvert is not a "quick-tempered and hostile individual".

Mr. Boisvert met the terms imposed by the court in both sentences (12 month conditional discharge and counselling for the first conviction and a 12 month suspended sentence and counselling for the second conviction). He stated that he intends to apply for a pardon in April, 2006.

Mr. Boisvert has been a financial advisor since February, 1998 and has had his insurance registration renewed as recently as 2004 until February 2006. In support of his application, Mr. Boisvert provided a letter from his employer, Mr. Duguay, which stated that Mr. Boisvert does not intend to sell mutual funds, but is required to register as a mutual fund salesperson as a condition of his employment with Clarica. His employer insurance company has not received complaints concerning his conduct with clients. In his letter, Mr. Duguay also provided Mr. Boisvert with a recommendation on a personal level. Mr. Duguay provided a surety for Mr. Boisvert after his arrest in 2001 and allowed Mr. Boisvert to live with him, his wife and two small children for forty-four days.

Summary of OSC Staff Submissions

In a submission dated December 15, 2004, OSC Staff concluded that "Mr. Boisvert is unsuitable for registration and that his proposed registration would be objectionable because of his criminal record..." Staff argue that Mr. Boisvert's convictions, "while not directly related to dealing honestly and in good faith in the context of the securities industry are an indicator of a fundamental lack of integrity."

Staff state that where a conviction has already been entered before an application for registration is filed, it is appropriate to consider only the conviction and not the factual background when determining whether registration of a particular individual is objectionable. In addition, Staff submit that they do not have the competence to assess letters describing mitigating circumstances or supporting the argument that the applicant is not a public danger. Staff submit that examining the factual background goes beyond the Commission's mandate as a securities regulatory authority and would, in effect, retry the matter. However, Staff admit that not all criminal convictions are relevant when determining suitability or necessitate a denial of registration.

Finally, Staff argue that the interpretation of the OSC's investor protection mandate "goes beyond protection of investments". In their view, the fact that registrants are alone with clients leads to the conclusion that criminal convictions such as those of Mr. Boisvert are relevant to the determination of whether someone is suitable for registration. "However remote the prospects of an assault on an investor might be in a given case, the consequences for the victim can be severe and cannot be remedied in the way that lost money can be replaced. For this reason, if no other, Staff is of the opinion that it would be objectionable to register Mr. Boisvert."

Decision

Discussion of "Suitability" and "Objectionable"

Subsection 26(1) of the Act states that "Unless it appears to the Director that the applicant is not suitable for registration...or that [it] is objectionable, the Director shall grant [registration]." Section 26(2) provides the Director with the discretionary power to restrict registration by imposing terms and conditions.

The Commission has, over time, articulated the criteria for determining suitability for registration to be integrity, competence, and financial solvency. The concerns in this case relate to integrity, which includes honesty and good faith, particularly when dealing with clients, and compliance with Ontario securities law.

In addition, the Director has the ability to deny the application for registration if the Director is satisfied that the registration is objectionable on public interest grounds. Specifically, this may refer to conduct that, while not directly related to the securities industry, affects the investor confidence in the capital markets and its participants.

Registration is Objectionable

I agree that the Director should not re-evaluate or retry the circumstances of the conviction based on the account provided by the applicant (i.e. one side). However, I disagree with Staff's view that only the conviction and not the factual background of the conviction should be examined when determining if the registration of a particular individual is objectionable. Without looking at the factual background, the decision about registration is being made in isolation. It is necessary to look to the facts of the case, the details of the conviction as determined by the court, and any additional documentation (including letters of support) from people knowledgeable in the area to assist in determining whether it would be prejudicial to the public interest, and thus objectionable, to register a person with a criminal conviction.

With respect to Staff's argument that the investor protection mandate goes further than the "protection of investments", I respectfully disagree. The mandate of the Commission is "investor protection" in the context of our role as a securities regulatory

authority. It is not the role of the Commission, nor does the Commission have the expertise, to ensure the physical safety of investors.

In fulfilling the Commission's mandate to protect the public interest, there is a need to remove those whose past conduct leads to the conclusion that their future conduct may be detrimental to the integrity of the capital markets. The role of the Commission is to "restrain future conduct that is likely to be prejudicial to the public interest in having capital markets that are fair and efficient. In doing so, the Commission must, of necessity, look to past conduct as a guide as to what we believe a person's future conduct might reasonably be expected to be".[1] This evaluation must be done on a case-by-case basis, and the existence of a criminal conviction, while relevant, should not automatically lead to the conclusion that impugned actions will recur and the applicant is objectionable.

Mr. Boisvert's convictions are unrelated to each other. He did not have a history of violence or sexual impropriety before these convictions. He has been forthcoming about these convictions and has fulfilled all of the conditions imposed in each sentence. He has included in his submissions letters of support from both his psychiatrist and his employer. In my view, in this particular case, Mr. Boisvert's past conduct is not necessarily indicative of what his future conduct might reasonably be. The letter from his psychiatrist supports this view. Therefore, I cannot conclude that his conduct in the future may be detrimental to the integrity of the capital markets. Consequently, I cannot agree that granting registration in this case is objectionable.

Suitability

One criterion to consider when evaluating suitability is integrity. Does the fact that Mr. Boisvert has criminal convictions lead us to conclude that he is unable to deal honestly and in good faith, particularly with his clients, and to comply with Ontario securities laws? Staff argue that although his convictions are not directly related to the integrity criterion, they are an indicator of a "fundamental lack of integrity".

In assessing Mr. Boisvert's integrity, all of the facts of the case need to be examined, not just the details of the convictions. Mr. Boisvert has been a registered insurance agent since 1998. In a letter of support for the application, Mr. Boisvert's employer stated that Mr. Boisvert has been responsible for payroll at his company. In addition, none of the audits conducted by the insurance company uncovered any problems with Mr. Boisvert or his work with clients. In his previous job, Mr. Boisvert was a purchasing manager for 25 years. The title implies that he dealt with company money. Even though Mr. Boisvert's convictions may cause one to question his integrity, after examining the other circumstances relevant to this determination, I am satisfied that Mr. Boisvert is suitable to be registered as a mutual fund salesperson.

Decision

Based on the submissions filed and the reasons set out above, I grant Mr. Boisvert's request for registration as a mutual fund salesperson. I do not impose terms and conditions on the registration for the same reasons described as above.

Dated: February 25, 2005

Tracey Stern

[1] *Re Mithras Management Ltd* (1990), 13 OSCB 1600.

3.1.2 Financial Models Company Inc.

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

AND

IN THE MATTER OF
FINANCIAL MODELS COMPANY INC.

Hearing: January 28, 2005

Ontario Securities Commission Panel:

Paul M. Moore, Q.C.	-	Vice-Chair (Chair of the Panel)
Robert W. Davis	-	Commissioner
Paul K. Bates	-	Commissioner

Counsel:

Jeffrey S. Leon Jonathan A. Levin David A. Hausman	-	On behalf of the Special Committee of Financial Models Company Inc.
Peter F.C. Howard William Braithwaite Dee Rajpal Timothy M. Banks Quentin Markin	-	On behalf of Stamos Katotakis and 1066821 Ontario Inc.
Ralph Shay Jane Waechter	-	For the Staff of the Ontario Securities Commission
Gordon McKee Christopher A. Hewat Robin Linley	-	On behalf of BNY Capital Corporation
William J. Burden	-	On behalf of William R. Waters and William R. Waters Limited and 1427937 Ontario Inc.
R. Paul Steep Graham Gow	-	On behalf of Financial Models Company Inc.
Norman J. Emblem Michael D. Schafler	-	On behalf of Linedata Services S.A.

REASONS

I. THE PROCEEDING

[1] This proceeding was a hearing on an application by a special committee (the "Special Committee") of directors of Financial Models Company Inc. ("FMC") for orders pursuant to sections 104(1) and 127(1) of the *Securities Act,* R.S.O. 1990, c. S.5, as amended (the "Act") based on allegations that the take-over bid of December 29, 2004 (the "Katotakis Offer") by 1066821 Ontario Inc. ("Katotakis Holdco") for all the shares of FMC was (1) not in compliance with Part XX [Take-Over Bids and Issuer Bids] of the Act, and (2) was contrary to the public interest. The hearing was held on January 28, 2005.

[2] The application sought the following orders:

(i) an order under section 127(1) to cease-trade the sale or disposition of any shares of FMC to Katotakis Holdco or Stamos Katotakis (collectively, sometimes "Katotakis") under a shareholder agreement among shareholders of FMC (the "Shareholder Agreement"); or

(ii) in the alternative, an order under section 127(1) to permanently cease-trade the Katotakis Offer;

(iii) an order under section 104 that Katotakis Holdco has not complied with Part XX of the Act (specifically certain provisions of Rule 61-501); and

(iv) an order under section 104 to restrain Katotakis Holdco from contravening Part XX of the Act (specifically certain provisions of Rule 61-501).

[3] We were told that there are applications pending in the Ontario Superior Court of Justice in which the court is being asked to determine whether Katotakis validly exercised his right of first refusal. This issue was not in contention before us.

[4] Katotakis opposed the application before us.

[5] In addition, FMC, BNY Capital Corporation ("BNY"), Linedata Services S.A. ("Linedata"), Dr. William R. Waters ("Dr. Waters"), William R. Waters Limited ("WatersCo"), and 1427937 Ontario Inc., (collectively, with Dr. Waters and WatersCo, "Waters") submitted written submissions and requested "Torstar status" to enable them to make submissions but not to lead evidence or cross-examine witnesses. We granted them "Torstar status".

[6] We received submissions from the Special Committee, Katotakis, staff and the "Torstar" parties.

[7] No witnesses were called.

[8] At the end of the hearing, we announced that we agreed with the submissions of counsel for Katotakis and counsel for staff. Accordingly, we dismissed the application. We stated that we would elaborate our reasons in due course.

II. FACTS

FMC

[9] FMC is a company incorporated pursuant to the laws of Ontario. It is in the business of providing investment management software systems and services. FMC is a Toronto Stock Exchange ("TSX") listed company having a market capitalization of approximately $133 million. FMC is authorized to issue an unlimited number of common shares and an unlimited number of non-voting Class "C" shares (collectively, the "Shares").

[10] FMC is closely held. Katotakis holds approximately 40.4% of the Shares. Dr. Waters was a co-founder of FMC. Waters holds approximately 20% of the Shares, and BNY, an affiliate of the Bank of New York, holds approximately 22.4% of the Shares. FMC's minority shareholders own 18% of the Shares with 6.7% held by Van Berkom and Associates ("Van Berkom"), 2.9% by Triax Growth Fund Inc. ("Triax"), 3.2% by senior executives of FMC, 3% to 4% by directors and employees of FMC, and 1% to 2% by the public.

Shareholder Agreement

[11] On January 13, 1998, Katotakis, Waters, BNY and F.M.C. Investment Services Limited entered into the Shareholder Agreement to manage their investment in FMC.

[12] The Shareholder Agreement provides each party with rights of first offer and first refusal (the "Offer Rights"). The Offer Rights provide that a party willing to sell Shares (the "Selling Shareholder") must give the other parties a selling notice (the "Selling Notice") setting out the price at which the party is willing to sell (the "Set Price"). If the other parties accept the Selling Notice, the Selling Shareholder must make a take-over bid for all Shares at the Set Price and the parties accepting the Selling Notice are obliged to tender into that take-over bid. If the other parties do not accept the Selling Notice, the Selling Shareholder is free to sell his Shares to third parties at the Set Price or higher.

[13] FMC's final initial public offering prospectus dated July 8, 1998 (the "Prospectus") and its Annual Information Form dated July 19, 2004 (the "2004 AIF") described the Offer Rights as conferring a "mutual right of first refusal" on the parties to the agreement.

Linedata

[14] Linedata is a French corporation that trades on the Nouveau Marché of the Paris Bourse (akin to the TSX Venture Exchange) and provides financial information technology solutions. In August, 2004, Linedata discussed a possible business combination with Katotakis, who was acting on behalf of FMC, whereby Linedata would acquire all of the Shares for cash and Linedata shares.

[15] In mid-October, 2004, Katotakis advised FMC's board of directors that he did not wish to continue the discussions with Linedata. John Vivash ("Vivash"), FMC's chairman, and other members of FMC's board of directors, apart from Katotakis,

confirmed to Linedata their interest in pursuing the proposed business combination and formed the Special Committee on November 5, 2004. The Special Committee's mandate was to negotiate and pursue transactions likely to maximize shareholder value and shareholder liquidity in respect of FMC.

[16] By the end of November, 2004, BNY, Waters, Van Berkom and Triax had agreed in principle with Linedata to tendering their Shares into a satisfactory offer by Linedata to acquire all the Shares (the "Linedata Offer").

[17] On December 8, 2004, Katotakis, concerned about the advancing discussions between the Special Committee and Linedata, delivered a requisition requiring FMC to call a shareholders meeting to remove all directors of FMC other than himself. The board of directors called a shareholders meeting for May, 2005.

The Selling Notices

[18] On December 8, 2004, BNY and Waters delivered Selling Notices to Katotakis of their desire to sell all of their Shares at a Set Price of $12.20 per Share. BNY and Waters' decision to sell their Shares was made without prior notice to or consultation with Katotakis. Waters and BNY each waived their rights to purchase each other's Shares.

[19] The Selling Notices allowed for acceptance by Katotakis within 21 days of delivery.

Linedata Offer

[20] On December 20, 2004, the Special Committee, on behalf of FMC, entered into an acquisition agreement with Linedata.

[21] On December 20, 2004, Waters, BNY, and Triax also entered into a soft lock-up agreement with Linedata, and Van Berkom entered into a separate soft lock-up agreement with Linedata, (collectively, the "Lock-up Agreements"). Appropriate public disclosure was then made. The Lock-up Agreements were expressly subject to Katotakis' rights under the Shareholder Agreement.

[22] On December 23, 2004, Linedata made the Linedata Offer by which it offered to purchase all of the issued and outstanding Shares for cash and Linedata shares for an imputed aggregate value of $12.76 per Share.

Katotakis Offer

[23] On December 29, 2004, Katotakis accepted the Selling Notices entitling him to acquire a further 42% of the Shares of FMC, and, as required by the Shareholder Agreement, launched the Katotakis Offer at the Set Price of $12.20 per Share.

[24] The Katotakis Offer contemplated that a subsequent second stage transaction (the "Follow-on Transaction") would transpire if less than all the Shares were acquired by Katotakis. The Follow-on Transaction could be an amalgamation between FMC and a subsidiary of Katotakis Holdco with Shares not owned by Katotakis being cashed out, or a statutory forced acquisition of Shares not acquired under the Katotakis Offer. An amalgamation would require the approval of holders of at least 2/3 of the Shares, including, under Rule 61-501, a majority of the Shares held by minority shareholders. A statutory forced acquisition would require that not less than 90% of the Shares subject to the Katotakis Offer be acquired under it.

[25] The Katotakis Offer contemplated that Shares acquired by Katotakis from Waters and BNY would be counted in determining minority approval for an amalgamation.

Increased Linedata Offer

[26] On January 29, 2004, Linedata agreed with FMC, Waters, BNY, Triax, and Van Berkom to increase the consideration payable to Shareholders under the original Linedata Offer to an imputed value of $14.65.

III. SUBMISSIONS OF COUNSEL FOR THE SPECIAL COMMITTEE

[27] Counsel for the Special Committee asserted that it was contrary to the public interest and abusive of the capital markets for Katotakis to treat, for the purposes of Rule 61-501, the Shares that would be acquired pursuant to his purported acceptances of the Selling Notices under the Shareholder Agreement, as part of the majority of the minority in calculating the threshold under a Follow-on Transaction.

[28] Furthermore, counsel submitted, Katotakis' reliance on the valuation exemption in paragraph 4 of section 2.4 of Rule 61-501 would be abusive of that exemption. The exemption presupposes that the value of the subject securities is achieved through a competitive auction process.

[29] Next, counsel argued that FMC's public disclosures did not alert shareholders to the nature or consequences of the Offer Rights or the risk that the exercise of them in the context of a takeover bid and Follow-on Transaction would deprive minority shareholders of any opportunity to realize the benefits of an offer by a third party potential acquirer.

[30] Finally, counsel asserted that by his conduct, Katotakis had acted in a manner contrary to the public interest by engineering a result that deprives FMC shareholders of the opportunity to obtain full value for their Shares through a competitive bidding process. He has taken steps to frustrate the efforts by remaining members of the board to maximize shareholder value. He has sought to usurp that value for himself.

IV. SUBMISSIONS OF KATOTAKIS

Follow-On Transaction is Not Abusive

[31] Counsel for Katotakis argued that there was nothing abusive about Katotakis' conduct. First, none of the transactions provided for were "artificial". Secondly, a Follow-on Transaction would not circumvent the reasonable assumptions or justifiable expectations of FMC shareholders.

[32] He argued that the Katotakis Offer was not unlike any other take-over bid where a significant shareholder had entered into a lock-up. In those circumstances, it is quite customary for the offer to be followed by a Follow-on Transaction at the price paid to the locked-up shareholders.

[33] He observed that an FMC shareholder would reasonably have expected that one party to the Shareholder Agreement could eventually control 82% of the Shares. An FMC shareholder would reasonably have expected either to remain as a minority shareholder or be taken out in a Follow-on Transaction.

[34] He stated that an FMC shareholder would reasonably have expected to receive the same consideration that the significant shareholders would receive in a change of control situation. The minority shareholders would get the benefit of the negotiating power and sophistication of the significant shareholders.

[35] The Katotakis Offer complied in all technical respects with Rule 61-501. The rule was adopted in its current form after a public comment process where the issue of whether shares locked-up should be counted as minority shares in calculating thresholds in a Follow-on Transaction was examined. The rule allows such shares to be included as minority shares.

[36] He submitted that it would be inappropriate for the Commission *de facto* to amend the rule through the use of its public interest jurisdiction to deny Katotakis the ability to count the Shares to be acquired from BNY and Waters (locked-up shareholders, he suggested) as part of the minority shares for purposes of approval under Rule 61-501.

[37] Given FMC's share ownership structure, he submitted, an FMC shareholder could not have reasonably expected the benefit of an auction for FMC.

[38] Finally, he submitted, an order under section 127 would provide to FMC shareholders an advantage that they did not bargain for and one which they could not have reasonably expected to receive. It would also result in a windfall to each of BNY and Waters, and would unjustifiably free them from their agreement with Katotakis. The Commission should not permit the minority to thwart the legitimate rights of the shareholders under the Shareholder Agreement.

Reliance on the Valuation Exemption of Rule 61-501 is Not Abusive

[39] Counsel for Katotakis argued that Katotakis met the requirements to rely upon the valuation exemption in Rule 61-501. First, at the time Katotakis made his bid on December 29, 2004, the Linedata bid was outstanding. Secondly, Katotakis had no knowledge of any undisclosed material fact. Thirdly, Linedata was given complete access to the information on FMC.

[40] He submitted that Waters and BNY are sophisticated parties who agreed to sell their Shares to Katotakis at a price that they determined. They determined the price without the benefit of a formal valuation.

[41] Katotakis is not required to obtain a formal valuation under the rule. The Special Committee determined that the Katotakis Offer is fair and reasonable. Furthermore, it received advice to this effect from BMO Nesbitt Burns, an independent financial advisor. Accordingly, he argued, additional disclosure to the minority shareholders is not required.

FMC's Disclosure of the Shareholder Agreement Does Not Frustrate Shareholder Expectations

[42] Counsel for Katotakis argued that the Offer Rights have been repeatedly and continually disclosed to the marketplace, specifically by means of the Prospectus, and most recently, by the 2004 AIF. Any shareholder or prospective shareholder of FMC would have reasonably determined that by operation of the Shareholder Agreement, any one of Katotakis, Waters, or BNY

could, at some point in the future, acquire at least 70% of the shares of FMC.

V. SUBMISSIONS OF STAFF

[43] Staff submitted that there is no basis for relief under section 104 of the Act as there was no breach of Part XX of the Act or the regulations related to it.

[44] Staff submitted that there is no basis for relief under section 127(1) of the Act as neither the Katotakis Offer nor reliance on the valuation exemption is abusive of the capital markets.

VI. ANALYSIS

The Act and Rule

[45] Section 104(1) of the Act states, in part, the following:

> **104. (1) Application to the Commission** - Where, on the application of an interested person, it appears to the Commission that a person or company has not complied or is not complying with this Part or the regulations related to this Part, it may issue, subject to such terms and conditions as it may impose, an order,
>
> …
>
> (b) requiring an amendment to or variation of any document used or issued in connection with a take-over bid or issuer bid and requiring the distribution of any amended, varied or corrected document; and
>
> (c) directing any person or company to comply with this Part or the regulations related to this Part or restraining any person or company from contravening this Part or the regulations related to this Part and directing the directors and senior officers of the person or company to cause the person or company to comply with or to cease contravening this Part or the regulations related to this Part.

[46] Rule 61-501 states, in part, the following:

> **8.2 Second Step Business Combination** -- Despite subsection 8.1(2), the votes attached to securities acquired under a formal bid may be included as votes in favour of a subsequent business combination in determining whether minority approval has been obtained if
>
> (a) the security holder that tendered the securities to the bid was not a joint actor with the offeror in respect of the bid;
>
> (b) the security holder that tendered the securities to the bid was not
>
> (i) a direct or indirect party to any connected transaction to the formal bid, or
>
> (ii) entitled to receive, directly or indirectly, in connection with the formal bid
>
> (A) consideration per offeree security that was not identical in amount and form to the entitlement of the general body of holders in Canada of securities of the same class,
>
> (B) a collateral benefit, or
>
> (C) consideration for securities of a class of equity securities of the issuer if the issuer had more than one outstanding class of equity securities, unless that consideration was not greater than the entitlement of the general body of holders in Canada of every other class of equity securities of the issuer in relation to the voting and financial participating interests in the issuer represented by the respective securities;
>
> (c) the business combination is being effected by the offeror that made the formal bid, or an affiliated entity of that offeror, and is in respect of the securities of the same class for which the bid was made and that were not acquired in the bid;
>
> (d) the business combination is completed no later than 120 days after the date of expiry of the formal bid;

(e) the consideration per security that the holders of affected securities would be entitled to receive in the business combination is at least equal in value to and is in the same form as the consideration that the tendering security holders were entitled to receive in the formal bid; and

(f) the disclosure document for the formal bid

(i) disclosed that if the offeror acquired securities under the formal bid, the offeror intended to acquire the remainder of the securities under a statutory right of acquisition or under a business combination that would satisfy the conditions in paragraphs (d) and (e),

(ii) contained a summary of a formal valuation of the securities in accordance with the applicable provisions of Part 6, or contained the valuation in its entirety, if the offeror in the formal bid was subject to and not exempt from the requirement to obtain a formal valuation,

(iii) stated that the business combination would be subject to minority approval,

(iv) identified the securities, if known to the offeror after reasonable inquiry, the votes attached to which would be required to be excluded in determining whether minority approval for the business combination had been obtained,

(v) identified each class of securities the holders of which would be entitled to vote separately as a class on the business combination,

(vi) described the expected tax consequences of both the formal bid and the business combination if, at the time the bid was made, the tax consequences arising from the business combination

(A) were reasonably foreseeable to the offeror, and

(B) were reasonably expected to be different from the tax consequences of tendering to the bid, and

(vii) disclosed that the tax consequences of the formal bid and the business combination may be different if, at the time the bid was made, the offeror could not reasonably foresee the tax consequences arising from the business combination

[47] Section 127(1) of the Act states, in part, the following:

127.(1) Orders in the public interest – The Commission may make one or more of the following orders if in its opinion it is in the pubic interest to make the order or orders:

…

2. An order that trading in any securities by or of a person or company cease permanently or for such period as specified in the order.

Discussion

[48] Counsel for the Special Committee did not allege that the Katotakis Offer does not technically comply with the conditions set out in section 8.2 of the Rule 61-501.

[49] As there is no breach of Rule 61-501, there is no basis for an order under section 104 of the Act.

[50] Orders in the public interest under section 127(1) of the Act may be appropriate when there is abuse. In the take-over bid context, this could occur where a transaction is artificial and defeats the reasonable expectation of investors.

[51] The Ontario Court of Appeal has stated:

> As I read the Commission's decision, it is that the transaction is abusive in two ways. First, it is artificial. Second, it was contrived to circumvent the coat-tail, and thus frustrate the intention of its well-intentioned proponents and confound the justifiable expectations, or in Mr. Kieran's words, the "reasonable assumptions" of investors and others in the market-place.

> *C.T.C. Dealer Holdings Ltd.* v. *Ontario Securities Commission* (1987), 59 O.R. (2d) 79 at 104 (Div. Ct.) (*C.T.C. Dealer*).

[52] See also *Re Canadian Tire Corp.* (1987), 10 O.S.C.B. 857 (*Canadian Tire*).

[53] In *Canadian Tire,* the Commission stated:

> Participants in the capital markets must be able to rely on the terms of the documents that form the basis of daily transactions. And it would wreak havoc in the capital markets if the Commission took to itself a jurisdiction to interfere in a wide range of transactions on the basis of its views of fairness through the use of the cease trade power under section 123 [now 127]…The Commission's mandate under section 123 is not to interfere in market transactions under some presumed rubric of insuring fairness.
>
> The Commission was cautious in its wording in *Cablecasting* and we repeat that caution here. To invoke the public interest test of section 123, particularly in the absence of a demonstrated breach of the Act, the regulations or a policy statement, the conduct or transaction must be clearly demonstrated to be abusive of shareholders in particular, and of the capital markets in general. A showing of abuse is something different from, and goes beyond, a complaint of unfairness. A complaint of unfairness may well be involved in a transaction that is said to be abusive, but they are different tests. Moreover, the abuse must be such that it can be shown to the Commission's satisfaction that a question of the public interest is involved. That almost invariably will mean some showing of a broader impact on the capital markets and their operation.

[54] In addition to the *C.T.C. Dealer* test, the Commission intervenes under its public interest jurisdiction where the intervention would further the policy aims of the Commission in a situation where, for technical reasons, the law otherwise permits a transaction that abuses policy aims. See: *Re H.E.R.O. Industries Ltd.,* (1990), 13 O.S.C.B. 3775 (*H.E.R.O.*). However, the Commission has stated that caution should be exercised where intervention in the public interest would amount to an amendment of existing policies. See: *Canadian Tire* at 932.

[55] In *Re British Columbia Forest Products Limited* (1981), 1 O.S.C.B. 116C at page 120C, the Commission shed light on the protection due to majority shareholders:

> However, the Commission's responsibility and duty is not only to the minority security holders but to the capital markets as a whole and to all participants therein whether majority or minority security holders. Accordingly, just as the Commission must be vigilant to protect minority security holders so too it must be vigilant not to abuse the rights of majority security holders…There must be confidence in the marketplace for holders of large blocks of securities as well as holders of small blocks of securities.

[56] We find that no facts or evidence before us suggest any artificiality to the various transactions, nor any intention or engineering by Katotakis to defeat the reasonable expectations of the shareholders. Indeed, the evidence disclosed that Vivash himself believed that FMC shareholders could have reasonably expected Katotakis to seek to conduct a subsequent going private transaction.

[57] Furthermore, we do not consider the previous disclosure of FMC of the Offer Rights to have contained material omissions that would reasonably have misled investors.

[58] As for shareholders' expectations as to an auction, Katotakis did not frustrate an auction. FMC was never in "play" for an auction. FMC could not be in play for an auction unless and until there were Selling Notices delivered under the Shareholder Agreement which were not accepted.

[59] In applying the test in *H.E.R.O*, we find that the Katotakis Offer is formulated in accordance with and meets the requisite criteria of the expressed policy of the Commission.

[60] While the passages quoted from *Canadian Tire* indicate that more than unfairness should be required before the Commission exercises its public interest jurisdiction to interfere with a transaction in the absence of a breach of securities laws or published policies, we have difficulty characterizing the case at hand as unfair, let alone abusive. Both the Shareholder Agreement and Rule 61-501 have been a matter of public record; and capital market participants, including Katotakis, are entitled to rely on those instruments.

[61] With respect to the Shareholder Agreement, there are no grounds for us to remove or interfere with Katotakis' contractual rights in order to favour the interests of the minority. Waters and BNY were not forced to enter into the Shareholder Agreement, and the exercise of Katotakis' rights *qua* shareholder under corporate law is not improper.

[62] In the absence of abuse, it is neither practical nor fair for the Commission to enter into an analysis of the personal reasons for shareholders to carry out transactions in their shares, and to use that analysis as a basis for overriding the clear provisions of a Commission rule. A desire to be free of a contractual commitment is not a basis to invoke the jurisdiction of the Commission.

[63] Furthermore, in responding to the Selling Notices in the manner originally contemplated by the Shareholder Agreement, Katotakis Holdco was not initiating a transaction that was purposefully designed to exploit a loophole in the shareholder protections contained in a company's charter (as alleged in *Canadian Tire*) or in securities legislation (as alleged in *H.E.R.O.*). Katotakis did not participate in the setting of the timing of the Selling Notices, nor in the establishing of the price at which those Shares would be offered to him, nor in the terms and conditions of the offers. As such, we cannot agree with counsel for the Special Committee that the Shares subject to the Offer Rights would be "forcibly" acquired in the take-over bid.

[64] We agree with counsel for Katotakis and counsel for staff, that the Shareholder Agreement is, for these purposes, tantamount or functionally equivalent to a "hard" lock-up agreement which crystallized on December 29, 2004 when the Selling Notices were accepted.

The Valuation Exemption

[65] Section 2.4(1) of Rule 61-501 outlines the requirement of an inside bidder to obtain an independent, formal valuation of the target's shares unless an exemption is available.

[66] Section 2.4(1) of Rule 61-501 states, in part:

> (1) Section 2.3 [the requirement for formal valuation] does not apply to an offeror in connection with an insider bid in any of the following circumstances:
>
> …
> 4. Auction – If
>
> (a) the insider bid is publicly announced or made while
>
> (i) one or more formal bids for securities of the same class that is the subject of the insider bid have been made and are outstanding.
>
> (ii) one or more proposed transactions are outstanding that
>
> (A) are business combinations in respect of securities of the same class that is the subject of the insider bid, or
>
> (B) would be business combinations in respect of securities of the same class that is the subject of the insider bid, except that they come within the exception in paragraph (e) of the definition of business combination,
>
> and ascribe a per security value to those securities,
>
> (b) at the time the insider is made, the offeree issuer has provided equal access to the offeree issuer, and to information concerning the offeree issuer and its securities, to the offeror in the insider bid, all offerors in the other formal bids, and all parties to the proposed transaction described in clause (a)(ii), and
>
> (c) the offeror, in the disclosure document for the insider bid,
>
> (i) includes all material information concerning the offeree issuer and its securities that is known to the offeror after reasonable inquiry but has not been generally disclosed, together with a description of the nature of the offeror's access to the issuer, and
>
> (ii) states that the offeror does not know, after reasonable inquiry, of any material information concerning the offeree issuer and its securities other than information that has been disclosed under clause (i) or that has otherwise been generally disclosed.

[67] Counsel for the Special Committee referred us to *Re Bruce Orsini et al.* (1991), 14 O.S.C.B. 4820 (*Orsini*) for the proposition that in determining whether the public interest has been contravened, the Commission ought to consider whether a respondent has sought to rely on an exemption in a manner that is abusive of that exemption.

[68] Counsel for the Special Committee also referred us to *Re Maple Leaf Sports & Entertainment Ltd.* (1999), 22 O.S.C.B. 2027 (*Maple Leaf*) which held that requirements for disclosure of sufficient information to allow investors to make informed choices represent a fundamental underpinning of the regulation of the capital markets by the Commission.

[69] At the time the Katotakis Offer was publicly announced on December 29, 2004, the Linedata Offer for the same securities was outstanding.

[70] FMC provided equal access to information to both Katotakis and Linedata.

[71] Katotakis disclosed in its take-over bid circular that it had no knowledge of any undisclosed material fact with respect to FMC.

[72] Taking into account *Maple Leaf*, we see no requirement for additional disclosure. As an insider, Katotakis is under no obligation to provide shareholders with his "belief and expectations" as to share value. Based on the facts, Katotakis meets the criteria set out in section 2.4 of Rule 61-501 for the exemption from the formal valuation requirement.

[73] Counsel for the Special Committee asserts that an "auction" is required for use of the valuation exemption. The word "auction" is used in the heading that precedes the exemption set forth in subsection 2.4(1)4 of Rule 61-501. The *Interpretation Act,* R.S.O. 1990, c. I.11, s.9 provides that headings of an act form no part of the act and are deemed inserted for convenience reference only. We have determined that we should not rely on the term "auction" in the heading in interpreting the exemption.

[74] Our decision aside, we note that corporate law gives minority shareholders in a Follow-on Transaction, through dissent rights, protection, if necessary, to be paid fair value for their shares.

February 22, 2005.

"Paul Moore" "Robert Davis" "Paul K. Bates"

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
Aloak Corp.	28 Feb 05	11 Mar 05		
Everock Inc.	24 Feb 05	08 Mar 05		
Intelpro Media Group Inc.	01 Mar 05	11 Mar 05		
Teton Petroleum Company	21 Feb 05	04 Mar 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		
CFM Corporation	16 Feb 05	01 Mar 05	01 Mar 05		
Eiger Technology, Inc.	21 Feb 05	04 Mar 05			
Hollinger Canadian Newspapers, Limited Partnership	21 May 04	01 Jun 04	01 Jun 04		
Hollinger Inc.	18 May 04	01 Jun 04	01 Jun 04		
Hollinger International Inc.	18 May 04	01 Jun 04	01 Jun 04		
Nortel Networks Corporation	17 May 04	31 May 04	31 May 04		
Nortel Networks Limited	17 May 04	31 May 04	31 May 04		

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Chapter 5

Rules and Policies

5.1.1 Notice of Commission Approval of OSC Rule 48-501 – Trading During Distributions, Formal Bids and Share Exchange Transactions and Companion Policy 48-501CP to OSC Rule 48-501 and Revocation of OSC Policy 5.1, Paragraph 26 and OSC Policy 62-601 – Securities Exchange Take-Over Bids – Trades in the Offeror's Securities

NOTICE OF COMMISSION APPROVAL
OSC RULE 48-501 –TRADING DURING DISTRIBUTIONS,
FORMAL BIDS AND SHARE EXCHANGE TRANSACTIONS AND
COMPANION POLICY 48-501CP TO OSC RULE 48-501

AND

REVOCATION OF ONTARIO SECURITIES COMMISSION
POLICY 5.1, PARAGRAPH 26 AND
ONTARIO SECURITIES COMMISSION POLICY 62-601 –
SECURITIES EXCHANGE TAKE-OVER BIDS – TRADES IN THE OFFEROR'S SECURITIES

On February 15, 2005 the Ontario Securities Commission (the Commission) made as a rule under the *Securities Act* (Act) OSC Rule 48-501 – Trading during Distributions, Formal Bids and Share Exchange Transactions (rule) and adopted Companion Policy 48-501CP to Rule 48-501 (companion policy). The Commission also revoked Ontario Securities Commission Policy 5.1, paragraph 26 and Ontario Securities Commission Policy 62-601 effective when the rule comes into force.

The rule and companion policy were delivered to the Minister on February 21, 2005. If the Minister does not reject the rule or return it for further consideration, it will come into force on May 9, 2005.

Background

The Commission published the rule for comment on August 29, 2003, (2003) 26 OSCB 6157. On September 10, 2004, the Commission published the rule for a second comment period (prior draft rule) and the proposed companion policy for comment at (2004) 27 OSCB 7766.

Concurrently, Market Regulation Services Inc. (RS) revised certain provisions of the Universal Market Integrity Rules (UMIR): Rule 7.7 (Restrictions on Trading by Participants During a Distribution) and Rule 7.8 (Restrictions on Trading During a Securities Exchange Take-over Bid) (together, the UMIR amendments). The intention of the Commission and RS was to ensure consistency between the rule and the UMIR amendments. The UMIR amendments were published for comment on August 29, 2003 at (2003) 26 OSCB 6231, and on September 10, 2004 at (2004) 27 OSCB 7881.

In response to the re-publication for comment, the Commission received 11 submissions from commenters. As a result of the comments received and the further consideration by the Commission, certain non-material revisions have been made to the rule and companion policy. Generally the comments received by the Commission were applicable to the UMIR amendments as well as the rule. A joint summary of the comments has been prepared, together with the Commission's and RS' responses to the comments, and is contained in Appendix A to this notice.

Substance and purpose of rule

The rule governs the activities of dealers, issuers and others in connection with a distribution of securities, securities exchange take-over bid, issuer bid or amalgamation, arrangement, capital reorganization or similar transaction. The rule is intended to prescribe what is acceptable activity and otherwise restricts trading activities to preclude manipulative conduct by persons with an interest in the outcome of the distribution of securities or other transactions set out above.

Harmonization with Regulation M

One of the key purposes of the reformulation of the rule was to harmonize to the extent possible with the United States Securities and Exchange Commission's (SEC) Regulation M (Reg M) as well as the UMIR amendments.

The SEC published for comment on December 9, 2004 proposed amendments to Reg M, after having proposed amendments to the provisions regarding research reports on November 3, 2004. The more significant proposed amendments to Reg M would amend the definition of restricted period for IPOs, mergers, acquisitions and exchange offers, update the dollar value thresholds for "actively-traded security" to take into account inflation since the adoption of Reg M, and, when stabilization is undertaken, require disclosure of syndicate covering transactions and penalty bids. The Commission will consider any amendments to Reg M when adopted and may revise the rule at a future date if appropriate.

Summary of Changes

The following is a summary of the substantive changes made to the prior draft rule and a discussion of the reasons for the changes.

Definitions

1. "dealer-restricted period" and "issuer-restricted period" – commencement of period for amalgamations, arrangements or capital reorganizations

In the prior draft rule, the restricted period in connection with a take-over bid, issuer bid, amalgamation, capital reorganization or similar transaction began on the date of the take-over bid circular, issuer bid circular, similar document or information circular (materials) for the transaction. Comment was received that the date of dissemination of the materials would be preferable to the date of the materials. The rule has been amended to harmonize with Reg M so that the restrictions start on the date of the commencement of the dissemination of the materials.

2. "dealer-restricted period" and "issuer-restricted period" and interpretation subsection 1.2(5) – end of distribution and end of restricted period

In the prior draft rule, the restricted period for prospectus distributions and private placements ended on the date that the selling process ended (which for a prospectus distribution meant that the receipt for the prospectus had been issued, the dealer had allocated all of its portion of the securities, and delivered to each subscriber a copy of the prospectus) and all stabilization arrangements relating to the offered security were terminated. Commenters wrote requesting more consistency with Reg M and greater clarity.

As a result of comments received, several changes have been made. Subsection 1.2(5) has been amended with respect to when the selling process shall be considered to end. The requirement that a copy of the prospectus be delivered to each subscriber has been deleted. In summary, there are three requirements for the end of the selling process: a receipt has been issued for the final prospectus, the dealer has allocated all of its portion of securities to be distributed and all selling efforts have ceased.

The companion policy has been amended to clarify that securities allocated to a dealer in a distribution that are transferred to the dealer's inventory account at the end of the distribution would be considered to be distributed and therefore that subsequent sales of these securities will not be subject to the rule's restrictions as long as they are not otherwise considered distributions under securities legislation. Clarification has also been added to the companion policy to provide where there is a syndicate, the syndicate must be broken for the restricted period to have ended.

3. "dealer-restricted person" – agents

Comments were received regarding the scope of the definition of "dealer-restricted person" as it relates to agents, and in particular, submissions were made that including agent was unnecessary since dealers acting as agents, who would not be considered to be underwriters pursuant to securities legislation, would not generally have the same incentive to manipulate. The Commission and RS believe that where a distribution takes place by way of a private placement, there is still sufficient incentive for a dealer to engage in manipulation where the offering is of sufficient size and the dealer's allocation is significant enough. To capture when an agent's involvement is significant, and hence there is a greater incentive to manipulate, the definition now provides that when a dealer is acting as an agent but not as an underwriter in a "restricted private placement" of securities, the dealer will be considered to be a "dealer-restricted person" only if the number of securities issued under the restricted private placement would constitute more than 10% of the total issued and outstanding securities and the dealer has been allotted or is entitled to sell more than 25% of the securities to be issued.

4. "issuer-restricted person" – carve out for insiders without material knowledge

The definition of "issuer-restricted person" includes insiders of the issuer and selling securityholders. Concern was expressed that certain institutions, such as, for example, firms that manage discretionary accounts, could become insiders under clause (c) of the definition of insider under the Act by virtue of owning or having control or discretion over more than 10% of the voting securities of an issuer but do not necessarily have an interest in the outcome of a distribution or transaction nor any knowledge

which is any different from a securityholder who is not an insider. The definition of "issuer-restricted person" has been amended in the rule to exclude a person who is an insider of an issuer only by virtue of clause (c) of the definition of "insider" under the Act if that person has not had within the preceding 12 months any board or management representation in respect of the issuer or selling securityholder and has no knowledge of any material information concerning the issuer or its securities that has not been generally disclosed.

5. "marketplace"

In response to comments regarding the term "marketplace" in the companion policy, clarification has been added to the companion policy that trading activity on all marketplaces in Canada as defined in National Instrument 21-101 – *Marketplace Operation* would be considered when determining whether a security is a "highly-liquid security".

6. "offered security" and "connected security"

The change in the prior draft rule to the definition of "offered security" and "connected security" to delete the reference to "listed security or quoted security" was only intended to capture markets where there is mandated transparency of trade information, such as, for example, any marketplace as defined in NI 21-101 – *Marketplace Operation*. The definitions of "offered security" and "connected security" have been revised to reflect this requirement.

7. "public distribution"

In the prior draft rule, the term "public distribution" was defined as a distribution of a security pursuant to a prospectus or private placement. From the comments received, we saw that there was some confusion and the term has been removed and replaced with the terms "prospectus distribution" and "restricted private placement". The term "restricted private placement" has been defined as a distribution pursuant to subsection 72(1)(b) of the Act or section 2.3 of Ontario Securities Commission Rule 45-501 – Exempt Distributions.

Permitted Activities and Exemptions

8. Exemption for market stabilization and market balancing activities

The Commission requested specific comment on the revised provisions relating to the exemption for market stabilization and market balancing. Comments were received expressing concern that the exemption would limit the market stabilization price to the lesser of the distribution price (or if not determined, the last independent sale price) and the best independent bid price at the time of the bid and may, in certain circumstances, be more restrictive than the current exemption which restricts the bid to the lesser of the issue price (if determined) and the last independent sale price. The Commission believes that the price of the last independent sale is the fairest indicator of where market is since it represents an actual transaction. Use of the last independent sale price is also consistent with the initial stabilizing price in Reg M. Further, the maximum price at which stabilization activities may take place has been revised in the rule. In the case of an offered security, the bid or purchase must not exceed the lesser of the distribution price and the last independent sale price. In the case of a connected security, the bid or purchase must not exceed the lesser of the last independent sale price at the commencement of the restricted period and at the time of the bid or purchase.

Research Reports

9. Research on single-issuers – Exemption for highly-liquid securities

Considerable comment was received regarding the removal of the exemption for the issuance of single-issuer research reports in the first publication of the proposed rule. In particular, commenters noted that Ontario dealers would be significantly disadvantaged compared to their U.S. counter-parts in a cross-border offering. Reg M permits single-issuer reports to be issued, provided certain conditions are met including that the research is contained in a publication which is distributed with reasonable regularity in the normal course of business. In order to facilitate cross-border offerings by harmonizing regulatory requirements in the rule and Reg M, and to provide a level playing field between interlisted issuers and non-interlisted issuers in Ontario, the rule has been amended to include an exemption for research reports in respect of issuers of securities which meet the definition of "highly-liquid security".

If you have questions, please contact:

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Text of the Rule and Companion Policy

The text of the rule and the companion policy follows. Also included is a blacklined version of the rule and companion policy showing changes from the rule and companion policy published with the prior materials.

APPENDIX A

PROPOSED OSC RULE 48-501
AND
AMENDMENTS TO THE UNIVERSAL MARKET INTEGRITY RULES (UMIR)

Joint Summary of Comments and Responses

On September 10, 2004, the Ontario Securities Commission ("OSC") published for comment the proposed OSC Rule 48-501 (the "OSC rule") and Market Regulation Services Inc. ("RS") issued Market Integrity Notice 2004-024 requesting comments on proposed amendments to the Universal Market Integrity Rules ("UMIR") respecting restrictions and prohibitions on trading during certain securities transactions, including distributions, amalgamations, issuer bids and takeover bids. Comments received by the OSC in respect of the OSC rule were generally addressed to RS and concerned amendments to UMIR as well. Accordingly, a Joint Summary of Comments and Responses has been prepared reflecting the responses of the OSC and RS on their respective proposed rules (collectively, the "rules"). The OSC and RS received comments from the following persons:

BMO Nesbitt Burns
Canaccord Capital Inc.
CIBC World Markets Inc.
Dorsey & Whitney LLP
National Bank Financial Inc.
Ontario Teachers' Pension Plan
Osler, Hoskin & Harcourt
RBC Financial Group
Scotia Capital Inc.
UBS Securities Inc.

Item	Topic and Section Reference	Summary of Comments	OSC and RS Response
General Comments			
1.	Price References in Rules	The commenter noted that all references to price variables in the rules should be modified to give effect to prices on the principal market. The principal market should be defined to include any of the Canadian or US exchanges or NASDAQ which has the largest aggregate reported trading volume for the class of securities in the previous 12 months.	The concept of a "principal market" was deleted, effective December 31, 2003, from National Instrument 21-101 – Marketplace Operation. Price references in the rules are intended to refer to trading on any marketplace in Canada. Price variables do not reference foreign markets for a variety of reasons including difficulties in determining appropriate and consistent foreign exchange rates and lack of general access to comprehensive trade data.
2.	Extraterritorial Application of Rules	A comment was received that the rules did not clearly indicate whether they were to apply to trading outside of Canada and noted that if they were not to apply to such trading, they could be easily circumvented by trading conducted on a US or other foreign market. Further, if the intention is to have the rules applied to all dealers worldwide for a Canadian distribution the concept has not been sufficiently articulated. The commenter questions whether the OSC could enforce such restrictions where they involved trading or persons outside of Ontario. The commenter suggested that an offeror and managing underwriter could jointly elect to be subject to Regulation M under the *Securities and Exchange Act of 1934* ("Reg M") rather than the rules if the distribution	The OSC rule applies to all trading activity conducted by an Ontario resident or in Ontario but does not purport to regulate the trading activity of a foreign resident outside of Ontario. However, an Ontario resident would not be permitted to carry out prohibited activities indirectly through a related entity, affiliate or associate that is a foreign resident. The UMIR provision will apply to trading by a Participant regardless of the jurisdiction in which the trade or activity occurs. To the extent that a security is inter-listed with a US market, the security will be exempt from the prohibitions and restrictions under the rules if the security meets the criteria for an "actively-traded security" under Reg M. If the bulk of the trading activity in an inter-listed security occurs outside of Canada and trading in the security is

Item	Topic and Section Reference	Summary of Comments	OSC and RS Response
		involved an inter-listed security. The commenter stated that this would reduce confusion regarding regulation.	subject to the restrictions under Reg M, RS may grant an exemption from compliance with the UMIR provision on the condition that there is compliance with Reg M. In the view of RS, it is appropriate to grant such exemptions on a case by case basis taking into account the circumstances of the distribution or transaction. The OSC and RS are of the view that allowing a dealer to elect to be subject to Reg M rather than the OSC rule or UMIR is not practical from the perspective of monitoring and enforcement.
3.	Publication of Final Amendment Prior to Implementation	A commenter wrote that it would be helpful to publish the final form of the rules some period (two weeks) before implementation to allow dealers and other regulated persons an opportunity to amend procedures and policies to ensure compliance.	The OSC rule will become effective on May 9, 2005 unless the Minister responsible for the administration of the *Securities Act* (Ontario) rejects the OSC rule or returns it to the Commission for further consideration. The amendments to UMIR will become effective on the implementation date of the OSC rule.
4.	Definition of "marketplace"	A commenter noted that the definition of "marketplace" in the Companion Policy to 48-501 references the term "recognized marketplace" and National Instrument 21-101 – Marketplace Operation. The commenter expressed a concern that this reference may exclude trading activity on ATSs from being counted when a security is a "highly-liquid security". The commenter expressed a belief that trading activity on an ATS should be counted when determining whether a security is a "highly-liquid security" and suggested that the reference to "recognized" be deleted in the Companion Policy.	The intention was that the trading activity on all marketplaces in Canada as defined in National Instrument 21-101 – *Marketplace Operation* be considered when determining whether a security is a "highly-liquid security". Appropriate changes to the Companion Policy have been made to clarify this point.
Definitions			
5.	"connected security" 48-501 s.1.1 UMIR s.1.1	One commenter noted that the definition of "reference security" in Reg M does not include a requirement that the connected security must be a security into which the offered security is immediately convertible nor does it include a threshold price for conversion, exchange or exercise. The commenter urged that the definition in the rules be conformed to Reg M and expressed a belief that dealer activity in "connected securities" would be suspect even if the conditions excluding it from restrictions applied.	The OSC and RS considered adopting a definition similar to the definition of "reference security" in Reg M but, in our view, the restrictions that would be imposed by the adoption of such a definition were unnecessary. The definition of "connected security" was intended to include securities into which the offered security could be converted during the course of the relevant securities transaction. The OSC and RS believe that if a security is not immediately convertible or if the conversion, exchange or exercise price exceeds the ask price for the security by 110%, there is a reduced likelihood that changes in the price of that security will have a substantial impact on the price of the offered security. As such, the risk of manipulation of the price of the offered security is also greatly reduced.

Item	Topic and Section Reference	Summary of Comments	OSC and RS Response
6.	"dealer-restricted period" – commencement – public distribution 48-501 s.1.1 UMIR s.1.1	It was submitted that the rules indicate that the commencement of the dealer-restricted period (commencing the later of two business days prior to the date the offering price is determined and the date that the dealer has been retained to participate in the offering) is different from the restricted period currently set out in Reg M. The commenter also indicated that the Securities and Exchange Commission ("SEC") intends to amend the section and urged that the proposed amendment be evaluated.	The OSC and RS have decided to maintain the two-day period. Comment was specifically requested on this issue previously and no commenter expressed support for Reg M's tiered approach for the commencement of the restricted period. Comments provided were supportive of maintaining a single, two-day period. However, the OSC and RS will monitor proposed amendments to Reg M and will revise the rules at a future date, if appropriate.
7.	"dealer-restricted period" – commencement of the restricted period 48-501 s.1.1 UMIR s.1.1	A commenter stated that knowledge of an agreement, entered into by the dealer, relating to the dealer's involvement in a distribution will be limited to a small group of persons who may be behind an "information wall" to ensure the limited distribution of non-public information. The commenter requested additional direction on how the restrictions are to be implemented without broadly disclosing the distribution within the organization.	The restricted period for prospectus distribution or a restricted private placement commences on the later of two day prior to pricing of the offering and the date the dealer enters into an agreement to participate in the distribution. As such, the earliest that the restricted period can commence is two days prior to pricing when knowledge of the distribution would be public. While the OSC and RS are aware that the imposition of trading restrictions within a dealer firm will signal to all those made aware of the restrictions that a transaction is pending, they believe that the imposition of restrictions is necessary. If certain information has not been made public, it is necessary to minimize the effect of information leakage, dealers are currently expected to have policies in place which ensure that restrictions are imposed immediately upon the commencement of a restricted period even though the particulars of the distribution or other transaction are not disclosed.
8.	"dealer-restricted period" – commencement of restricted period for amalgamation, arrangement, capital reorganization 48-501 s.1.1 UMIR s.1.1	One submission was received supporting the change in the commencement of the restricted period for amalgamations, arrangements, etc from the date of the announcement of the transaction to the date of the information circular (circular). Another commenter suggested that the date of dissemination of circular may be a preferable date for the commencement of restrictions as the date of the circular may be an arbitrary date fixed by the person drafting the circular. The commenter noted that the ability to pre-date or post-date the circular may result in difficulties in determining when the restrictions should be applied. The commenter suggested that the commencement of restrictions commence on the date of commencement of distribution of the circular in harmonization with Reg M.	The Commission and RS agree with the comment and have made the appropriate changes so that the restrictions will start on the date of the commencement of the distribution of the circular. The Commission and RS staff will monitor proposed amendments to Reg M and respond as considered appropriate.

Item	Topic and Section Reference	Summary of Comments	OSC and RS Response
9.	"dealer-restricted period" – conclusion of restricted period for distribution 48-501 ss.1.1 and 1.2 UMIR s.1.1	A commenter was of the view that the rules provide that the dealer-restricted period ends on the date the selling process ends and all stabilization arrangements relating to the offered security are terminated and that this is inconsistent with Reg M which provides that restrictions are to be complete upon conclusion of the dealer's participation in the distribution. In addition the commenter indicated that the termination provision lacks sufficient clarity. The commenter recommended that the restriction period end upon the issuance of a receipt for a final prospectus and the completion of all selling efforts by the dealer. Two commenters indicated that the requirement that a receipt for the final prospectus be issued and that the final prospectus be delivered to each subscriber before the restricted period end will unnecessarily extend the restricted period. The commenter indicated that traditionally final prospectuses are only considered to have been received after two business days have passed. One of these commenters expressed a concern that the proposed regulation considers stabilization arrangements to be operative until purchases or sales of restricted securities by a participating dealer are no longer being made jointly for the underwriting syndicate. The commenter noted that where an over-allotment option has been granted to the syndicate these restrictions will continue to apply as long as the syndicate retains an over-allotment short position. The commenter noted that this has the potential of extending the restricted period for as many as 30 days following the closing of the offering. The commenter suggested that the existing rules and practices be retained.	Amendments to the rules have been made to clarify that the conclusion of the restricted period under the rules will be substantially similar to the conclusion of period under Reg M. The rules now reference the completion of the distribution which, for a prospectus distribution will be considered to have ended when a receipt has been issued for the final prospectus, the Participant has allocated its portion of the securities to be distributed provided and all selling efforts have ceased. While Reg M uses the language "completion of participation in a distribution", that expression is defined in Rule 100 of Reg M by reference to essentially the same components as are included in the determination of the restricted period for the purpose of the rules. The conclusion of the restricted period under the rules will only require that a receipt for a final prospectus be issued but not that the prospectus be delivered.
10.	"dealer-restricted period" – conclusion of restricted period 48-501 s.1.1 UMIR s.1.1	A commenter urged that a provision (like Reg M) be added acknowledging that an underwriter who holds securities in their inventory account at the end of distribution will not be subject to restrictions upon resale of the securities unless the subsequent resale qualifies as a distribution.	The OSC and RS agree that securities retained by a dealer at the end of the distribution are to be considered "distributed". Subsequent sales of such securities are secondary market transactions and should occur on a marketplace (unless the subsequent sale transaction is a further distribution). To provide certainty around when the distribution has ended, appropriate steps should be taken to move the securities from the syndication account to the dealer's inventory account. Changes have been made to the Companion Policy and to Policy 1.2 of UMIR to clarify this point.

Item	Topic and Section Reference	Summary of Comments	OSC and RS Response
11.	"dealer-restricted period" – termination of restricted period for amalgamation, arrangement, capital reorganization 48-501 s.1.1 UMIR s.1.1	One commenter indicated that the termination of the restricted period on the approval of the transaction was inappropriate and that the more appropriate time for termination of the restricted period was on the date of mailing of the information circular. The commenter indicated that the period of time between the distribution of information circulars and the closing can be considerable, particularly where regulatory approval of the transaction is required. The commenter noted that the information circular will provide full disclosure of the particulars of the transaction including all material confidential information in the dealer's possession and that regulators and dealers have processes in place to monitor sales and trading to ensure that no manipulative trading takes place.	The OSC and RS believe that the relevant period, where an incentive exists to manipulate the price of the offered security, is the period leading up to the securityholders' vote on approval of the transaction. As there is an increased incentive to manipulate during this period, the OSC and RS believe that the application of restrictions is appropriate.
12.	"dealer-restricted period" – Soliciting Dealer Manager 48-501 s.1.1 UMIR s.1.1	A comment was received that the restricted period for the dealer acting as Soliciting Dealer Manager (who is subject to OSC Policy 33-601) should last only during the last ten days of the bid. The commenter indicated a belief that a Soliciting Dealer Manager has no pecuniary interest in the outcome of the vote and therefore little incentive to affect a specific stock price. The commenter indicated that the Soliciting Dealer Manager will have access to certain information relating to the outcome of the vote during the final 10 days which would make the restrictions appropriate.	The provisions in the rules are consistent with the requirements of Reg M. The OSC and RS recognize that a soliciting dealer-manager does not have pecuniary interest in the outcome of the vote but also note that a soliciting dealer-manager may have a "reputational" interest in the outcome. It is the opinion of the OSC and RS that the imposition of restrictions on soliciting dealer-managers is appropriate.
13.	"dealer-restricted person" – scope – agents 48-501 s.1.1 UMIR s.1.1	A commenter noted that the definition of underwriter in the *Securities Act* (Ontario) (the "Act") already would include a dealer acting as selling agent and indicated a concern that the clause has no purpose unless it is to include selling group participants as restricted parties. The commenter expressed a view that selling group participants should not be restricted parties as they would have little incentive to manipulate. Another commenter expressed a concern that inclusion of transactions involving dealers acting as agent in a public distribution of securities which would constitute more than 10% of the issued and outstanding offered securities would be excessive as there is little real incentive on the part of a dealer to manipulate the price of the security. The restrictions would then be applied to issuers with a relatively small market capitalization which should not be a cause of concern as there would be little	The OSC and RS have amended the definition of "dealer-restricted person" to clarify the application of restrictions. When a Participant is acting as an underwriter, as that term is defined under appropriate securities legislation, for either a prospectus distribution or a restricted private placement, the Participant will be considered to be a "dealer-restricted person". The term "restricted private placement" has been defined in the rules as a distribution of securities pursuant to clause 72(1)(b) of the Act or section 2.3 of OSC Rule 45-501 or similar provisions in applicable securities legislation. When a Participant is acting as an agent, but not as an underwriter, in a restricted private placement of securities, the Participant will be considered to be a "dealer-restricted person" if the size of the private placement and the agent's portion of the offering each reaches a minimum threshold. In particular:

Item	Topic and Section Reference	Summary of Comments	OSC and RS Response
		incentive to manipulate.	• the number of securities issued under the restricted private placement must constitute more than 10% of the total issued and outstanding securities; and • the Participant has been allotted or is entitled to sell not less than 25% of the securities to be issued pursuant to the restricted private placement.
14.	"dealer-restricted person" – scope - advisers 48-501 s.1.1 UMIR s.1.1	A commenter stated that the requirement that the advisers be provided with compensation which "depends on the outcome of the transaction" provides a broad exemption to the rules which does not exist in Reg M. The commenter noted that an adviser's desire to enhance its reputation is sufficient motivation for it to engage in manipulative trading and that restrictions should be applied. It was noted that soliciting dealer groups for transactions are not common in the US. In recognizing the different Canadian practice it was suggested that the restriction should be recast to provide a more limited exemption for members of a soliciting dealer group whose compensation is limited to a customary fee for each security tendered.	It is the intention of the OSC and RS that restrictions will apply to an adviser in respect of a securities exchange take-over bid or issuer bid or in respect of obtaining securityholder approval for an amalgamation, arrangement, capital reorganization or similar transaction. In the view of the OSC and RS, it is appropriate to impose restrictions only when the party has a specific financial interest in the outcome of the transaction and that such restrictions are not necessary when a party is merely providing advice for a flat or specified fee. The OSC and RS intend that the rules impose restrictions only on members of the soliciting dealer group who are providing the offeror or issuer with services as an adviser or are playing a key role in soliciting the deposit of securities pursuant to a take-over bid or soliciting support for a specified transaction. If a dealer is only a member of the soliciting dealer group as a result of making themselves available for the deposit of securities for a fee, the restrictions should not apply.
15.	"dealer-restricted person" – 10% threshold 48-501 s.1.1 UMIR s.1.1	One commenter pointed out that Reg M does not provide a threshold under which best efforts offering will not be considered distributions and suggests that the 10% threshold set out in subclause (a)(ii) of the definition be eliminated. The commenter indicated that the 10% threshold does not have any relation to the potential market impact of trading activity conducted by dealer-restricted persons and suggests that the more subjective test relied upon in Reg M of applying the restrictions to distributions which involve the use of special selling efforts.	The OSC and RS believe that the "special selling efforts" test set out in Reg M creates a subjective test which is difficult to apply. It should be noted that the amended version of the rules has deleted the 10% threshold except when a dealer is acting as an agent in a restricted private placement and has been allotted more than 25% of the distribution. The OSC and RS believe that, in relation to the restricted private placement, these thresholds create an objective test which is easy to apply. By setting these thresholds, only dealers with a significant interest in a significant restricted private placement that may have an impact on the market, and in which a dealer-restricted person might have sufficient incentive to manipulate, will be caught.
16.	"dealer-restricted person" – Exception for	Two commenters expressly supported the narrowing of the scope of the definition of dealer-restricted person provided for in the clause 1.1(b) exception where adequate	It should be noted that the carve-out for "related entities" is consistent with Reg M It should also be noted that "related entity" is defined in UMIR and in s. 1.2(4) of the OSC

Item	Topic and Section Reference	Summary of Comments	OSC and RS Response
	Related Entities 48-501 s.1.1(b) UMIR s.1.1(b)	information barriers are in place, noted its consistency with Reg M and urged that the provision be adopted as proposed. A commenter expressed a concern that the carve-out of the definition of "dealer-restricted person" in part (b) would be unlikely to exempt affiliated dealers in the US as it is typical to share information relating to a public distribution with such affiliates.	rule as an affiliated entity of as a person carrying on business in Canada registered as a dealer or adviser. Dealers operating in the US, which are not registered in Canada would not be subject to restrictions. As discussed in Item # 2 above, an Ontario resident would face sanctions if it was found to be carrying out prohibited activities indirectly through a related entity that is a foreign resident.
17.	"dealer-restricted person" – Exception for Related Entities 48-501 s.1.1(b) UMIR s.1.1(b)	A commenter stated that clause b(ii) of the definition of "dealer-restricted person" would be difficult to apply as typically employees of a department or division are also employees of the dealer as well and, as a result, may not enjoy the benefit of the carve-out. The commenter suggested that additional clarification on the application of the carve-out could be included in the companion policy.	Under the requirements in clause b(ii) of the definition of "dealer-restricted person", a related entity, department or division that has employees or officers that solicit client orders or recommend transactions in common with the restricted Participant would not fall within the "carve-out" and would, therefore, be subject to the restrictions and prohibitions under the rules.
18.	"highly-liquid security" 48-501 s.1.1 UMIR s.1.1	A commenter expressed support for the proposal, particularly the exemption from restrictions relating to highly-liquid securities. The commenter also indicated support for the proposal that RS would maintain and distribute a list of securities which would be considered to be highly-liquid.	It should be noted that RS will maintain and distribute a list of securities which, based on data available to RS, fall within the definition of a "highly-liquid security" as a result of achieving the required number of average daily trades and average daily trading value on Canadian marketplaces. RS will not maintain a list of securities considered to be "actively-traded" under Reg M. Persons may rely on this list or they may independently verify if a security meets the requirements of a "highly-liquid security" so long as they retain a record of the data they rely upon in verifying the requirements.
19.	"highly-liquid security" – measurement of trading activity 48-501 s.1.1 UMIR s.1.1	A commenter noted that the definition only considers trading on Canadian marketplaces in determining whether a security would qualify as a "highly-liquid security" and does not consider trading volume on other markets around the world. The commenter noted that Reg M takes into account world-wide trading in determining whether a security is an "actively-traded security". Although the definition of highly-liquid security includes any security that is considered an "actively traded security" under Reg M, the commenter is of the view that it is unfair to treat an issuer differently because it is inter-listed and a portion of its public float is traded in a non-Canadian marketplace.	See the response to Item #1. The OSC and RS recognize that there are practical concerns which arise when there are restrictions on trading on Canadian marketplaces where such trades can occur on a foreign market. The OSC and RS do, however, believe that the test utilized in the definition of the term "highly-liquid security" is more appropriate for securities traded on Canadian marketplaces than the test established in the definition of "actively-traded security" in Reg M.

Item	Topic and Section Reference	Summary of Comments	OSC and RS Response
20.	"issuer-restricted person" – Insider of an Issuer 48-501 s.1.1 UMIR s.1.1	A commenter expressed a concern that insiders of the issuer or a selling securityholder are included as "issuer restricted persons". The commenter indicated that an insider does not necessarily have an interest in the outcome of a distribution or transaction which is different than a person which is not an insider. The commenter further indicated that an insider does not necessarily have knowledge regarding a distribution that ordinary investors do not possess. In addition, the commenter noted that compliance with rules will be difficult for an insider as the insider may not have sufficient knowledge to determine when an "issuer restricted period" will begin or end. The commenter indicated that they believed that the imposition of trading restrictions in the rules unnecessarily restricted the ability of insiders to conduct trading activity for an extended duration. The commenter also suggested that the definition of "associated entity" should be revised to eliminate the inclusion in the definition of situations where an investor owns more than 10% of the voting securities of the issuer.	The OSC and RS agree that it may not be appropriate to impose restrictions on an insider of a issuer or selling securityholder solely because they may own in excess of 10% of the voting rights of an issuer. The rules have been amended to provide that an "issuer-restricted person" does not include a person who is an insider of an issuer only by virtue of clause (c) of the definition of "insider" under the Act and provided that person has not had within the preceding 12 months any board or management representation in respect of the issuer and has no knowledge of any material information concerning the issuer or its securities which has not generally been disclosed. . This 12 month "cooling-off period" is consistent with a similar provision for an insider to be exempt from the formal valuation requirements on an insider bid under paragraph 2 of section 2.4 of Ontario Securities Commission Rule 61-501 – *Insider Bids, Issuer Bids, Going Private Transactions and Related Party Transactions.* An "associated entity" is defined to include an entity in which the issuer of the offered security owns 10% of that entity's voting securities thereby making that entity an issuer-restricted person. The OSC and RS believe that this requirement is appropriate and no change has been made.
21.	"offered security" – scope of definition and "public distribution" – scope of definition 48-501 s.1.1 UMIR s.1.1	A commenter expressed a concern that the definition of the term "offered security" is too broad and will apply to distributions of securities which will be outside of present regulation. The commenter noted that the definition, when considered together with the recommended definition of "public offering", will result in restrictions applying to all offerings of debt or equity, whether by prospectus or by way of private placement, and situations where a dealer is an underwriter or a selling agent. The commenter suggests that the rules' application be restricted to securities which are listed or quoted for trading in Canada. The commenter further suggested that "private placement" be defined as an exempt offering comprised of more than 10% of the issued and outstanding securities of a class, to help define the scope of the rules.	The change to the OSC rule was only intended capture markets where there is mandated transparency of trade information, such as, for example, any marketplace as defined in National Instrument 21-101 – *Marketplace Operation.* The definitions of offered security and connected security have been revised to reflect this requirement. RS has amended the definition of "offered security" under UMIR to clarify in all circumstances that the security must be a listed or quoted security. A definition of "restricted private placement" has been added in each of the rules. See the response to Item # 13.

Item	Topic and Section Reference	Summary of Comments	OSC and RS Response
Permitted Activities and Exemptions			
22.	Exemptions from Trading Restrictions – Private Placements 48-501, s.3.1(1) UMIR s.7.7(4)(a)	One commenter indicated that Reg M does not provide an exemption from restrictions for private placements but only for Rule 144A offerings to Qualified Institutional Investors of securities not listed on a stock exchange. The commenter wrote that the broad exemption for private placements that is being proposed is not appropriate.	The amendments to the rules impose similar restrictions on both prospectus distributions and restricted private placements. The OSC and RS believe, particularly in the context of the Canadian market, that similar restrictions should be imposed on both private placement and prospectus distributions. The rules have been amended to clarify that a Participant acting as an underwriter in private placement is subject to the restrictions and a Participant acting as a selling agent in a private placement may be subject to the restrictions under the rules if the distribution is of a material size (more than 10% of the issued and outstanding offered securities) and the Participant's participation in the private placement is substantial (the Participant has been allotted more than 25% of the distribution).
23.	Exemptions from Trading Restrictions – Additional Exemptions 48-501, s.3.1(1) UMIR s.7.7(4)	A commenter noted that the rules did not include an exemption from the prohibition on attempting to induce a person to purchase a restricted security issued pursuant to a private placement for marketing activity to induce subscriptions for the private placement. The commenter suggested that an exemption, similar to the exemption in clause 3.1(g) of 48-501 be included for the solicitation of subscriptions pursuant to the private placement.	The solicitation of purchases of an offered security by private placement is exempt under clause 3.1(g) of 48-501, as well as s.7.7(4)(g) of UMIR. In order to clarify the drafting in the rules, the definition of "public distribution" has been replaced by references to "prospectus distribution" and "restricted private placement". See the response to Item # 22.
24.	Exemptions from Trading Restrictions 48-501, s.3.1(1) UMIR s.7.7(4)	One commenter expressed their concern that an exemption has not been included to allow dealers to purchase shares to offset positions entered into in error. The commenter indicated that such activity should not be considered to be manipulative.	The OSC and RS do not believe that a specific exemption allowing dealers to cover positions entered into in error is necessary. A Participant who wishes to make a purchase to offset a short position entered into in error should request an exemption on a case-by-case basis based on the circumstances that gave rise to the error and the need to cover that error by a purchase during the restricted period.
25.	Market Stabilization 48-501, s.3.1(1)(a) UMIR s.7.7(4)(a)	A commenter was concerned that the provisions of the rules do not allow a trade to be exempted from the restrictions where the purchase price exceeds the lesser of the last independent sale price or the best independent bid price unduly restricts a dealer's ability to participate in stabilization activities. The commenter suggested that the existing rule allowing a restricted party to purchase below the "last independent sale price" be retained. Another commenter expressed a concern that the proposal to provide an exception to restrictions for purchases at a price which	The OSC and RS have harmonized to a certain extent with Reg M, and have modified the rules so that for purposes of market stabilization, bids or purchases may be made at the lesser of the distribution price and the last independent sale price determined at the time the bid or purchase is entered on a marketplace. In the case of a connected security, the bid or purchase must not exceed the lesser of the last independent sale price at the commencement of the restricted period and the last independent sale price during determined at the time the bid or purchase is entered on a marketplace.

Item	Topic and Section Reference	Summary of Comments	OSC and RS Response
		does not exceed the lesser of the issue price (or if not determined the last independent sale price) and the best independent bid price, at the time of the bid may, in certain circumstances may be more restrictive then the current exemption which provides the exemption where the bid is below the lesser of the issue price (if determined) and the last independent sale price. The commenter believes that the last independent sale price is the fairest indicator of the market for a security and should be the appropriate reference for the application of the exemption.	Currently under UMIR, a Participant who is not short the security must bid or purchase the restricted security below the last sale price or at the last sale price if that price is below the immediately preceding different-priced trade. In the view of the OSC and RS, limiting the price of a bid to the last independent transaction price determined at the time the bid or purchase is entered on a marketplace provides the best independent reflection of the market.
26.	Exemptions from Trading Restrictions – Additional Exemptions 48-501, s.3.1(1) UMIR s.7.7(4)	A commenter wrote that the proposal includes exemptions from the general trading restriction for a transaction which would have the effect of unwinding an existing hedge position to allow the position to be unwound or rebalanced to maintain market neutrality. An exemption was also sought to permit the dealer to satisfy an unsolicited client order to enter into a swap transaction and enter into the associated hedge, as long as the trade position is market neutral.	While the OSC and RS agree that an exemption for the unwinding of a perfect hedge position is desirable, they do not think that a general exemption to unwind any hedge position is appropriate. The unwinding of an imperfect hedge will have an impact on the market which must be considered before an exemption should be granted. Requests for specific exemptions to unwind a hedge, where such an unwinding would be market neutral, will be considered on a case-by-case basis. While the OSC and RS are of the opinion that most client orders or their accompanying hedges can be satisfied in the market, they will consider granting exemptions from the restrictions of the rules on a case-by-case basis, as appropriate, particularly where a client's request cannot be satisfied in the market.
Research Reports			
27.	Research Reports – Restrictions on the Distribution of Research Reports 48-501, s. 4.1 and 4.2 UMIR, s.7.7(6)	A commenter stressed the importance of maximizing consistency between the proposed regulations and Reg M to limit the burden imposed on dealers and other financial institutions. They are concerned that the rules in markedly different from Rule 138 and 139 of the United States *Securities Act, 1933* ("1933 Act"). In particular a concern was expressed that the rules restricts research report dissemination during the course of a distribution, take-over bid, issuer bid or similar transaction where the US rules only apply to offerings. In addition, the proposal would prohibit single issuer research reports relating to offered securities, allowing only compilation reports. The US rules allow single issuer and compilation reports to be issued during an offering in certain circumstances, in the	The OSC and RS agree that consistency between the rules and Reg M is desirable and important. Every effort was made to ensure that the rules were consistent with Reg M where appropriate. The OSC and RS believe that the differences between Rule 138 and 139 of the *1933 Act* and the rules are justified given the nature of the Canadian market. The application of restrictions on the distribution of research for transactions such as take-over bid or issuer bids in addition to restrictions during a distribution recognizes that transactions other than distributions also provide an incentive to manipulate and the OSC and RS believe that restrictions on the publication of research are justified during such transactions. The OSC and RS also believe that the same incentive to manipulate a security's price exists where a distribution is a public offering or a

Item	Topic and Section Reference	Summary of Comments	OSC and RS Response
		ordinary course of business. The commenter stressed that more strict restrictions on the publication of research reports could make Canadian capital markets less competitive. The commenter also indicated that the proposed provisions restricting the publication of research reports should not be applied to private placements. The commenter recommended that the rules should be amended to be consistent with the US rules by exempting single issuer reports in respect of certain connected securities from section 2.1 of the OSC rule and section 53 of the Act and by exempting research reports relating to highly-liquid securities from the requirements of section 53 of the Act.	restricted private placement and that similar restrictions should apply in either case. The OSC and RS have made amendments to the proposed restrictions on distribution of research to exempt research reports relating to issuers of restricted securities that meet the definition of a "highly-liquid security".
28.	Research Reports – Restrictions of the Distribution of Research Reports 48-501, s. 4.1 and 4.2 UMIR, s.7.7(6)	A commenter wrote that the restrictions on distribution of research reports was unnecessary, particularly where the security distributed was a highly-liquid security. The commenter noted that Policy 11 of the Investment Dealers Association of Canada ("IDA") ensures that the research function is independent from other business activities. The commenter further noted that many dealers provide a monthly summary of reports created in relation to securities on which they provide research. Such summaries do not include detailed analysis explaining the reasons for the conclusions provided and investors who wish to obtain such information must rely on specific research reports. The commenter noted that restrictions on the delivery of specific reports would limit an investor's ability to make investment decisions and the ability of analysts to respond to investor questions. Another commenter stated that the proposed restrictions relating to the distribution of research reports would conflict with the obligations of an analyst to provide investors with timely, meaningful and useful research, including current financial estimates and recommendations following the release of material information, as required in IDA Policy 11, Guideline 3. The commenter indicated that the exemption from such restrictions only for a compilation report will not provide analysts with a practical method for distributing such information. A third commenter expressed a concern that restrictions on a dealer's ability to issue	The OSC and RS did consider the requirements of the IDA's Policy 11. Policy 11 is a policy of general application and obliges analysts to provide investors with timely research. The rules provide specific restrictions regarding the provisions regarding the analyst's ability to distribute reports where the dealer has an interest in the success of a distribution or other transaction. It should be noted that the rules should be considered to apply during the course of the distribution and analysts should not distribute research material, unless permitted by the rules, until the restrictions have been lifted. The OSC and RS are aware that the restrictions may reduce the information available to investors, however, believe that this is justified in circumstances where there is an incentive to manipulate a security's price.

Item	Topic and Section Reference	Summary of Comments	OSC and RS Response
		research reports which do not provide for the analysis of a single issuer or which limits the ability to change a rating allocated to issued securities would potentially mislead investors and certainly be of limited value. The commenter suggested that dealers should be able to give added prominence to opinion changes relating to the issued security to ensure that the changes are communicated clearly.	
29.	Research Reports – Restrictions of the Distribution of Research Reports 48-501, s. 4.1 UMIR, s.7.7(6)	A commenter urged that the OSC consider avoiding regulating dealer communications in the context of a public offering in a rule dealing with market stabilization and that it would be preferable for the CSA to consider taking a wholesale approach to reforming issuer and dealer communications in the context of a public offering. The commenter noted that the SEC has recently proposed reforms to public offering rules, including reforms regulating dealer communications.	The OSC and RS wish to harmonize the regulation of the distribution of research reports with US regulation, to the extent possible given the differences in the US and Canadian markets. The restrictions on research have been modified to permit the distribution of single issuer research in the case of highly-liquid securities as described in Item # 27 above. The OSC and RS will monitor any change to the SEC rules regulating dealer communication, and may harmonize the rules at a future date, if appropriate. Section 53 of the Act does prohibit the distribution of research material during a distribution as such material is considered to be a solicitation to purchase or an effort to induce the purchase of a security. As such, the reference to Section 53 is required in s.4.1 of the OSC rule.
30.	Research Reports – Compilations and Industry Research and Issuers of Exempt Securities 48-501, s. 4.1 and 4.2 UMIR, s.7.7(6)	A commenter recommended that an exemption to the restriction on distribution of research reports be included for research distributed with reasonable regularity in the normal course of business involving "seasoned issuers" similar to provisions in SEC Rule 139(a) and Reg M. The commenter expressed a belief that the failure to provide such an exemption would place Canadian dealers at a disadvantage in cross-border transactions. The commenter expressed a belief that dealers would review all research issued to ensure that it provided impartial analysis rather than promote the success of an offering.	The OSC and RS believe that an incentive to manipulate the price of a security may exist in many situations even when the issuer is a "seasoned issuer" and do not believe that a "seasoned issuer" exemption is appropriate. It should be noted that the OSC and RS have made amendments to the proposed restrictions on distribution of research by agreeing to exempt research reports relating to issuers of "highly-liquid securities" from the restrictions.
31.	Research Reports – Restrictions of the Distribution of Research Reports 48-501, s. 4.1 UMIR, s.7.7(6)	A commenter inquired whether dealer-restricted persons would be free to distribute single-issuer research during the distribution of a security that would qualify as a "highly-liquid security". The commenter also sought clarification as to what communications would be precluded under section 2.1. The commenter inquired, for example, whether a dealer could issue a single-issuer report relating to a significant development if the report did not have the	As noted above, the OSC and RS have made amendments to the proposed restrictions on distribution of research by exempting research reports relating to "highly-liquid securities" from the restrictions. The OSC and RS did consider the requirements of the IDA's Policy 11. The rules provide specific restrictions regarding the analyst's ability to distribute reports where the dealer has an interest in the success of a distribution or other transaction. It should be

Item	Topic and Section Reference	Summary of Comments	OSC and RS Response
		effect of inducing an investor to purchase a restricted security. The commenter further noted that the application of the rules must be consistent with IDA's Policy 11.	noted that the rules should be considered to apply during the course of restrictions and analysts should not distribute research material, unless permitted to do so in the rules, until the restrictions have been lifted.
32.	Research 48-501, s. 4.1 Policy 7.7 – Part 4	A comment was received noting that Part 4 of Policy 7.7 of UMIR states that the OSC rule does not permit dealers to distribute research reports where the dealer, the analyst covering the security or any other person representing the dealer has possession of non-disclosed material information. The commenter agreed that a research analyst in possession of non-disclosed material information should not be used in a research report but noted that dealers maintain information walls to ensure that information does not flow between working groups and that possession of such information by the dealer or its representative should not automatically prevent the publication of research reports. The commenter urged that the policy be amended to reflect dealer practices.	The OSC and RS understand that the commenter's concern, but are of the belief that no research material should be distributed when a dealer has possession of non-disclosed material information. However, it should be noted that when there is sufficient independence between functions and the "carve-out" contained in clause (b) of the definition of "dealer-restricted person" applies, the person issuing the research would not be subject to s.2.1 of the OSC rule and s.53 of the Act.

5.1.2 OSC Rule 48-501 – Trading during Distributions, Formal Bids and Share Exchange Transactions and Companion Policy 48-501CP to OSC Rule 48-501

Ontario Securities Commission
Rule 48-501

Trading during
Distributions, Formal Bids and
Share Exchange Transactions

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PART 1 - DEFINITIONS

1.1 Definitions

In this Rule

“connected security” means, in respect of an offered security,

(a) a security into which the offered security is immediately convertible, exchangeable or exercisable unless the security is a listed security or quoted security and the price at which the offered security is convertible, exchangeable or exercisable is greater than 110% of the best ask price of the security at the commencement of the restricted period,

(b) a security of the issuer of the offered security or another issuer that, according to the terms of the offered security, may significantly determine the value of the offered security,

(c) if the offered security is a special warrant, the security which would be issued on the exercise of the special warrant, and

(d) if the offered security is an equity security, any other equity security of the issuer,

where the security trades on a marketplace or a market where there is mandated transparency of orders or trade information;

“dealer-restricted period” means, for a dealer-restricted person, the period,

(a) in connection with a prospectus distribution or a restricted private placement of an offered security, commencing on the later of

(i) the date two trading days prior to the day the offering price of the offered security is determined, and

(ii) the date on which a dealer enters into an agreement or reaches an understanding to participate in the prospectus distribution or restricted private placement of securities, whether or not the terms and conditions of such participation have been agreed upon, and

ending on the date the selling process ends and all stabilization arrangements relating to the offered security are terminated,

(b) in connection with a securities exchange take-over bid or issuer bid, commencing on the date of dissemination of the take-over bid circular, issuer bid circular or similar document and ending with the termination of the period during which securities may be deposited under such bid, including any extension thereof, or the withdrawal of the bid, and

(c) in connection with an amalgamation, arrangement, capital reorganization or similar transaction, commencing on the date of dissemination of the information circular for such transaction and ending on the date of approval of the transaction by the security holders that will receive the offered security or the termination of the transaction by the issuer or issuers;

"dealer-restricted person" means, in respect of a particular offered security,

(a) a dealer that

(i) is an underwriter, as defined in the Act, in a prospectus distribution or a restricted private placement,

(ii) is participating, as agent but not as an underwriter, in a restricted private placement, and

(A) the number of securities to be issued under the restricted private placement would constitute more than 10% of the issued and outstanding offered securities, and

(B) the dealer has been allotted or is otherwise entitled to sell more than 25% of the securities to be issued under the restricted private placement,

(iii) has been appointed by an offeror to be the dealer-manager, manager, soliciting dealer or adviser in respect of a securities exchange take-over bid or issuer bid, or

(iv) has been appointed by an issuer to be the soliciting dealer or adviser in respect of obtaining security holder approval for an amalgamation, arrangement, capital reorganization or similar transaction that would result in the issuance of securities that would be a distribution exempt from prospectus requirements in accordance with applicable securities law,

where, in each case, adviser means an adviser whose compensation depends on the outcome of the transaction,

(b) a related entity of the dealer referred to in clause (a) but does not include such related entity, or any separate and distinct department or division of a dealer referred to in clause (a) where,

(i) the dealer

(A) maintains and enforces written policies and procedures reasonably designed to prevent the flow of information regarding any prospectus distribution, private placement or transaction referred to in clause (a) to or from the related entity, department or division, and

(B) obtains an annual assessment of the operation of such policies and procedures,

(ii) the dealer has no officers or employees that solicit orders or recommend transactions in securities in common with the related entity, department or division, and

(iii) the related entity, department or division does not during the dealer-restricted period, in connection with the restricted security,

(A) act as a market maker (other than to meet its obligations under the rules of a recognized exchange),

(B) solicit orders from clients, or

(C) engage in proprietary trading,

(c) a partner, director, officer, employee or a person holding a similar position or acting in a similar capacity for the dealer referred to in clause (a) or for a related entity of the dealer referred to in clause (b), or

(d) any person or company acting jointly or in concert with a person or company described in clause (a), (b) or (c) for a particular transaction;

"exchange-traded fund" means a mutual fund,

(a) the units of which are

(i) listed securities or quoted securities, and

(ii) in continuous distribution in accordance with applicable securities legislation, and

(b) designated by the Director as an exchange-traded fund for the purposes of this Rule;

"highly-liquid security" means a listed security or quoted security that,

(a) has traded, in total, on one or more marketplaces as reported on a consolidated market display during a 60-day period ending not earlier than 10 days prior to the commencement of the restricted period,

(i) an average of at least 100 times per trading day, and

(ii) with an average trading value of at least $1,000,000 per trading day, or

(b) is subject to Regulation M under the 1934 Act and is considered to be an "actively-traded security" thereunder;

"issuer-restricted period" means, for an issuer-restricted person, the period,

(a) in connection with a prospectus distribution or a restricted private placement of an offered security, commencing on the date two trading days prior to the day the offering price of the offered security is determined, and ending on the date the selling process ends and all stabilization arrangements relating to the offered security are terminated,

(b) in connection with a securities exchange take-over bid or issuer bid, commencing on the date of the dissemination of the take-over bid circular, issuer bid circular or similar document and ending with the termination of the period during which securities may be deposited under such bid, including any extension thereof, or the withdrawal of the bid, and

(c) in connection with an amalgamation, arrangement, capital reorganization or other similar transaction, commencing on the date of dissemination of the information circular for such transaction and ending on the date of approval of the transaction by the security holders that will receive the offered security or the termination of the transaction by the issuer or issuers;

"issuer-restricted person" means, in respect of a particular offered security,

(a) the issuer of the offered security,

(b) a selling security holder of the offered security in connection with a prospectus distribution or restricted private placement,

(c) an affiliated entity, associated entity or insider of the issuer of the offered security or a selling security holder but does not include a person who is an insider by virtue of clause (c) of the definition of "insider" under the Act so long as that person:

(i) does not have, and has had not in the previous 12 months, any board or management representation in respect of the issuer or selling security holder; and

(ii) does not have knowledge of any material information concerning the issuer or its securities that has not been generally disclosed; or

(d) any person or company acting jointly or in concert with the person or company described in clause (a), (b) or (c) for a particular transaction;

"last independent sale price" means the last sale price of a trade on a market, other than a trade that a dealer-restricted person knows or ought reasonably to know was made by or on behalf of a person or company that is a dealer-restricted person or an issuer-restricted person;

"offered security" means all securities, that trade on a marketplace or a market where there is mandated transparency of orders or trade information, of the class of security that

(a) is offered pursuant to a prospectus distribution or a restricted private placement,

(b) is offered by an offeror in a securities exchange take-over bid in respect of which a take-over bid circular or similar document is required to be filed under securities legislation,

(c) is offered by an issuer in an issuer bid in respect of which an issuer bid circular or similar document is required to be filed under securities legislation, or

(d) would be issuable to a security holder pursuant to an amalgamation, arrangement, capital reorganization or similar transaction in relation to which proxies are being solicited from security holders that will receive the offered security in such circumstances that the issuance would be a distribution exempt from prospectus requirements in accordance with applicable securities legislation,

provided that, if the security referred to in clauses (a) to (d) is a unit comprised of more than one type or class, each security comprising the unit shall be considered an offered security;

"restricted private placement" means a distribution of offered securities made pursuant to clause 72(1)(b) of the Act or section 2.3 of Ontario Securities Commission Rule 45-501 – *Exempt Distributions*; and

"restricted security" means the offered security or any connected security.

1.2 Interpretation

(1) Affiliated Entity - The term "affiliated entity" has the meaning ascribed to that term in section 1.3 of National Instrument 21-101 – *Marketplace Operation*.

(2) Associated Entity - Where used to indicate a relationship with an entity, associated entity has the meaning ascribed to the term "associate" in subsection 1(1) of the Act and also includes any person or company of which the entity beneficially owns voting securities carrying more than 10 per cent of the voting rights attached to all outstanding voting securities of the person or company.

(3) Equity Security - An equity security is any security of an issuer that carries a residual right to participate in the earnings of the issuer and, upon liquidation or winding up of the issuer, in its assets.

(4) Related Entity - In respect of a dealer, a related entity is an affiliated entity of the dealer that carries on business in Canada and is registered as a dealer or adviser in accordance with applicable securities legislation.

(5) For the purposes of the definitions of "dealer-restricted period" and "issuer-restricted period":

(a) the selling process shall be considered to end,

(i) in the case of a prospectus distribution, if a receipt has been issued for the final prospectus, the dealer has allocated all of its portion of the securities to be distributed under the prospectus and all selling efforts have ceased, and

(ii) in the case of a restricted private placement, the dealer has allocated all of its portion of the securities to be distributed under the offering; and

(b) stabilization arrangements shall be considered to have terminated in the case of a syndicate of underwriters or agents when, in accordance with the syndication agreement, the lead underwriter or agent determines that the syndication agreement has been terminated such that any purchase or sale of a restricted security by a dealer after the time of termination is not subject to the stabilization arrangements or otherwise made jointly for the dealers that were party to the stabilization arrangements.

PART 2 - RESTRICTIONS

2.1 Dealer-restricted Person

Except as permitted under sections 3.1, 4.1 and 4.2, a dealer-restricted person shall not at any time during the dealer-restricted period,

(a) bid for or purchase a restricted security for an account of a dealer-restricted person, an account over which the dealer-restricted person exercises direction or control, or, except in accordance with section 3.2, an account which the dealer-restricted person knows or reasonably ought to know, is an account of an issuer-restricted person; or

(b) attempt to induce or cause any person or company to purchase any restricted security.

2.2 Issuer-restricted Person

Except as permitted under section 3.2, an issuer-restricted person shall not at any time during the issuer-restricted period,

(a) bid for or purchase a restricted security for an account of an issuer-restricted person or an account over which the issuer-restricted person exercises direction or control; or

(b) attempt to induce or cause any person or company to purchase any restricted security.

2.3 Deemed Re-commencement of a Restricted Period

If a dealer appointed to be an underwriter in a prospectus distribution or a restricted private placement receives a notice or notices of the exercise of statutory rights of withdrawal or rights of rescission from purchasers of, in the aggregate, not less than 5% of the offered securities allotted to or acquired by the dealer in connection with the prospectus distribution or the restricted private placement then a dealer-restricted period and issuer-restricted period shall be deemed to have re-commenced upon receipt of such notice or notices and shall be deemed to have ended at the time the dealer has distributed its participation, including the securities that were the subject of the notice or notices of the exercise of statutory rights of withdrawal or rights of rescission.

PART 3 - PERMITTED ACTIVITIES AND EXEMPTIONS

3.1 Exemptions - Dealer-restricted Persons

(1) Section 2.1 does not apply to a dealer-restricted person in connection with,

(a) market stabilization or market balancing activities on a marketplace where the bid for or purchase of a restricted security is for the purpose of maintaining a fair and orderly market in the offered security by reducing the price volatility of or addressing imbalances in buying and selling interests for the restricted security, provided that the bid or purchase is at a price which does not exceed the lesser of

(i) in the case of an offered security

(A) the price at which the offered security will be issued in a prospectus distribution or restricted private placement, if that price has been determined, and

(B) the last independent sale price at the time of the entry of the bid or order to purchase, or

(ii) in the case of a connected security

(A) the last independent sale price at the commencement of the dealer-restricted period, and

(B) the last independent sale price at the time of the entry of the bid or order to purchase,

provided that if the restricted security has not previously traded on a marketplace, the price also does not exceed the price of the last trade of the security executed on an exchange or organized regulated market outside of Canada that publicly disseminates details of trades executed on that market other than a trade that the dealer-restricted person knows or ought reasonably to know has been entered by or on behalf of a person or company that is a dealer-restricted person or an issuer-restricted person;

(b) a restricted security that is

(i) a highly-liquid security,

(ii) a unit or share of an exchange-traded fund, or

(iii) a connected security of a security referred to in subclause (i) or (ii);

(c) a bid or purchase by a dealer-restricted person on behalf of a client, other than a client that the dealer-restricted person knows or ought reasonably to know is a person or company that is an issuer-restricted person, provided that

(i) the client's order was not solicited by the dealer-restricted person, or

(ii) if the client's order was solicited, the solicitation occurred before the commencement of the dealer-restricted period;

(d) the exercise of an option, right, warrant or a similar contractual arrangement held or entered into by the dealer-restricted person prior to the commencement of the dealer-restricted period;

(e) a bid for or purchase of a restricted security pursuant to a Small Securityholder Selling and Purchase Arrangement made in accordance with National Instrument 32-101 or similar rules applicable to any marketplace on which the bid or purchase is entered or executed;

(f) the solicitation of the tender of securities to a securities exchange take-over bid or issuer bid;

(g) a subscription for or purchase of an offered security pursuant to a prospectus distribution or restricted private placement;

(h) a bid for or purchase of a restricted security to cover a short position entered into prior to the commencement of the dealer-restricted period; or

(i) a bid for or purchase of a restricted security if the bid or purchase is made through the facilities of a marketplace in accordance with applicable marketplace rules.

(2) Where a dealer-restricted person is also an issuer-restricted person the exemptions in subsection (1) and sections 4.1 and 4.2 continue to be available to the dealer-restricted person.

3.2 Exemptions - Issuer-restricted Persons

Section 2.2 does not apply to an issuer-restricted person in connection with,

(a) the exercise of an option, right, warrant, or a similar contractual arrangement held or entered into by the issuer-restricted person prior to the commencement of the issuer-restricted period;

(b) a bid or purchase of a restricted security pursuant to a Small Securityholder Selling and Purchase Arrangement made in accordance with National Instrument 32-101 or similar rules applicable to any marketplace on which the bid or purchase is entered or executed;

(c) an issuer bid described in clauses 93(3)(a) through (d) of the Act if the issuer did not solicit the sale of the securities sold under those clauses;

(d) the solicitation of the tender of securities to a securities exchange take-over bid or issuer bid; or

(e) a subscription for or purchase of an offered security pursuant to a prospectus distribution or restricted private placement.

PART 4 - RESEARCH REPORTS

4.1 Compilations and Industry Research

Despite section 53 of the Act and section 2.1, a dealer-restricted person may publish or disseminate any information, opinion, or recommendation relating to the issuer of a restricted security provided that such information, opinion or recommendation,

(a) is contained in a publication which:

(i) is disseminated with reasonable regularity in the normal course of business of the dealer-restricted person, and

(ii) includes similar coverage in the form of information, opinions or recommendations with respect to a substantial number of companies in the issuer's industry or contains a comprehensive list of securities currently recommended by the dealer-restricted person; and

(b) is given no materially greater space or prominence in such publication than that given to other securities or issuers.

4.2 Issuers of Highly-liquid Securities

Despite section 53 of the Act and section 2.1, a dealer-restricted person may publish or disseminate any information, opinion, or recommendation relating to the issuer of a restricted security that is a highly-liquid security provided that such information, opinion, or recommendation is contained in a publication which is disseminated with reasonable regularity in the normal course of the business of the dealer-restricted person.

PART 5 - EXEMPTION

5.1 Exemption

The Director may grant an exemption to this Rule, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.

PART 6 - EFFECTIVE DATE

6.1 Effective Date

This Rule shall come into force on May 9, 2005.

Ontario Securities Commission
Rule 48-501

Trading during
Distributions, Formal Bids and
Share Exchange Transactions

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PART 1 - DEFINITIONS

1.1 Definitions

In this Rule

~~"best independent bid price" means the highest bid price entered on a marketplace, other than a bid that a dealer restricted person knows or ought reasonably to know has been entered by or on behalf of a person or company that is a dealer-restricted person or an issuer restricted person;~~

"connected security" means, in respect of an offered security,

(a) a security into which the offered security is immediately convertible, exchangeable or exercisable unless the security is a listed security or quoted security and the price at which the offered security is convertible, exchangeable or exercisable is greater than 110% of the best ask price of the security at the commencement of the restricted period,

(b) a security of the issuer of the offered security or another issuer that, according to the terms of the offered security, may significantly determine the value of the offered security,

(c) if the offered security is a special warrant, the security which would be issued on the exercise of the special warrant, and

(d) if the offered security is an equity security, any other equity security of the issuer~~;~~,

where the security trades on a marketplace or a market where there is mandated transparency of orders or trade information;

"dealer-restricted period" means, for a dealer-restricted person, the period,

(a) in connection with a ~~public~~prospectus distribution or a restricted private placement of an offered security, commencing on the later of

(i) the date two trading days prior to the day the offering price of the offered security is determined, and

(ii) the date on which a dealer enters into an agreement or reaches an understanding to participate in the ~~public~~prospectus distribution or restricted private placement of securities, whether or not the terms and conditions of such participation have been agreed upon, and

ending on the date the selling process ends and all stabilization arrangements relating to the offered security are terminated,

(b) in connection with a securities exchange take-over bid or issuer bid, commencing on the date of dissemination of the take-over bid circular, issuer bid circular or similar document and ending with the termination of the period during which securities may be deposited under such bid, including any extension thereof, or the withdrawal of the bid, and

(c) in connection with an amalgamation, arrangement, capital reorganization or similar transaction, commencing on the date of dissemination of the information circular for such transaction and ending on the date of approval of the transaction by the security holders that will receive the offered security or the termination of the transaction by the issuer or issuers;

"dealer-restricted person" means, in respect of a particular ~~restricted~~ offered security,

(a) a dealer that

(i) ~~has been appointed by an issuer to be~~ is an underwriter, as defined in the Act, in a ~~public~~prospectus distribution or a restricted private placement,

(ii) is participating, as agent but not as an underwriter, in a ~~public distribution~~ restricted private placement, and

(A) the number of securities to be issued under the restricted private placement ~~that~~ would constitute more than 10% of the issued and outstanding offered securities, and

(B) the dealer has been allotted or is otherwise entitled to sell more than 25% of the securities to be issued under the restricted private placement,

(iii) has been appointed by an offeror to be the dealer-manager, manager, soliciting dealer or adviser in respect of a securities exchange take-over bid or issuer bid, or

(iv) has been appointed by an issuer to be the soliciting dealer or adviser in respect of obtaining security holder approval for an amalgamation, arrangement, capital reorganization or similar transaction that would result in the issuance of securities that would be a distribution exempt from prospectus requirements in accordance with applicable securities law,

where, in each case, adviser means an adviser whose compensation depends on the outcome of the transaction,

(b) a related entity of the dealer referred to in clause (a) but does not include such related entity, or any separate and distinct department or division of a dealer referred to in clause (a)~~,~~ where,

(i) the dealer

(A) maintains and enforces written policies and procedures reasonably designed to prevent the flow of information regarding any ~~public~~prospectus distribution, private placement or transaction referred to in clause (a) to or from the related entity, department or division, and

(B) obtains an annual assessment of the operation of such policies and procedures,

(ii) the dealer has no officers or employees that solicit orders or recommend transactions in securities in common with the related entity, department or division, and

(iii) the related entity, department or division does not during the dealer-restricted period, in connection with the restricted security,

(A) act as a market maker (other than to meet its obligations under the rules of a recognized exchange),

(B) solicit orders from clients, or

(C) engage in proprietary trading,

(c) a partner, director, officer, employee or a person holding a similar position or acting in a similar capacity for the dealer referred to in clause (a) or for a related entity of the dealer referred to in clause (b), or

(d) any person or company acting jointly or in concert with a person or company described in clause (a), (b) or (c) for a particular transaction;

"exchange-traded fund" means a mutual fund,

(a) the units of which are

(i) listed securities or quoted securities, and

(ii) in continuous distribution in accordance with applicable securities legislation, and

(b) designated by the Director as an exchange-traded fund for the purposes of this Rule;

"highly-liquid security" means a listed security or quoted security that,

(a) has traded, in total, on one or more marketplaces as reported on a consolidated market display during a 60-day period ending not earlier than 10 days prior to the commencement of the restricted period,

(i) an average of at least 100 times per trading day, and

(ii) with an average trading value of at least $1,000,000 per trading day, or

(b) is subject to Regulation M under the 1934 Act and is considered to be an "actively-traded security" thereunder;

"issuer-restricted period" means, for an issuer-restricted person, the period,

(a) in connection with a ~~public~~prospectus distribution or a restricted private placement of an offered security, commencing on the date two trading days prior to the day the offering price of the offered security is determined, and ending on the date the selling process ends and all stabilization arrangements relating to the offered security are terminated,

(b) in connection with a securities exchange take-over bid or issuer bid, commencing on the date of the dissemination of the take-over bid circular, issuer bid circular or similar document and ending with the termination of the period during which securities may be deposited under such bid, including any extension thereof, or the withdrawal of the bid, and

(c) in connection with an amalgamation, arrangement, capital reorganization or other similar transaction, commencing on the date of dissemination of the information circular for such transaction and ending on the date of approval of the transaction by the security holders that will receive the offered security or the termination of the transaction by the issuer or issuers;

"issuer-restricted person" means, in respect of a particular ~~restricted~~ offered security,

(a) the issuer of the offered security,

(b) a selling security holder of the offered security in connection with a prospectus ~~public~~ distribution or restricted private placement,

(c) an affiliated entity, associated entity or insider of the issuer of the offered security or ~~the~~ a selling security holder~~, or~~ but does not include a person who is an insider by virtue of clause (c) of the definition of "insider" under the Act so long as that person :

(i) does not have, and has had not in the previous 12 months, any board or management representation in respect of the issuer or selling security holder; and

(ii) does not have knowledge of any material information concerning the issuer or its securities that has not been generally disclosed; or

(d) any person or company acting jointly or in concert with the person or company described in clause (a), (b) or (c) for a particular transaction;

"last independent sale price" means the last sale price of a trade on a market, other than a trade that a dealer-restricted person knows or ought reasonably to know was made by or on behalf of a person or company that is a dealer-restricted person or an issuer-restricted person;

"offered security" means all securities, that trade on a marketplace or a market where there is mandated transparency of orders or trade information, of the class of security that

(a) is offered pursuant to a ~~public~~ prospectus distribution or a restricted private placement,

(b) is offered by an offeror in a securities exchange take-over bid in respect of which a take-over bid circular or similar document is required to be filed under securities legislation,

(c) is offered by an issuer in an issuer bid in respect of which an issuer bid circular or similar document is required to be filed under securities legislation, or

(d) would be issuable to a security holder pursuant to an amalgamation, arrangement, capital reorganization or similar transaction in relation to which proxies are being solicited from security holders that will receive the offered security in such circumstances that the issuance would be a distribution exempt from prospectus requirements in accordance with applicable securities ~~law~~legislation,

provided that, if the security referred to in clauses (a) to (d) is a unit comprised of more than one type or class, each security comprising the unit shall be considered an offered security;

~~"public distribution" means a distribution of a security pursuant to a prospectus or private placement~~

"restricted private placement" means a distribution of offered securities made pursuant to clause 72(1)(b) of the Act or section 2.3 of Ontario Securities Commission Rule 45-501 – *Exempt Distributions*; and

"restricted security" means the offered security or any connected security.

1.2 Interpretation

(1) Affiliated Entity - The term "affiliated entity" has the meaning ascribed to that term in section 1.3 of National Instrument 21-101 – *Marketplace Operation*.

(2) Associated Entity - Where used to indicate a relationship with an entity, associated entity has the meaning ascribed to the term "associate" in subsection 1(1) of the Act and also includes any person or company of which the entity beneficially owns voting securities carrying more than 10 per cent of the voting rights attached to all outstanding voting securities of the person or company.

(3) Equity Security - An equity security is any security of an issuer that carries a residual right to participate in the earnings of the issuer and, upon liquidation or winding up of the issuer, in its assets.

(4) Related Entity - In respect of a dealer, a related entity is an affiliated entity of the dealer that carries on business in Canada and is registered as a dealer or adviser in accordance with applicable securities legislation.

(5) For the purposes of the definitions of "dealer-restricted period" and "issuer-restricted period":

(a) the selling process shall be considered to end,~~:~~

(i) in the case of a prospectus distribution ~~pursuant to a prospectus~~, if a receipt has been issued for the final prospectus, ~~and~~ the dealer has allocated all of its portion of the securities to be distributed under the prospectus and all selling efforts have ceased ~~and delivered to each subscriber a copy of the prospectus as required by applicable securities legislation~~, and

(ii) in the case of a restricted private placement, the dealer has allocated all of its portion of the securities to be distributed under the offering ~~and delivered to each subscriber a copy of all offering documents required to be provided to subscribers in connection with such offering~~; and

(b) stabilization arrangements shall be considered to have terminated in the case of a syndicate of underwriters or agents when, in accordance with the syndication agreement, the lead underwriter or agent determines that the syndication agreement has been terminated such that any purchase or sale of a restricted security by a dealer after the time of termination is not subject to the stabilization arrangements or otherwise made jointly for the dealers that were party to the stabilization arrangements.

PART 2 - RESTRICTIONS

2.1 Dealer-restricted Person

Except as permitted under sections 3.1, ~~and~~ 4.1 and 4.2, a dealer-restricted person shall not at any time during the dealer-restricted period,

(a) bid for or purchase a restricted security for an account of a dealer-restricted person, an account over which the dealer-restricted person exercises direction or control, or, except in accordance with section 3.2, an account which the dealer-restricted person knows or reasonably ought to know, is an account of an issuer-restricted person; or

(b) attempt to induce or cause any person or company to purchase any restricted security.

2.2 Issuer-restricted Person

Except as permitted under section 3.2, an issuer-restricted person shall not at any time during the issuer-restricted period,

(a) bid for or purchase a restricted security for an account of an issuer-restricted person or an account over which the issuer-restricted person exercises direction or control; or

(b) attempt to induce or cause any person or company to purchase any restricted security.

2.3 Deemed Re-commencement of a Restricted Period

If a dealer appointed to be an underwriter in a ~~public~~ prospectus distribution or a restricted private placement receives a notice or notices of the exercise of statutory rights of withdrawal or rights of rescission from purchasers of, in the aggregate, not less than 5% of the offered securities allotted to or acquired by the dealer in connection with the ~~public~~ prospectus distribution or the restricted private placement then a dealer-restricted period and issuer-restricted period shall be deemed to have re-commenced upon receipt of such notice or notices and shall be deemed to have ended at the time the dealer has distributed its participation, including the securities that were the subject of the notice or notices of the exercise of statutory rights of withdrawal or rights of rescission.

PART 3 - PERMITTED ACTIVITIES AND EXEMPTIONS

3.1 Exemptions - Dealer-restricted Persons

(1) Section 2.1 does not apply to a dealer-restricted person in connection with,

(a) market stabilization or market balancing activities on a marketplace where the bid for or purchase of a restricted security is for the purpose of maintaining a fair and orderly market in the offered security by reducing the price volatility of or addressing imbalances in buying and selling interests for the restricted security, provided that the bid or purchase is at a price which does not exceed the lesser of

(i) in the case of an offered security

(A) the price at which the offered security will be issued in a ~~public~~ prospectus distribution or restricted private placement, if that price has been determined, and

(B) the ~~best~~ last independent ~~bid~~ sale price at the time of the entry of the bid or order to purchase, or

(ii) in the case of a connected security

(A) the ~~best independent bid~~last independent sale price at the commencement of the dealer-restricted period, and

(B) the ~~best~~ last independent ~~bid~~ sale price at the time of the entry of the bid or order to purchase,

provided that

~~(iii) if the dealer restricted person enters the bid prior to the commencement of trading on a trading day, the price also does not exceed the last sale price of the restricted security on the previous trading day, and~~

~~(iv)~~ if the restricted security has not previously traded on a marketplace, the price also does not exceed the price of the last trade of the security executed on an exchange or organized regulated market outside of Canada that publicly disseminates details of trades executed on that market other than a trade that the dealer-restricted person knows or ought reasonably to know has been entered by or on behalf of a person or company that is a dealer-restricted person or an issuer-restricted person;

(b) a restricted security that is

(i) a highly-liquid security,

(ii) a unit or share of an exchange-traded fund, or

(iii) a connected security of a security referred to in subclause (i) or (ii);

(c) a bid or purchase by a dealer-restricted person on behalf of a client, other than a client that the dealer-restricted person knows or ought reasonably to know is a person or company that is an issuer-restricted person, provided that

(i) the client's order was not solicited by the dealer-restricted person, or

(ii) if the client's order was solicited, the solicitation occurred before the commencement of the dealer-restricted period;

(d) the exercise of an option, right, warrant or a similar contractual arrangement held or entered into by the dealer-restricted person prior to the commencement of the dealer-restricted period;

(e) a bid for or purchase of a restricted security pursuant to a Small Securityholder Selling and Purchase Arrangement made in accordance with National Instrument 32-101 or similar rules applicable to any marketplace on which the bid or purchase is entered or executed;

(f) the solicitation of the tender of securities to a securities exchange take-over bid or issuer bid;

(g) a subscription for or purchase of an offered security pursuant to a ~~public~~ prospectus distribution or restricted private placement;

(h) a bid for or purchase of a restricted security to cover a short position entered into prior to the commencement of the dealer-restricted period; or

(i) a bid for or purchase of a restricted security if the bid or purchase is made through the facilities of a marketplace in accordance with applicable marketplace rules.

(2) Where a dealer-restricted person is also an issuer-restricted person the exemptions in subsection (1) and sections 4.1 and 4.2 continue to be available to the dealer-restricted person.

3.2 Exemptions - Issuer-restricted Persons

Section 2.2 does not apply to an issuer-restricted person in connection with,

(a) the exercise of an option, right, warrant, or a similar contractual arrangement held or entered into by the issuer-restricted person prior to the commencement of the issuer-restricted period;

(b) a bid or purchase of a restricted security pursuant to a Small Securityholder Selling and Purchase Arrangement made in accordance with National Instrument 32-101 or similar rules applicable to any marketplace on which the bid or purchase is entered or executed;

(c) an issuer bid described in clauses 93(3)(a) through (d) of the Act if the issuer did not solicit the sale of the securities sold under those clauses;

(d) the solicitation of the tender of securities to a securities exchange take-over bid or issuer bid; or

(e) a subscription for or purchase of an offered security pursuant to a ~~public~~ prospectus distribution or restricted private placement.

PART 4 - RESEARCH REPORTS

4.1 Compilations and Industry Research

Despite section 53 of the Act and section 2.1, a dealer-restricted person may publish or disseminate any information, opinion, or recommendation relating to the issuer of a restricted security provided that such information, opinion or recommendation,

(a) is contained in a publication which:

(i) is disseminated with reasonable regularity in the normal course of business of the dealer-restricted person, and

(ii) includes similar coverage in the form of information, opinions or recommendations with respect to a substantial number of companies in the issuer's industry or contains a comprehensive list of securities currently recommended by the dealer-restricted person; and

(b) is given no materially greater space or prominence in such publication than that given to other securities or issuers.

4.2 Issuers of Highly-liquid Securities

Despite section 53 of the Act and section 2.1, a dealer-restricted person may publish or disseminate any information, opinion, or recommendation relating to the issuer of a restricted security that is a highly-liquid security provided that such information, opinion, or recommendation is contained in a publication which is disseminated with reasonable regularity in the normal course of the business of the dealer-restricted person.

PART 5 - EXEMPTION

5.1 Exemption

The Director may grant an exemption to this Rule, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.

PART 6 - EFFECTIVE DATE

6.1 Effective Date

This Rule shall come into force on May 9, 2005.

COMPANION POLICY 48-501CP TO RULE 48-501
TRADING DURING DISTRIBUTIONS, FORMAL BIDS AND SHARE EXCHANGE TRANSACTIONS

PART 1 – INTRODUCTION

1.1 Purpose – Ontario Securities Commission Rule 48-501 Trading during Distributions, Formal Bids and Share Exchange Transactions (the "Rule") imposes trading restrictions on dealers, issuers and certain related parties involved in a distribution of securities, take-over bids and certain other transactions. The Rule generally prohibits purchases of or bids for restricted securities in circumstances where there is heightened concern over the possibility of manipulation by those with an interest in the outcome of the distribution or transaction. This Companion Policy sets out the views of the Ontario Securities Commission (the "Commission") as to the interpretation of various terms and provisions in the Rule.

PART 2 – DEFINITIONS AND INTERPRETATIONS

2.1 "connected security" – The definition of "connected security" in section 1.1 of the Rule includes, among other things, a security of the issuer of the offered security or another issuer that, according to the terms of the offered security, may significantly determine the value of the offered security. The Commission takes the view that, absent other mitigating factors, a connected security "significantly determines" the value of the offered security, if, in whole or in part, it accounts for more than 25% of the value of the offered security.

2.2 "exchange-traded fund" – Section 1.1 of the Rule defines an "exchange-traded fund", in part, as a mutual fund designated by the Director as an exchange-traded fund for the purposes of the Rule. As guidance, an exchange-traded fund may be designated by the Director where it is determined that it would be difficult to manipulate the price of the units or shares of the mutual fund. The following factors would be considered in determining whether a mutual fund would be difficult to manipulate: (a) the redemption features and whether they cause the market price to be tied to the net asset value; and (b) the transparency of the fund or underlying assets of the fund. Application for such designation should be made to the Commission prior to or at the time of filing the prospectus.

2.3 End of "dealer-restricted period" and "issuer-restricted period" – distribution of securities and exercise of over-allotment option – The definitions of "dealer-restricted period" and "issuer-restricted period", with respect to a prospectus distribution and a "restricted private placement", refer to the end of the period as the date that the selling process ends and all stabilization arrangements relating to the offered security are terminated. Paragraph (a) of subsection 1.2(5) provides interpretation as to when the selling process is considered to end. As further clarification, the selling process is considered to end for a prospectus distribution when the receipt for the prospectus has been issued, the dealer has distributed all securities allocated to it and is no longer stabilizing, all selling efforts have ceased and the syndicate is broken. Selling efforts have ceased when the dealer is no longer making efforts to sell, and there is no intention to exercise an over-allotment option other than to cover the syndicate's short position. If the dealer or syndicate subsequently exercises an over-allotment option in an amount that exceeds the syndicate short position, the selling efforts would not be considered to have ceased. Securities allocated to a dealer that are held and transferred to their inventory account at the end of the distribution are considered distributed. Subsequent sales of such securities are secondary market transactions and should occur on a marketplace subject to any applicable exemptions (unless the subsequent sale transaction is a distribution by prospectus). To provide certainty around when the distribution has ended, appropriate steps should be taken to move the securities from the syndication account to the dealer's inventory account.

PART 3 – RESTRICTED PERSONS

3.1 Meaning of "acting jointly or in concert" – The definitions of "dealer-restricted person" and "issuer-restricted person" in section 1.1 of the Rule include a person or company acting jointly or in concert with a person or company that is also a dealer-restricted person or an issuer-restricted person for a particular transaction. For the purposes of the Rule, "acting jointly or in concert" has a similar meaning to that phrase as defined in section 91 of the Act, with necessary modifications. In the context of this Rule only, it is a question of fact whether a person or company is acting jointly or in concert with a dealer- or issuer-restricted person and, without limiting the generality of the foregoing, every person or company who, as a result of an agreement, commitment or understanding, whether formal or informal, with a dealer-restricted person or an issuer-restricted person, bids for or purchases a restricted security will be presumed to be acting jointly or in concert with such dealer-restricted person or issuer-restricted person.

3.2 Exclusion of "related party" – Clause of (b) of the definition of "dealer-restricted person" in section 1.1 of the Rule excludes a related entity where certain conditions are met. Subclause (i)(B) requires the dealer to obtain an annual assessment of the operation of the policies and procedures referred to in subclause (i)(A). In the Commission's view, this assessment may be conducted as part of the annual policy and procedure review of the supervision system as required by Policy 7.1 of the Universal Market Integrity Rules.

PART 4 – MARKETPLACE AND MARKETPLACE RULES

4.1 Meaning of "marketplace" – In this Rule, marketplace means all marketplaces as defined in section 1.1 of National Instrument 21-101 – *Marketplace Operation*.

4.2 Meaning of "marketplace rules" – Marketplace rules refer to the rules, policies and other similar instruments adopted by a recognized stock exchange or recognized quotation and trade reporting system as approved by the applicable securities regulatory authority but not including any rules, policies or other similar instruments relating solely to the listing of securities on a stock exchange or to the quoting of securities on a quotation and trade reporting system.

PART 5 - EXEMPTIONS

5.1 Fraud and Manipulation – Provisions against manipulation and fraud are found in securities legislation, specifically, Part 3 of National Instrument 23-101 – *Trading Rules* (NI 23-101) and section 126.1 of the Act (when that provision comes into force). NI 23-101 prohibits manipulative or deceptive trading, including activities that may create misleading pricing or trading activity that is detrimental to investors and the integrity of the markets. The Rule specifically prohibits certain trading activities in circumstances where there is heightened concern over the possibility of manipulation by those with an interest in the outcome of the distribution or transaction. The Rule also provides certain exemptions to permit purchases and bids in situations where there is no, or a very low, possibility of manipulation. However, the Commission is of the view that notwithstanding that certain trading activities are permitted under the Rule these activities continue to be subject to the general provisions relating to manipulation and fraud found in securities legislation such that any activities carried out in accordance with the Rule must still meet the spirit of the general anti-manipulation and anti-fraud provisions.

5.2 Market Stabilization and Market Balancing – Subsection 3.1(1) of NI 23-101 prohibits manipulation or fraud which includes, among other things, a transaction or series of transactions that a person or company knows, or ought reasonably to have known, would contribute to a misleading appearance of trading activity or an artificial price for a security. Companion Policy 23-101CP to NI 23-101 states that the Canadian securities regulatory authorities do not consider market stabilization activities carried out in connection with a distribution of securities to be activities in breach of subsection 3.1(1) provided such activities are carried out in accordance with applicable marketplace rules or provisions of securities legislation that permit market stabilization activities. Clause 3.1(1)(a) of the Rule provides dealer-restricted persons with an exemption for market stabilization and market balancing activities subject to price limitations. Market stabilization and market balancing activities should be engaged in for the purpose of maintaining a fair and orderly market in the offered security by reducing the price volatility of or addressing imbalances in buying and selling interest for the restricted security.

The Commission considers it to be inappropriate for a dealer to engage in market stabilization activities in circumstances where the dealer knows or should reasonably know that the market price is not fairly and properly determined by supply and demand. This might exist where, for example, the dealer is aware that the market price is a result of inappropriate activity by a market participant or that there is undisclosed material information regarding the issuer.

Market balancing activities should contribute to a fair and orderly market by contributing to price continuity and depth and by minimizing supply-demand disparity. Market balancing does not seek to prevent or unduly retard any price movements, but merely to prevent erratic or disorderly changes in price.

5.3 Short-position Exemption – Subclause 3.1(1)(h) provides an exemption from the Rule for a dealer-restricted person in connection with a bid for or purchase to cover a short position provided it was entered into before the commencement of the dealer-restricted period. Short positions entered into during the dealer-restricted period may be covered by purchases made in reliance upon the market stabilization exemption in clause 3.1(1)(a), subject to the price limits set out in that exemption.

PART 6 – RESEARCH

6.1 Section 53 of the Act – Part 4 of the Rule provides exemptions from section 53 of the Act which prohibits providing research that in the Commission's view constitutes an act, advertisement, solicitation, conduct or negotiation directly or indirectly in furtherance of a trade prior to the filing and receipt of the preliminary prospectus and prospectus. The Commission is of the view that although sections 4.1 and 4.2 do permit dealer-restricted persons to disseminate research reports, this dissemination continues to be subject to the usual restrictions applicable to dealer-restricted persons when they are in possession of material inside information regarding the issuer.

6.2 Meaning of "reasonable regularity" – Sections 4.1 and 4.2 of the Rule provides circumstances where a dealer-restricted person may publish or disseminate information, an opinion, or a recommendation relating to the issuer of a restricted security. Clause 4.1(a) and section 4.2 require that the information, opinion or recommendation be contained in a publication which is disseminated with reasonable regularity in the normal course of business of the dealer-restricted person. The Commission considers that it is a question of fact whether a publication was disseminated "with reasonable regularity" and whether it was in the "normal course of business". A research publication would not likely be considered to have been published

with reasonable regularity if it had not been published within the previous twelve month period or there had been no coverage of the issuer within the previous twelve month period. The nature and extent of the published information should also be consistent with prior publications and the dealer should not undertake new initiatives in the context of the distribution. For example, the inclusion of projections of issuers' earnings and revenues would likely only be permitted if they had previously been included on a regular basis. In considering whether it was "in the normal course of business", the Commission may consider the distribution channels. The research should be distributed through the dealer-restricted person's usual research distribution channels and should not be targeted or distributed specifically to prospective investors in the distribution as part of a marketing effort. However, the research may be distributed to a prospective investor if that investor was previously on the mailing list for the research publication.

6.3 Meaning of "similar coverage" and of "substantial number of companies" – Clause 4.1(b) of the Rule requires that the information, opinion or recommendation includes similar coverage in the form of information, opinions or recommendations with respect to a substantial number of issuers in the issuer's industry. This should not be interpreted as requiring that the opinions and recommendations relating to the issuer and other issuers in the issuer's industry must be similar or the same. In this context, in determining what is a "substantial number of issuers", reference should be made to the relevant industry. Generally, the Commission would consider a minimum of six issuers to be a sufficient number. However, where there are less than six issuers in an industry, then all issuers should be included in the research report. In any event the number of issuers should not be less than three.

COMPANION POLICY 48-501CP – TO RULE 48-501
TRADING DURING DISTRIBUTIONS, FORMAL BIDS AND SHARE EXCHANGE TRANSACTIONS

PART 1 – INTRODUCTION

1.1 Purpose – Ontario Securities Commission Rule 48-501 Trading during Distributions, Formal Bids and Share Exchange Transactions (the "Rule") imposes trading restrictions on dealers, issuers and certain related parties involved in a distribution of securities, take-over bids and certain other transactions. The Rule generally prohibits purchases of or bids for restricted securities in circumstances where there is heightened concern over the possibility of manipulation by those with an interest in the outcome of the distribution or transaction. This Companion Policy sets out the views of the Ontario Securities Commission (the "Commission") as to the interpretation of various terms and provisions in the Rule.

PART 2 – DEFINITIONS AND INTERPRETATIONS

2.1 "connected security" – The definition of "connected security" in section 1.1 of the Rule includes, among other things, a security of the issuer of the offered security or another issuer that, according to the terms of the offered security, may significantly determine the value of the offered security. The Commission takes the view that, absent other mitigating factors, a connected security "significantly determines" the value of the offered security, if, in whole or in part, it accounts for more than 25% of the value of the offered security.

2.2 "exchange-traded fund" – Section 1.1 of the Rule defines an "exchange-traded fund", in part, as a mutual fund designated by the Director as an exchange-traded fund for the purposes of the Rule. As guidance, an exchange-traded fund may be designated by the Director where it is determined that it would be difficult to manipulate the price of units or shares of the mutual fund. The following factors would be considered in determining whether a mutual fund would be difficult to manipulate: (a) the redemption features and whether they cause the market price to be tied to the net asset value; and (b) the transparency of the fund or underlying assets of the fund. Application for such designation should be made to the Commission prior to or at the time of filing the prospectus.

2.3 End of "dealer-restricted period" and "issuer-restricted period" – distribution of securities and exercise of over-allotment option – The definitions of "dealer-restricted period" and "issuer-restricted period", with respect to a prospectus distribution and a "restricted private placement", refer to the end of the period as the date that the selling process ends and all stabilization arrangements relating to the offered security are terminated. Paragraph (a) of subsection 1.2(5) provides interpretation as to when the selling process is considered to end. As further clarification, the selling process is considered to end for a prospectus distribution when the receipt for the prospectus has been issued, the dealer has distributed all securities allocated to it and is no longer stabilizing, all selling efforts have ceased and the syndicate is broken. Selling efforts have ceased when the dealer is no longer making efforts to sell, and there is no intention to exercise an over-allotment option other than to cover the syndicate's short position. If the dealer or syndicate subsequently exercises an over-allotment option in an amount that exceeds the syndicate short position, the selling efforts would not be considered to have ceased. Securities allocated to a dealer that are held and transferred to their inventory account at the end of the distribution are considered distributed. Subsequent sales of such securities are secondary market transactions and should occur on a marketplace subject to any applicable exemptions (unless the subsequent sale transaction is a distribution by prospectus). To provide certainty around when the distribution has ended, appropriate steps should be taken to move the securities from the syndication account to the dealer's inventory account.

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3.1 Meaning of "acting jointly or in concert" – The definitions of "dealer-restricted person" and "issuer-restricted person" in section 1.1 of the Rule include a person or company acting jointly or in concert with a person or company that is also a dealer-restricted person or an issuer-restricted person for a particular transaction. For the purposes of the Rule, "acting jointly or in concert" has a similar meaning to that phrase as defined in section 91 of the Act, with necessary modifications. In the context of this Rule only, it is a question of fact whether a person or company is acting jointly or in concert with a dealer- or issuer-restricted person and, without limiting the generality of the foregoing, every person or company who, as a result of an agreement, commitment or understanding, whether formal or informal, with a dealer-restricted person or an issuer-restricted person, bids for or purchases a restricted security will be presumed to be acting jointly or in concert with such dealer-restricted person or issuer-restricted person.

3.2 Exclusion of "related party" – The definition of "dealer-restricted person" in clause 1.1(b) excludes a related entity where certain conditions are met. Subclause (i)(B) requires the dealer to obtain an annual assessment of the operation of the policies and procedures referred to in subclause (i)(A). In the Commission's view, this assessment may be conducted as part of the annual policy and procedure review of the supervision system as required by Policy 7.1 of the Universal Market Integrity Rules.

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4.1 Meaning of "marketplace" – In this Rule, marketplace means all ~~recognized~~ marketplaces as ~~ascribed to that term~~ defined in section 1.1 of National Instrument 21-101 – *Marketplace Operation* ~~(NI 21-101)~~.

4.2 Meaning of "marketplace rules" – Marketplace rules refer to the rules, policies and other similar instruments adopted by a recognized stock exchange or recognized quotation and trade reporting system as approved by the applicable securities regulatory authority but not including any rules, policies or other similar instruments relating solely to the listing of securities on a stock exchange or to the quoting of securities on a quotation and trade reporting system.

PART 5 - EXEMPTIONS

5.1 Fraud and Manipulation – Provisions against manipulation and fraud are found in securities legislation, specifically, Part 3 of National Instrument 23-101 – *Trading Rules* (NI 23-101) and section 126.1 of the ~~*Securities Act* (Ontario)~~ Act (when that provision comes into force). NI 23-101 prohibits manipulative or deceptive trading, including activities that may create misleading pricing or trading activity that is detrimental to investors and the integrity of the markets. The Rule specifically prohibits certain trading activities in circumstances where there is heightened concern over the possibility of manipulation by those with an interest in the outcome of the distribution or transaction. The Rule also provides certain exemptions to permit purchases and bids in situations where there is no, or a very low, possibility of manipulation. However, the Commission is of the view that notwithstanding that certain trading activities are permitted under the Rule these activities continue to be subject to the general provisions relating to manipulation and fraud found in securities legislation such that any activities carried out in accordance with the Rule must still meet the spirit of the general anti-manipulation and anti-fraud provisions.

5.2 Market Stabilization and Market Balancing – Subsection 3.1(1) of NI 23-101 prohibits manipulation or fraud which includes, among other things, a transaction or series of transactions that a person or company knows, or ought reasonably to have known, would contribute to a misleading appearance of trading activity or an artificial price for a security. Companion Policy 23-101CP to NI 23-101 states that the Canadian securities regulatory authorities do not consider market stabilization activities carried out in connection with a distribution of securities to be activities in breach of subsection 3.1(1) provided such activities are carried out in accordance with applicable marketplace rules or provisions of securities legislation that permit market stabilization activities. Clause 3.1(1)(a) of the Rule provides dealer-restricted persons with an exemption for market stabilization and market balancing activities subject to price limitations. Market stabilization and market balancing activities should be engaged in for the purpose of maintaining a fair and orderly market in the offered security by reducing the price volatility of or addressing imbalances in buying and selling interest for the restricted security.

The Commission considers it to be inappropriate for a dealer to engage in market stabilization activities in circumstances where the dealer knows or should reasonably know that the market price is not fairly and properly determined by supply and demand. This might exist where, for example, the dealer is aware that the market price is a result of inappropriate activity by a market participant or that there is undisclosed material information regarding the issuer.

Market balancing activities should contribute to a fair and orderly market by contributing to price continuity and depth and by minimizing supply-demand disparity. Market balancing does not seek to prevent or unduly retard any price movements, but merely to prevent erratic or disorderly changes in price.

5.3 Short-position Exemption – Subclause 3.1(1)(h) provides an exemption from the Rule for a dealer-restricted person in connection with a bid for or purchase to cover a short position provided it was entered into before the commencement of the dealer-restricted period. Short positions entered into during the dealer-restricted period may be covered by purchases made in reliance upon the market stabilization exemption in clause 3.1(1)(a), subject to the price limits set out in that exemption.

PART 6 – RESEARCH

6.1 Section 53 of the Act – Part 4 ~~Section4.1~~ of the Rule provides ~~an~~ exemptions from section 53 of the Act which prohibits providing research that in the Commission's view constitutes an act, advertisement, solicitation, conduct or negotiation directly or indirectly in furtherance of a trade prior to the filing and receipt of the preliminary prospectus and prospectus. The Commission is of the view that although sections 4.1 and 4.2 ~~does not~~ do permit dealer~~s~~-restricted persons to disseminate research reports, this dissemination continues to be subject to the usual restrictions applicable to ~~where the~~ dealer-restricted persons when they are in ~~or the analyst covering the issuer of the offered security or any other representative of the dealer is in~~ possession of material inside information regarding the issuer ~~that has not been publicly disclosed~~.

6.2 Meaning of "reasonable regularity" – Sections 4.1 and 4.2 of the Rule provides circumstances where a dealer-restricted person may publish or disseminate information, an opinion, or a recommendation relating to the issuer of a restricted security. Clause 4.1(a) and section 4.2 require~~s~~ that the information, opinion or recommendation is contained in a publication which is disseminated with reasonable regularity in the normal course of business of the dealer-restricted person. The Commission considers that it is a question of fact whether a publication was disseminated "with reasonable regularity" and

whether it was in the "normal course of business". A research publication would not likely be considered to have been published with reasonable regularity if it had not been published within the previous twelve month period or there had been no coverage of the issuer within the previous twelve month period. The nature and extent of the published information should also be consistent with prior publications and the dealer should not undertake new initiatives in the context of the distribution. For example, the inclusion of projections of issuers' earnings and revenues would likely only be permitted if they had previously been included on a regular basis. In considering whether it was "in the normal course of business", the Commission may consider the distribution channels. The research should be distributed through the dealer-restricted person's usual research distribution channels and should not be targeted or distributed specifically to prospective investors in the distribution as part of a marketing effort. However, the research may be distributed to a prospective investor if that investor was previously on the mailing list for the research publication.

6.3 Meaning of "similar coverage" and of "substantial number of companies" – Clause 4.1(b) of the Rule requires that the information, opinion or recommendation includes similar coverage in the form of information, opinions or recommendations with respect to a substantial number of issuers in the issuer's industry. This should not be interpreted as requiring that the opinions and recommendations relating to the issuer and other issuers in the issuer's industry must be similar or the same. In this context, in determining what is a "substantial number of issuers", reference should be made to the relevant industry. Generally, the Commission would consider a minimum of six issuers to be a sufficient number. However, where there are less than six issuers in an industry, then all issuers should be included in the research report. In any event the number of issuers should not be less than three.

5.1.3 Notice of Amendments to OSC Rule 51-501 – AIF and MD&A, OSC Rule 51-801 – Implementing National Instrument 51-102 Continuous Disclosure Obligations and Companion Policy 51-501CP – to OSC Rule 51-501 AIF and MD&A

NOTICE OF AMENDMENTS TO
ONTARIO SECURITIES COMMISSION RULE 51-501 – AIF AND MD&A, ONTARIO SECURITIES COMMISSION RULE 51-801 – IMPLEMENTING NATIONAL INSTRUMENT 51-102 CONTINUOUS DISCLOSURE OBLIGATIONS AND COMPANION POLICY 51-501CP – TO ONTARIO SECURITIES COMMISSION RULE 51-501 AIF AND MD&A

Notice of Amendments to Rule and to Companion Policy

On February 28, 2005, the Commission made amendments to

- OSC Rule 51-501 – *AIF and MD&A* (OSC Rule 51-501) and OSC Rule 51-801 – *Implementing National Instrument 51-102 Continuous Disclosure Obligations* (OSC Rule 51-801) under section 143 of the *Securities Act* (Ontario) (the Act), and
- Companion Policy 51-501CP – *To Ontario Securities Commission Rule 51-501 AIF and MD&A* (OSC CP 51-501) under section 143.8 of the Act

(collectively, the Amendments).

The amendments to OSC Rule 51-501 and OSC Rule 51-801 were delivered to the Chair of Management Board of Cabinet on February 28, 2005. If the Minister does not reject these amendments or return them for further consideration, these amendments will come into force on May 16, 2005.

The Amendments have not been published for comment, as permitted by subsections 143.2(5)(c) and 143.8(6) of the Act. The Amendments do not materially change OSC Rule 51-501 or OSC Rule 51-801 and do not make material substantive changes to OSC CP 51-501.

Substance and Purpose of the Amendments

In connection with the adoption of National Instrument 51-102 *Continuous Disclosure Obligations* (NI 51-102), the Commission approved certain amendments to OSC Rule 51-501 and to OSC CP 51-501, including the revocation of OSC Rule 51-501 and the rescission of OSC CP 51-501 effective May 19, 2005. These amendments were set out in OSC Rule 51-801 which is an implementing rule applicable to reporting issuers other than investment funds. The amendments to OSC Rule 51-501 contained within the implementing rule should also have been limited to reporting issuers other than investment funds.

The purpose of the current Amendments is to continue the application of OSC Rule 51-501 and OSC CP 51-501 to investment funds (other than mutual funds) until the implementation of National Instrument 81-106 *Investment Fund Continuous Disclosure* (NI 81-106). The Amendments indicate that OSC Rule 51-501 continues to apply to non-redeemable investment funds for financial years that end prior to June 30, 2005, as NI 81-106 will apply to financial years ending on or after June 30, 2005. In order to continue the application of OSC Rule 51-501 to non-redeemable investment funds, the date on which OSC Rule 51-501 will be revoked and OSC CP 51-501 will be rescinded is being extended to May 30, 2006.

The Amendments do not affect reporting issuers which are subject to the requirements of NI 51-102.

Authority

Paragraph 143(1)22 of the Act 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 requirements under the Act.

Paragraph 143(1)24 of the Act authorizes the Commission to require issuers or other persons and companies to comply, in whole or in part, with Part XVIII (Continuous Disclosure), or rules made under paragraph 143(1) 22 of the Act.

Unpublished Materials

In making the Amendments, the Commission has not relied on any significant unpublished study, report or other written material.

Questions may be referred to any of:

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Text of Rescission of OSC CP 51-501

"The effective rescission date of Companion Policy 51-501CP – *To Ontario Securities Commission Rule 51-501 AIF and MD&A* is extended from May 19, 2005 to May 30, 2006."

Text of Rule

The text of the amendments to OSC Rule 51-501 and OSC Rule 51-801 follows.

5.1.4 Amendment to OSC Rule 51-501 – AIF and MD&A and to OSC Rule 51-801 – Implementing National Instrument 51-102 Continuous Disclosure Obligations

AMENDMENT TO
ONTARIO SECURITIES COMMISSION RULE 51-501 – AIF AND MD&A AND TO
ONTARIO SECURITIES COMMISSION RULE 51-801 – IMPLEMENTING NATIONAL INSTRUMENT 51-102
CONTINUOUS DISCLOSURE OBLIGATIONS

1. Section 1.2 of Ontario Securities Commission Rule 51-501 – *AIF and MD&A* is amended by

   (a) deleting subsection (3) and substituting the following:

   "(3) For reporting issuers other than non-redeemable investment funds, this Rule does not apply to financial years beginning on or after January 1, 2004 nor to interim periods in financial years beginning on or after January 1, 2004."; and

   (b) adding the following after subsection (3):

   "(4) For reporting issuers that are non-redeemable investment funds, this Rule does not apply to financial years ending on or after June 30, 2005."

2. Ontario Securities Commission Rule 51-801 – *Implementing National Instrument 51-102 Continuous Disclosure Obligations* is amended by deleting subsection 4.1(2).

3. Ontario Securities Commission Rule 51-501 – *AIF and MD&A* is revoked effective May 30, 2006.

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
08-Jan-2005	9 Purchasers	1X Inc, - Units	965,000.00	1,754,545.00
04-Feb-2005	Jane E. Farnham	Apex Pharmacies Ltd. - Common Shares	50,000.00	50,000.00
30-Jan-2004 to 06-Dec-2004	6 Purchasers	Asset Allocation Private Trust - Units	437,706.00	41,293.00
31-Jan-2005	B.E.S.T. Discoveries Fund Inc. The B.E.S.T. Total Return Fund Inc.	AssetMetrix Inc. - Preferred Shares	3,000,000.02	4,774,798.00
03-Feb-2005	Joerg Hermanns	Audera Acoustics Inc. - Convertible Preferred Shares	40,549.59	33,334.00
17-Feb-2005	Maria A. Bruzzese	Authentex Software Limited Partnership - Units	50,000.00	28,280,065.00
27-Jan-2005	Core Capital Markets Limited	Bellhaven Ventures Inc. - Units	24,000.00	50,000.00
27-Jan-2005	Gordon DuVal	Bonanza Resources Corporation - Units	4,800.00	30,000.00
08-Feb-2005	3 Purchasers	Bralorne Gold Mines Ltd, - Non-Flow-Though Shares	77,500.00	25,833.00
04-Feb-2005	3 Purchasers	Broker Payment System Limited Partnership - Shares	495,000.00	495,000.00
10-Feb-2005	MMV Financial Inc.	BTI Photonics Systems Inc. - Promissory note	2,499,600.00	2,499,600.00
01-Jan-2004 to 31-Dec-2004	196 Purchasers	Burgundy Smaller Companies Fund - Units	16,413,748.00	643,676.00
08-Feb-2005 to 09-Feb-2005	5 Purchasers	Capital Gold Corporation - Units	828,360.00	3,313,440.00
04-Feb-2005	Savu Holdings Inc. 1120288 Ontario Ltd.	Chalk Media Corp. - Common Share Purchase Warrant	30,000.00	200,002.00
01-Jan-2004 to 31-Dec-2004	5 Purchasers	Co-operators Money Market Pooled Fund - Units	86,285,056.00	8,543,075.00
08-Feb-2005	Ryan Driscoll John Driscoll	Consolidated Odyssey Exploration Inc. - Units	160,000.00	1,000,000.00

09-Feb-2005	Falconbridge Ltd.	Cornerstone Capital Resources Inc. - Units	250,000.00	833,333.00
01-Jan-2004 to 31-Dec-2004	153 Purchasers	Diversified Private Trust - Units	6,324,929.00	518,437.00
11-Feb-2005	3 Purchasers	Duinord Petroleum, Inc. - Units	372,000.00	930,000.00
30-Jul-2004 to 24-Dec-2004	5 Purchasers	Dynamic Alpha Performance Fund - Units	251,958.00	30,599.00
02-Jan-2004 to 15-Oct-2004	10 Purchasers	Dynamic Equity Hedge Fund - Units	479,106.00	43,546.00
09-Jan-2004 to 17-Dec-2004	37 Purchasers	Dynamic Power Hedge Fund - Units	20,495,000.00	953,256.00
01-Feb-2005	Argosy Bridge Fund LP;II	Dynatech Action Inc. - Warrants	0.00	0.00
22-Dec-2004 to 04-Feb-2005	4 Purchasers	Ecu Silver Mining Inc. - Units	453,600.00	1,649,454.00
01-Feb-2005	Glenn McHerg Louise Morley	Endeavour Silver Corp. - Units	84,800.00	53,000.00
03-Feb-2005	9 Purchasers	Energy Metals Corporation - Units	3,568,000.00	2,230,000.00
09-Jan-2004 to 31-Dec-2004	34 Purchasers	Enhanced Equity Private Trust - Units	341,011.00	32,477.00
03-Feb-2005	Scot Martin Henry Deegan	FGF Brands Inc. - Shares	400,000.00	46.00
01-Jan-2004 to 31-Dec-2004	Fondation du College Boreal	Fiera Capital Canadian Bond Pooled Fund - Units	27,000.00	687.00
01-Jan-2004 to 31-Dec-2004	Fondation du College Boreal	Fiera Capital Canadian Equity Ethical Pooled Fund - Units	973,727.00	91,266.00
01-Jan-2004 to 31-Dec-2004	248 Purchasers	Fiera Capital Money Market Pooled Fund - Units	34,708,672.00	3,042,830.00
07-Jan-2005	2052083 Ontario Ltd.	Foran Mining Corporation - Units	20,250.00	45,000.00
10-Feb-2005	50 Purchasers	Galleon Energy Inc. - Common Shares	26,410,455.75	2,479,855.00
10-Feb-2005	Front Street Investment Manage John Willett	Golden Patriot Mining Inc. - Units	175,000.00	500,000.00
11-Feb-2005 to 12-Feb-2005	42 Purchasers	Goldentech Entertainment Software Inc. - Shares	484,750.20	440,682.00

01-Jan-2004 to 31-Dec-2004	Non Money Market Funds Money Market Funds	Goldman Sachs Mutual Funds - Units	709,438,594.20	709,438,594.00
01-Jan-2004 to 31-Dec-2004	66 Purchases	Goodman Private Wealth Management Balanced Pool - Units	9,013,026.00	819,366.00
10-Feb-2005	Siwash Holdings Ltd.	Grandcru Resources Corporation - Units	10,000.00	40,000.00
09-Jan-2004 to 29-Oct-2004	28 Purchasers	Growth & Income Private Trust - Units	1,924,067.00	17,491.00
03-Feb-2005	Serafino Paul Mantini Donnalyn Mantini	Halo Resources Ltd. - Flow-Through Shares	125,000.00	131,579.00
14-Feb-2005	Sumit Resources Management Limited	Hawk Precious Minerals Inc. - Common Shares	6,666.60	33,333.00
08-Feb-2005	J. Birks Bovaird	HMZ Metals Inc. - Warrants	0.00	18,750.00
10-Feb-2005	Silvercreek Mgmt Inc.	Huntsman Corporation - Convertible Preferred Stock	310,525.00	5,000.00
02-Jan-2004 to 31-Dec-2004	180 Purchasers	Integra Conservative Allocation Fund - Units	340,247.00	25,341.00
02-Jan-2004 to 31-Dec-2004	216 Purchasers	Integra Growth Allocation Fund - Units	2,586,448.00	224,379.00
04-Feb-2005	Cynthia MacGibbon Jones Gable & Company Limited	International Nickel Ventures Inc. - Common Share Purchase Warrant	0.10	100,100.00
11-Feb-2005	Marsha Hanen	KBSH Enhanced Income Fund - Units	225.00	19,825.00
20-Dec-2004	8 Purchasers	Kent Exploration Inc. - Special Warrants	130,000.00	2,600,000.00
01-Jan-2004 to 31-Dec-2004	196 Purchasers	KJH Strategic Investors Fund - Units	15,440,267.00	140,366.00
01-Jan-2004 to 31-Dec-2004	183 Purchasers	KJH Strategic Investors RRSP Fund - Units	5,666,880.82	53,461.00
31-Jan-2005	Molin Holdings Ltd. G. Mark Curry	Leader Energy Services Ltd. - Common Shares	312,500.00	250,000.00
10-Feb-2005	Dynamic Venture Opportunities Fund Ltd.	Leasecor Equipment Finance Inc. - Common Shares	1.00	818,182.00
10-Feb-2005	Dynamic Venture Opportunities Princeton Properties Corp.	Leasecor Equipment Finance Inc. - Preferred Shares	1,573,000.00	1,573,000.00

09-Jan-2004 to 31-Dec-2004	87 Purchasers	Lincluden Private Trust - Units	12,693,627.00	1,133,359.55
08-Jan-2005 to 01-Feb-2005	4 Purchasers	Magenta Mortgage Investment Corporation - Shares	725,000.00	72,500.00
01-Jan-2004 to 31-Dec-2004	41 Purchasers	Manion, Wilkins & Associates Ltd. STIF - Units	199,760,100.00	1,997,601.00
08-Feb-2005	National Life	Maple Mortgage Trust Advisors - Debentures	3,000,000.00	3,000,000.00
10-Feb-2005	19 Purchasers	MCK Mining Corp. - Units	551,000.00	204,000.00
31-Jan-2005	33 Purchasers	Momentas Corporation - Convertible Debentures	490,000.00	98.00
17-Feb-2005	Bay Street Funding Trust	NIF-T - Notes	196,454,191.33	1.00
19-Feb-2005	3 Purchasers	O'Donnell Emerging Companies Fund - Units	8,143.00	990.00
04-Feb-2005	Blake Corbet	One Person Health Sciences Inc. - Common Shares	4,000.00	40,000.00
07-Feb-2005	9 Purchasers	Oriel Resources plc - Common Share Purchase Warrant	820,800.00	720,000.00
07-Feb-2005	9 Purchasers	Oriel Resources plc - Units	820,800.00	720,000.00
07-Feb-2005	Marret Asset Management Inc.	Paramount Resources Ltd. - Notes	9,638,000.00	9,638,000.00
07-Feb-2005	Co-Operators General Insurance Co. Ltd.	Pioneer Trust - Notes	15,000,000.00	15,000,000.00
11-Feb-2005	Targa Group Inc.	Plaintree Systems Inc. - Convertible Debentures	181,240.00	181,240.00
31-Jan-2005	3 Purchasers	Polaris Resources Ltd. - Common Shares	585,600.00	390,400.00
15-Feb-2005	37 Purchasers	Prestige Brands Holdings, Inc. - Stock Option	1,848,000.00	115,500.00
30-Jan-2004 to 31-Dec-2004	169 Purchasers	Pro-Hedge Multi-Manager Elite Fund - Trust Units	6,289,332.00	598,984.00
11-Feb-2005	Nursing Homes and Related Industries Pension Plan	Real Assets US Social Equity Index Fund - Units	4,949.11	685.00
03-Feb-2005	20 Purchasers	Red Media Corp. - Units	450,349.75	1,000,777.00
01-Feb-2005	Augen Limited Partnership 2004-1	Santoy Resources Ltd. - Units	399,999.60	1,212,120.00
03-Dec-2004 to 29-Dec-2004	Great-West Life (SRA US Equity)	Scheer, Rowelett & Associates US Equity Fund - Trust Units	239,851.22	31,641.00

28-Jan-2004 to 18-Mar-2004	SRA Balanced Fund	Scheer, Rowlett & Associates Money Market Fund - Trust Units	133,018.60	13,302.00
19-Jan-2005 to 31-Dec-2004	Great-West London Life (Balanced)	Scheer, Rowlett & Associates Balanced Fund - Trust Units	23,775,377.30	2,160,779.00
09-Jan-2005 to 31-Dec-2004	Great-West London Life (SRA Bond)	Scheer, Rowlett & Associates Bond Fund - Trust Units	18,122,945.14	1,730,263.00
09-Jan-2004 to 29-Dec-2004	Great-West London Life (SRA Cdn Equity)	Scheer, Rowlett & Associates Canadian Equity Fund - Trust Units	13,772,351.63	1,021,603.00
06-Dec-2004 to 16-Dec-2004	Great-West London Life (SRA EAFE Fund)	Scheer, Rowlett & Associates EAFE Equity Fund - Trust Units	22,162.50	2,831.00
09-Jan-2004 to 24-Dec-2004	Great-West London Life (SRA Short-term Bond)	Scheer, Rowlett & Associates Short Term Bond Fund - Trust Units	557,581.05	55,504.00
31-Jan-2005	Gary Courville Karen Greenberg	Silect Software Inc. - Promissory note	130,000.00	130,000.00
10-Feb-2005	26 Purchasers	Silver Bear Resources Inc. - Units	4,872,993.50	3,248,661.00
14-Feb-2005	4 Purchasers	Skulogix Ltd. - Common Shares	850,000.00	80,645,161.00
10-Feb-2005	Claude Haw	Skypoint Telecom Fund II, L.P. - Limited Partnership Units	51,224.50	100.00
10-Feb-2005	Harmony American Small Cap Fund	Solomon Resources Ltd. - Units	200,000.00	1,000,000.00
10-Feb-2005	37 Purchasers	Sterling Resources Ltd. - Common Shares	15,011,997.00	16,679,997.00
07-Feb-2005	Charlotte Ginsberg	St. Lawrence Trading Inc. - Common Shares	310,905.19	417.00
31-Jan-2005	Integrated Partners LP One	Systech Retail Systems Corp. - Special Warrants	511,646.02	4,748,058.00
10-Feb-2005	8 Purchasers	Tango Energy Inc. - Common Shares	1,077,119.95	2,167,200.00
10-Feb-2005	3 Purchasers	Tango Energy Inc. - Flow-Through Shares	50,000.00	50,000.00
01-Feb-2005	34 Purchasers	Terasen Pipelines (Corridor) Inc. - Debentures	170,900,000.00	170,900.00
03-Feb-2005	Kingstreet Real Estate Growth LP No. 1	Terrarium Shopping Centre LP - Limited Partnership Units	6,000,000.00	8,000.00
16-Feb-2005	5 Purchasers	The DIRECTV Group, Inc. - Stock Option	4,357,650.00	285,000.00

14-Jan-2005	Mosaic Venture Partners II LP EdgeStone Capital Venture Fund LP	Time Industrial, Inc. - Convertible Debentures	500,000.00	500,000.00
07-Feb-2005	21 Purchasers	Tonbridge Power Corporation - Common Shares	810,000.00	810,000.00
01-Feb-2005	7 Purchasers	Trafalgar Trading Limited - Rights	704,000.00	704,000.00
24-Nov-2004 to 27-Dec-2004	73 Purchasers	UBS (CH) Global Alpha Strategies Fund (CHF) - Units	8,674,081.00	8,239.00
12-Feb-2004 to 24-Nov-2004	21 Purchasers	UBS (LUX) Equity Fund Euro Countries - Units	239,865.00	1,632.00
04-Feb-2005	5 Purchasers	UGL ENTERPRISES LTD. - Units	180,000.00	450,000.00
31-Jan-2005	Mark Cepella	Van Arbor Canadian Advantage Fund - Trust Units	26,696.67	2,141.00
31-Jan-2005	22 Purchasers	VG Mezzanine I Limited Partnership - Limited Partnership Units	32,413,000.00	32,413.00
01-Feb-2005	6 Purchasers	Virtual Conexions Inc. - Preferred Shares	3,148,163.40	7,486,272.00
29-Sep-2004	Garry Hurvitz	Walsingham Fund LP No. 1 - Units	3,000,000.00	3,000.00
01-Feb-2005	6 Purchasers	Wave Energy Ltd. - Common Shares	4,200,000.00	2,100,000.00
08-Feb-2005	2056288 Ontario Limited	Wellington West Capital Inc. - Common Shares	3,400,800.00	1,417.00
31-Jan-2005	Carolyn Masleck	WellPoint Systems Inc. - Convertible Debentures	10,000.00	10,000.00
08-Feb-2005	18 Purchasers	Western Lakota Energy Services Energy Inc. - Common Shares	11,589,700.00	2,519,500.00
31-Jan-2005	John C. Lamacraft	Yoho Resources Inc. - Common Shares	200,000.00	100,000.00

Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:
Advent/Claymore Enhanced Distribution & Growth Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated February 24, 2005
Mutual Reliance Review System Receipt dated February 25, 2005
Offering Price and Description:
$ * - * Units Price: $25.00 per 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.
Canaccord Capital Corporation
Desjardins Securities Inc.
Dundee Securities Corporation
First Associates Investments Inc.
HSBC Securities (Canada) Inc.
Raymond James Ltd.
Wellington Capital Inc.
Promoter(s):
Claymore Investments, Inc.
Project #742365

Issuer Name:
Avnel Gold Mining Limited
Type and Date:
Preliminary Prospectus dated February 23, 2005
Receipted on February 24, 2005
Offering Price and Description:
$ * - * Common Shares Price: $ * per Common Share
Underwriter(s) or Distributor(s):
Credifinance Securities Limited
Promoter(s):
Elloitt Associates L.P.
Hamelon Inc.
Merlin Group Securities Limited
Project #741575

Issuer Name:
Barclays Liquid Income Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated February 28, 2005
Mutual Reliance Review System Receipt dated February 28, 2005
Offering Price and Description:
$ * - * Units Price: $10.00 per Unit Minimum Purchase: 100 Units
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
Scotia Capital Inc.
TD Securities Inc.
National Bank Financial Inc.
Canaccord Capital Corporation
Desjardins Securities Inc.
Dundee Securities Corporation
First Associates Investments Inc.
HSBC Securities (Canada) Inc.
Raymond James Ltd.
Wellington West Capital Inc.
Promoter(s):
Barclays Global Investors Canada Limited
Project #743183

Issuer Name:
Bayshore Floating Rate Senior Loan Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated February 25, 2005
Mutual Reliance Review System Receipt dated February 25, 2005
Offering Price and Description:
$ * (Maximum) - * Units Price: $10.00 per Unit Minimum Purchase: 200 Units
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
CIBC World Markets Inc,
RBC Dominion Securities Inc.
National Bank Financial Inc,
Scotia Capital Inc.
TD Securities Inc.
HSBC Securities (Canada) Inc,
Richardson Partners Financial Ltd.
Canaccord Capital Corporation
Dundee Securities Corporation
First Associates Investments Inc.
Raymond James Ltd.
Promoter(s):
Bayshore Asset Management Inc.
Project #742516

Issuer Name:
Cardiome Pharma Corp.
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated March 1, 2005
Mutual Reliance Review System Receipt dated March 1, 2005
Offering Price and Description:
US$ * - 8,500,000 Common Shares Price: US$ * per Common Share
Underwriter(s) or Distributor(s):
USB Securities Canada Inc.
CIBC World Markets Inc.
GMP Securities Ltd.
First Associates Investments Inc.
Orion Securities Inc.
Promoter(s):
-
Project #743974

Issuer Name:
Charterhouse TRV Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated February 28, 2005
Mutual Reliance Review System Receipt dated March 1, 2005
Offering Price and Description:
$ * - * Units Price: $15.00 per Unit - Minimum Purchase: 100 Units
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
CIBC World Markets Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
TD Securities Inc.
National Bank Financial Inc.
HSBC Securities (Canada) Inc.
Raymond James Ltd.
Canaccord Capital Corporation
Desjardins Securities Inc.
Dundee Securities Corporation
First Associates Investments Inc.
McFarlane Gordon Inc.
Richardson Partners Financial Ltd.
Wellington West Capital Inc.
Promoter(s):
Charterhouse SV Management Corporation
Project #743780

Issuer Name:
Cirrus Energy Corporation
Principal Regulator - Alberta
Type and Date:
Preliminary Prospectus dated February 25, 2005
Mutual Reliance Review System Receipt dated February 28, 2005
Offering Price and Description:
$8,000,000 - 26,666,666 Class A Common Shares issuable upon the exercise of 26,666,666 Special Warrants Price: $ 0.30 per Special Warrant
Underwriter(s) or Distributor(s):
Tristone Capital Inc.
Promoter(s):
-
Project #743488

Issuer Name:
Dundee Real Estate Investment Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated February 25, 2005
Mutual Reliance Review System Receipt dated February 25, 2005
Offering Price and Description:
$100,000,000.00 - Series 2005-1 5.7% Convertible Unsecured Subordinated Debentures due March 31, 2015
Underwriter(s) or Distributor(s):
TD Securities Inc.
Scotia Capital Inc.
CIBC World Markets Inc.
Dundee Securities Corporation
National Bank Financial Inc.
RBC Dominion Securities Inc.
Desjardins Securities Inc.
HSBC Securities (Canada) Inc.
Trilon Securities Corporation
Promoter(s):
-
Project #742450

Issuer Name:
European Minerals Corporation
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated March 1, 2005
Mutual Reliance Review System Receipt dated March 1, 2005
Offering Price and Description:
$ * - * Units Price: $ * per Unit
Underwriter(s) or Distributor(s):
Canaccord Capital Corporation
Promoter(s):
-
Project #743984

Issuer Name:
First Asset Equal Weight Small-Cap Income Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated February 24, 2005
Mutual Reliance Review System Receipt dated February 25, 2005
Offering Price and Description:
$ * - * Units Price: $10.00 per Unit
Minimum Purchase: * 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.
HSBC Securities (Canada) Inc.
Canaccord Capital Corporation
Desjardins Securities Inc.
Dundee Securities Corporation
First Associates Investments Inc.
Raymond James Ltd.
Wellington West Capital Inc.
Research Capital Corporation
Berkshire Securities Inc.
Richardson Partners Financial Limited
Promoter(s):
First Asset Funds Inc.
Project #742370

Issuer Name:
Floating Rate Senior Loan Fund Limited
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated February 25, 2005
Mutual Reliance Review System Receipt dated March 1, 2005
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
RBC Dominion Securities Inc.
National Bank Financial Inc.
Scotia Capital Inc.
TD Securities Inc.
HSBC Securities (Canada) Inc.
Richardson Partners Financial Ltd.
Canaccord Capital Corporation
Dundee Securities Corporation
First Associates Investments Inc.
Raymond James Ltd.
Promoter(s):
Bayshore Asset Management Inc.
Project #743454

Issuer Name:
FMF Capital Group Ltd.
Principal Regulator - Ontario
Type and Date:
Amended and Restated Preliminary Prospectus dated February 25, 2005
Mutual Reliance Review System Receipt dated February 28, 2005
Offering Price and Description:
$ * - * Income Participating Securities Price: $10.00 per IPS
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
TD Securities Inc.
Canaccord Capital Corporation
First Associates Investments Inc.
Sprott Securities Inc.
Promoter(s):
Michigan fidelity Acceptance Corporation
Project #739659

Issuer Name:
H&R Real Estate Investment Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated February 28, 2005
Mutual Reliance Review System Receipt dated February 28, 2005
Offering Price and Description:
$100,275,000.00 - 5,250,000 Units Price: $ 19.10 per Unit
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
RBC Dominion Securities Inc.
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
TD Securities Inc.
Canaccord Capital Corporation
Desjardins Securities Inc.
Promoter(s):
-
Project #743082

Issuer Name:
McLean Budden American Equity Fund
McLean Budden Balanced Growth Fund
McLean Budden Balanced Value Fund
McLean Budden Canadian Equity Fund
McLean Budden Canadian Equity Growth Fund
McLean Budden Canadian Equity Value Fund
McLean Budden Fixed Income Fund
McLean Budden Global Equity Fund
McLean Budden International Equity Fund
McLean Budden Money Market Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectuses dated February 23, 2005
Mutual Reliance Review System Receipt dated February 23, 2005
Offering Price and Description:
Class C Units
Underwriter(s) or Distributor(s):
McLean Budden Limited
McLean, Budden Limited
Mclean Budden Limited
Promoter(s):
McLean Budden Limited
Project #741385

Issuer Name:
Merrill Lynch Financial Assets Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated February 28, 2005
Mutual Reliance Review System Receipt dated February 28, 2005
Offering Price and Description:
$428,474,000.00 (Approximate) Commercial Mortgage Pass-Through Certificates, Series 2005-Canada 15
Underwriter(s) or Distributor(s):
Merrill Lynch Canada Inc.
Promoter(s):
-
Project #742911

Issuer Name:
Mises Capital Corporation
Principal Regulator - Alberta
Type and Date:
Preliminary CPC Prospectus dated February 24, 2005
Mutual Reliance Review System Receipt dated February 24, 2005
Offering Price and Description:
$1,000,000.00 - 5,000,000 Common Shares Price: $0.20 per Common Share
Underwriter(s) or Distributor(s):
Union Securities Ltd.
Promoter(s):
Stephen H. Johnston
Project #742117

Issuer Name:
National Bank of Canada
Principal Regulator - Quebec
Type and Date:
Preliminary Short Form Prospectus dated February 28, 2005
Mutual Reliance Review System Receipt dated February 28, 2005
Offering Price and Description:
$200,000,000.00 - 8,000,000 Shares Non-Cumulative Fixed Rate First Preferred Shares Series 16
Price: $25.00 per share to yield 4.85%
Underwriter(s) or Distributor(s):
National Bank Financial Inc.
CIBC World Markets Inc.
RBC Dominion Securities Inc.
BMO Nebitt Burns Inc.
Scotia Capital Inc.
TD Securities Inc.
HSBC Securities (Canada) Inc.
Merrill Lynch Canada Inc.
Laurentian Bank Securities Inc.
Trilon Securities Corporation
Promoter(s):
-
Project #743268

Issuer Name:
Neurochem Inc.
Principal Regulator - Quebec
Type and Date:
Preliminary Short Form PREP Prospectus dated February 23, 2005
Mutual Reliance Review System Receipt dated February 23, 2005
Offering Price and Description:
$ US * - 4,000,000 Common Shares Price: $ US * per Common Share
Underwriter(s) or Distributor(s):
UBS Securities Canada Inc.
CIBC World Markets Inc.
Desjardins Securities Inc.
Promoter(s):
-
Project #741542

Issuer Name:
NIF-T
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated February 23, 2005
Mutual Reliance Review System Receipt dated February 23, 2005
Offering Price and Description:
$ * , * % Class A-1 Senior Medium Term Notes, Series 2005-1
$*, * % Class A-2 Senior Medium Term Notes, Series 2005-1
$* , * % Class A-3 Senior Medium Term Notes, Series 2005-1
$ * , * % Class B-1 Subordinated Medium Term Notes, Series 2005-1
(to be offered at prices to be negotiated)
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
CIBC World Markets Inc.
RBC Dominion Securities Inc.
Promoter(s):
-
Project #741351

Issuer Name:
Northern Precious Metals 2005 Limited Partnership
Principal Regulator - Quebec
Type and Date:
Preliminary Prospectus dated February 23, 2005
Mutual Reliance Review System Receipt dated February 24, 2005
Offering Price and Description:
$25,000,000.00 (maximum)
$3,000,000.00 (minimum)
25,000 Limited Partnership Units (maximum)
3,000 Limited Partnership Units (minimum)
Subscription Price: $1,000.00 per Unit Minimum Subscription: $5,000.00
Underwriter(s) or Distributor(s):
Octagon Capital Corporation
Promoter(s):
Northern Precious Metals 2005 Inc.
Project #741550

Issuer Name:
Queenstake Resources Ltd.
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated February 25, 2005
Mutual Reliance Review System Receipt dated
Offering Price and Description:
Minimum Aggregate Offering $15 million
Maximum Aggregate Offering $20 million
Offering of Common Shares
Price: Cdn $ * per Common Share
and
Offering of * % Convertible Unsecured Subordinated Debentures Due 2010
Underwriter(s) or Distributor(s):
Sprott Securities Inc.
First Associates Investments Inc.
Promoter(s):
-
Project #744233

Issuer Name:
South Pacific Minerals Corp.
Principal Regulator - British Columbia
Type and Date:
Preliminary Prospectus dated February 23, 2005
Mutual Reliance Review System Receipt dated February 24, 2005
Offering Price and Description:
$2,100,000.00 - 6,000,000 Units Price: $ 0.35 per Unit
Underwriter(s) or Distributor(s):
Canaccord Capital Corporation
Promoter(s):
Larry Reaugh
Project #741690

Issuer Name:
St-Moritz Capital Inc.
Principal Regulator - Quebec
Type and Date:
Preliminary Prospectus dated February 24, 2005
Mutual Reliance Review System Receipt dated February 25, 2005
Offering Price and Description:
In connection with the acquisition of MEDICAL INTELLIGENCE INC. $3,000,000 or 7,500,000 Units Price: $0.40 per Unit
Underwriter(s) or Distributor(s):
Canaccord Capital Corporation
Promoter(s):
Steve Forget
Project #742220

Issuer Name:
Strategic Energy Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated February 25, 2005
Mutual Reliance Review System Receipt dated February 28, 2005
Offering Price and Description:
Rights to Subscribe for up to * Units Subscription Price: $* per Unit (Upon the exercise of three Rights for one Unit)
Underwriter(s) or Distributor(s):
First Associates Investments Inc.
Promoter(s):
Petro Assets Inc.
Project #742760

Issuer Name:
Stressgen Biotechnologies Corporation
Principal Regulator - British Columbia
Type and Date:
Amended and Restated Preliminary Prospectus dated February 22, 2005
Mutual Reliance Review System Receipt dated February 24, 2005
Offering Price and Description:
Up to US$50,000,000.00 - * Common Share Price: $ US * per Common Share
Underwriter(s) or Distributor(s):
Raymond James Ltd.
Promoter(s):
-
Project #694839

Issuer Name:
Vigil Locating Systems Corporation
Principal Regulator - Quebec
Type and Date:
Amendment #1 dated February 25, 2005 to Final Prospectus dated December 7, 2004
Mutual Reliance Review System Receipt dated
Offering Price and Description:
Minimum Offering: $600,000.00 (600 Units)
Maximum Offering: $3,000,000.00 (3,000 Units)
Price: $1,000 per Unit
Minimum initial subscription of two Units
Units containing subordinated secured convertible debentures bearing interest at 10%
for the two (2) first years and 12% for the third year, maturing three (3) years following their issuance as well as share purchase warrants
Underwriter(s) or Distributor(s):
Valeurs Mobilieres iForum Inc.
Promoter(s):
Michel Lesage
Project #707028

Issuer Name:
ACCUMULUS TALISMAN FUND
ACCUMULUS DIVERSIFIED MONTHLY INCOME FUND
ACCUMULUS BALANCED FUND
ACCUMULUS SHORT-TERM INCOME FUND
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated February 23, 2005
Mutual Reliance Review System Receipt dated February 25, 2005
Offering Price and Description:
Series A, I and F Units
Underwriter(s) or Distributor(s):
McFarlane Gordon Inc.
McFarlane Gordon Inc.
Promoter(s):
-
Project #730032

Issuer Name:
AGS Energy 2005-1 Limited Partnership
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated February 28, 2005
Mutual Reliance Review System Receipt dated February 28, 2005
Offering Price and Description:
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:
Altamira Global Discovery Fund
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated February 15, 2005 to Final Simplified Prospectus and Annual Information Form dated August 26, 2004
Mutual Reliance Review System Receipt dated February 23, 2005
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Altamira Financial Services Ltd.
Promoter(s):
-
Project #670140

Issuer Name:
Brascan SoundVest Rising Distribution Split Trust
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated February 25, 2005
Mutual Reliance Review System Receipt dated February 25, 2005
Offering Price and Description:
Maximum: 14,000,000 Preferred Securities @ $10 per Preferred Security = $140,000,000
Maximum: 14,000,000 Capital Units @ $15 per Unit = $210,000,000
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:
Brompton Advantaged Equal Weight Oil & Gas Income Fund
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated February 24, 2005
Mutual Reliance Review System Receipt dated February 25, 2005
Offering Price and Description:
-
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.
HSBC Securities (Canada) Inc.
Canaccord Capital Corporation
Desjardins Securities Inc.
First Associates Investments Inc.
Raymond James Ltd.
Dundee Securities Corporation
IPC Securities Corporation
Wellington West Capital Inc.
Acadian Securities Incorporated
Newport Securities Inc.
Research Capital Corporation
Promoter(s):
Brompton AOG Management Limited
Project #732145

Issuer Name:
Chrysalis Capital II Corporation
Principal Regulator - Ontario
Type and Date:
Final CPC Prospectus dated February 23, 2005
Mutual Reliance Review System Receipt dated February 28, 2005
Offering Price and Description:
MAXIMUM OFFERING: $1,000,000 (5,000,000 COMMON SHARES); MINIMUM OFFERING: $500,000 (2,500,000 COMMON SHARES) - Price: $0.20 per Common Share
Underwriter(s) or Distributor(s):
Research Capital Corporation
Promoter(s):
Marc Lavine
Project #730543

Issuer Name:
Citadel Stable S-1 Income Fund
Principal Regulator - Alberta
Type and Date:
Final Prospectus dated January 25, 2005
Mutual Reliance Review System Receipt dated February 25, 2005
Offering Price and Description:
Maximum 50,000,000 Units @ $10 per Unit = $500,000,000
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
TD Securities Inc.
RBC Dominion Securities Inc.
National Bank Financial Inc.
Scotia Capital Inc.
HSBC Securities (Canada) Inc.
Desjardins Securities Inc.
Canaccord Capital Corporation
Dundee Securities Corporation
First Associates Investments Inc.
McFarlane Gordon Inc.
Raymond James Ltd.
Wellington West Capital Inc.
Bieber Securities Inc.
Promoter(s):
Canadian Income Fund Group Inc.
Stable Yield Management Inc.
Project #721705

Issuer Name:
Fairway Investment Grade Income Fund
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated February 25, 2005
Mutual Reliance Review System Receipt dated February 28, 2005
Offering Price and Description:
Maximum 10,000,000 Units @ $10 per Unit = $100,000,000.00
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
TD Securities Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
Scotia Capital Inc.
First Associates Investments Inc.
HSBC Securities (Canada) Inc.
Raymond James Ltd.
Canaccord Capital Corporation.
Desjardins Securities Inc.
Dundee Securities Corporation
Berkshire Securities Inc.
Richardson Partners Financial Limited
Wellington West Capital Inc.
Promoter(s):
Fairway Advisors Inc.
Fairway Capital Management Corp
Project #735665

Issuer Name:
CMP 2005 Resource Limited Partnership
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated February 28, 2005
Mutual Reliance Review System Receipt dated February 28, 2005
Offering Price and Description:
Maximum 200,000 Limited Partnership Units @ $1,000 per Unit = $200,000,000
Underwriter(s) or Distributor(s):
Dundee Securities Corporation
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
Berkshire Securities Inc.
First Associates Investments Inc.
Richardson Partners Financial Limited
Wellington West Capital Inc.
Promoter(s):
CMP 2005 Corporation
Project #737912

Issuer Name:
Focused 40 Income Fund
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated February 25, 2005
Mutual Reliance Review System Receipt dated February 28, 2005
Offering Price and Description:
Maximum total offering of 10,000,000 Trust Units at $10 per unit = $100,000,000
Minimum total offering of 2,500,000 Trust Units at $10 per unit = $25,000,000
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
RBC Dominion Securities Inc.
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
TD Securities Inc.
HSBC Securities (Canada) Inc.
Wellington West Capital Inc.
Canaccord Capital Corporation
Desjardins Securities Inc.
Dundee Securities Corporation
First Associates Investments Inc.
Raymond James Ltd.
Promoter(s):
Clarington Investments Inc.
Project #733363

Issuer Name:
GGOF Canadian Growth Fund Ltd.
GGOF Enterprise Fund
Principal Regulator - Ontario
Type and Date:
Amendment #2 dated February 21, 2005 to Final Simplified Prospectuses and Annual Information Forms dated July 7, 2004
Mutual Reliance Review System Receipt dated February 28, 2005
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Guardian Group of Funds Ltd.
Jones Heward Investment Management Inc.
Guardian Group of Funds Ltd.
Promoter(s):
Guardian Group of Funds Ltd.
Project #658660

Issuer Name:
Lawrence Conservative Payout Ratio Trust
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated February 25, 2005
Mutual Reliance Review System Receipt dated February 28, 2005
Offering Price and Description:
Maximum total offering of 10,000,000 trust units at $10 per unit = $100,000,000
Minimum total offering of 2,500,000 trust units at $10 per unit = $25,000,000
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
TD Securities Inc.
National Bank Financial Inc.
RBC Dominion Securities Inc.
Scotia Capital Inc.
Dundee Securities Corporation
HSBC Securities (Canada) Inc.
Canaccord Capital Corporation
Desjardins Securities Inc.
First Associates Investments Inc.
Raymond James Ltd.
Richardson Partners Financial Limited
Wellington West Capital Inc.
Promoter(s):
Lawrence Asset Management Inc.
Project #735045

Issuer Name:
Mavrix Dividend & Income Fund
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated February 15, 2005 to Final Simplified Prospectus and Annual Information Form dated June 24, 2004
Mutual Reliance Review System Receipt dated February 24, 2005
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
Mavrix Fund Management Inc.
Project #652114

Issuer Name:
MRF 2005 Resource Limited Partnership
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated February 28, 2005
Mutual Reliance Review System Receipt dated February 28, 2005
Offering Price and Description:
Maximum: 4,000,000 Units @ $25 per Unit = $100,000,000.00
Minimum: 400,000 Units @ $25 per Unit = $10,000,000.00
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:
MSP 2005 Resource Limited Partnership
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated February 24, 2005
Mutual Reliance Review System Receipt dated February 25, 2005
Offering Price and Description:
Maximum: 1,600,000 Units @ $25 per Unit = $40,000,000
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
Scotia Capital Inc.
TD Securities Inc.
HSBC Securities (Canada) Inc.
Raymond James Ltd
Wellington West Capital Inc,
Berkshire Securities Inc.
Canaccord Capital Corporation
Desjardins Securities Inc.
Dundee Securities Corporation
First Associates Investments Inc
IPC Securities Corporation
Promoter(s):
MSP 2005 GP Inc.
Project #735667

Issuer Name:
Mulvihill Canadian Money Market Fund
Mulvihill Canadian Bond Fund
Mulvihill Global Equity Fund
Premium Global Income Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated February 28, 2005
Mutual Reliance Review System Receipt dated March 1, 2005
Offering Price and Description:
Mutual Units @ Net Asset Value
Underwriter(s) or Distributor(s):
Mulvihill Capital Management Inc.
Mulvihill Capital Management Inc.
Promoter(s):
Mulvihill Fund Services Inc.
Project #733382

Issuer Name:
Pinnacle American Mid Cap Value Equity Fund
Pinnacle International Equity Fund
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated February 17, 2005 to Final Simplified Prospectuses and Annual Information Forms dated December 22, 2004
Mutual Reliance Review System Receipt dated February 24, 2005
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
Scotia Capital Inc.
Promoter(s):
Scotia Capital Inc.
Project #712455

Issuer Name:
Qwest Energy 2005 Financial Corp.
Qwest Energy 2005 Flow-Through Limited Partnership
Principal Regulator - British Columbia
Type and Date:
Final Prospectus dated February 21, 2005
Mutual Reliance Review System Receipt dated February 23, 2005
Offering Price and Description:
Maximum: 500,000 Bonds @ $100 per Bond = $50,000,000.00
Minimum: 10,000 Bonds @ $100 per Bond = $1,000,000.00
Underwriter(s) or Distributor(s):
Dundee Securities Corporation
Canaccord Capital Corporation
Berkshire Securities Inc.
Raymond James Ltd.
Wellington West Capital Inc.
GMP Securities Ltd.
Acumen Capital Finance Partners Limited
Bieber Securities Inc.
First Associates Investments Inc.
HSBC Securities (Canada) Inc.
Promoter(s):
Qwest Energy Investment Corp.
Project #729557/729557

Issuer Name:
Retrocom Growth Fund Inc.
Principal Regulator - Ontario
Type and Date:
Amended and Restated Prospectus dated February 18, 2005, amending and restating Prospectus dated January 20, 2005
Mutual Reliance Review System Receipt dated February 24, 2005
Offering Price and Description:
Class A Series I Shares
Class A Series V Shares
and
Class C Series 11 Shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
Retrocom Investment Management Inc
Project #721970

Issuer Name:
ROC Pref III Corp.
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated February 28, 2005
Mutual Reliance Review System Receipt dated February 28, 2005
Offering Price and Description:
10,600,000 Preferred Shares @ $25 per Preferred Share = $265,000,000.00
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.
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:
Sprott Canadian Equity Fund
Principal Regulator - Ontario
Type and Date:
Amendment #2 dated February 16, 2005 to Simplified Prospectus and Annual Information Form dated October 5, 2004
Mutual Reliance Review System Receipt dated February 28, 2005
Offering Price and Description:
Series A, I and F Units
Underwriter(s) or Distributor(s):
Sprott Securities Inc.
Sprott Asset Management Inc.
Promoter(s):
Sprott Asset Management Inc.
Project #688388

Issuer Name:
The Millennium BullionFund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus dated February 18, 2005
Mutual Reliance Review System Receipt dated February 24, 2005
Offering Price and Description:
Class A Units, Class F Units and Class I Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
Bullion Management Services Inc.
Project #728135

Issuer Name:
Viscount Canadian Bond Pool
Viscount Canadian Equity Pool
Viscount High Yield U.S. Bond Pool
Viscount International Equity Pool
Viscount RSP High Yield U.S. Bond Pool
Viscount RSP International Equity Pool
Viscount RSP U.S. Equity Pool
Viscount U.S. Equity Pool
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated February 25, 2005
Mutual Reliance Review System Receipt dated March 1, 2005
Offering Price and Description:
Series A, Series I and Series V Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
Goodman & Company, Investment Counsel Ltd.
Project #732897

Issuer Name:
Valor Communications Group, Inc.
Principal Jurisdiction - Ontario
Type and Date:
Amendment to Preliminary Prospectus dated July 9th, 2004
Withdrawn on February 24th, 2005
Offering Price and Description:
US$ million (C$ million)
Income Deposit Securities (IDSs)
US$ million % Senior Subordinated Notes due 2019
Price: C$ (US$) per IDS
principal amount per Senior Subordinated Note due 2019
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
Merrill Lynch Canada Inc.
Banc of America Securities Canada Co.
J.P. Morgan Securities Canada Inc.
Raymond James Ltd.
Promoter(s):
-
Project #662981

Issuer Name:
Xerium Technologies, Inc.
Principal Jurisdiction - Ontario
Type and Date:
Amendment to Preliminary Prospectus dated October 15th, 2004
Withdrawn on February 24th, 2005
Offering Price and Description:
U.S. $ * million (C$ * million) - 28,125,000 Income Deposit Securities (IDSs) U.S. $45.3 million %Senior Subordinated Notes due 2019
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
Promoter(s):
-
Project #687593

Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
New Registration	Second Street Capital Ltd.	Limited Market Dealer and Investment Counsel & Portfolio Manager	February 25, 2005
New Registration	Mercer Canada Securities Limited	Limited Market Dealer and Investment Counsel and Portfolio Manager	February 25, 2005
New Registration	Starboard Capital Markets, LLC	International Dealer	February 23, 2005
New Registration	Deneb Asset Management Limited	Limited Market Dealer and Investment Counsel and Portfolio Manager	February 25, 2005
Change in Category	Robson Capital Management Inc.	From: Investment Counsel/Portfolio Manager To: Limited Market Dealer, Investment Counsel and Portfolio Manager	February 23, 2005
Change in Category	McLean Asset Management Ltd.	From: Investment Counsel and Portfolio Manager To: Limited Market Dealer	February 23, 2005
Change in Name	From: ChabotPage Investment Counsel Inc./les Conseillers en Valeurs ChabotPage Inc. To: Triasima Portfolio Management Inc./Gestion de Portefeuille Triasima Inc.	(Extra-Provincial) Investment Counsel and Portfolio Manager	February 24, 2005

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Chapter 13

SRO Notices and Disciplinary Proceedings

13.1.1 RS Market Integrity Notice – Notice of Commission Approval – Amendments Respecting Trading During Certain Securities Transactions

March 4, 2005 No. 2005-007

NOTICE OF AMENDMENT APPROVAL

AMENDMENTS RESPECTING
TRADING DURING CERTAIN SECURITIES TRANSACTIONS

Summary

On February 25, 2005, the Alberta Securities Commission, British Columbia Securities Commission, Manitoba Securities Commission, Ontario Securities Commission ("OSC") and, in Quebec, the Autorité des marchés financiers (the "Recognizing Regulators") approved amendments (the "Amendments") to the Universal Market Integrity Rules ("UMIR") to:

- combine prohibitions and restrictions relating to market stabilization and market balancing activities into a single rule;
- introduce exemptions from the prohibitions and restrictions relating to market stabilization and market balancing for trading in "highly-liquid" securities and exchange-traded funds; and
- harmonize the UMIR provisions governing restrictions and prohibitions on trading activities by Participants with requirements of the OSC governing the trading activities of dealers and parties connected to the issuer.

On February 15, 2005 the OSC made as a rule under the *Securities Act* (Ontario) OSC Rule 48-501 – *Trading during Distributions, Formal Bids and Share Exchange Transactions* (the "OSC Rule") and adopted Companion Policy 48-501CP to the OSC Rule. The OSC also revoked Ontario Securities Commission Policy 5.1, paragraph 26 and Ontario Securities Commission Policy 62-601. Unless the Minister responsible for the administration of the *Securities Act* (Ontario) (the "Act") rejects the OSC Rule or returns it for further consideration, the OSC Rule and the companion policy will come into force on May 9, 2005.

The Amendments will become effective on the date the OSC Rule comes into force. Until that date, the existing provisions of Rule 7.7 (Restrictions on Trading by a Participant Involved in a Distribution) and Rule 7.8 (Restrictions on Trading During a Securities Exchange Take-over Bid) will continue to apply.

Background

Concurrent with the publication of the Request for Comments in Market Integrity Notice 2003-018 on the proposed amendments to UMIR (the "Original Proposal"), the OSC published for comment at (2003) 26 OSCB 6157 proposed OSC Rule 48-501 (the "Original OSC Rule"). Based on the comments received, both RS and the OSC proposed revisions to their original proposals and republished revised proposals for a second comment period. RS issued Market Integrity Notice 2004-024 on September 10, 2004 (the "Revised Proposal") and the OSC published revised proposals on September 10, 2004 at (2004) 27 OSCB 7766 ("Revised OSC Rule").

In response to the publication for comment of the Revised Proposal and the Revised OSC Rule, RS and the OSC received 11 submissions from 10 commenters. As a result of the comments received and further consideration by the OSC and RS, certain non-material revisions have been made to the Revised Proposal. Generally, the comments received by RS were applicable to the Revised OSC Rule as well as the Revised Proposal. Appendix "C" has been prepared jointly by staff of RS and the OSC and is a summary of the comments received on the revised proposals together with the responses of RS and the OSC to those comments.

Summary of the Amendments

The Amendments govern the activities of dealers, issuers and others in connection with a distribution of securities, securities exchange take-over bid, issuer bid or amalgamation, arrangement, capital reorganization or similar transaction. The

Amendments are intended to prescribe what is an acceptable activity and otherwise restrict trading activities to preclude manipulative conduct by persons with an interest in the outcome of the distribution of securities or other transactions.

The Amendments impose prohibitions or restrictions on a "dealer-restricted person" trading in certain securities during a "restricted period". A dealer-restricted person is defined as including a Participant that has been retained as:

- an underwriter in a prospectus distribution or restricted private placement;
- an agent, but not as an underwriter, in a restricted private placement that involves the distribution of more than 10% of the issued and outstanding shares and the Participant is entitled to sell more than 25% of the distribution;
- a dealer-manager, manager, soliciting dealer or adviser in respect of a securities exchange takeover bid or issuer bid if a security is offered as consideration; or
- a soliciting dealer or adviser in respect of the approval of an amalgamation, arrangement, capital reorganization or similar transaction.

In addition, a number of persons connected to the Participant will be considered to be a dealer-restricted person including:

- a related entity of the Participant (but not including various separate or distinct departments or divisions for which there are adequate policies and procedures to prevent the flow of information);
- a dealer, a partner, director, officer, or employee of the Participant or a related entity of the Participant; and
- a person acting jointly or in concert with the Participant or one of the connected persons.

A restricted security is defined as:

- an offered security, which includes a listed or quoted security:
  - that is the subject of a public distribution,
  - offered in a securities exchange take-over bid or an issuer bid, and
  - issuable pursuant to an amalgamation, arrangement, capital reorganization or similar transaction; or
- a connected security, which includes a listed or quoted security:
  - into which the offered security is immediately convertible, exchangeable or exercisable,
  - that, by the terms of the offered security, may significantly determine the value of the offered security,
  - into which the offered security is exercisable, if the offered security is a special warrant, and
  - that is an equity security of the issuer of the offered security.

During the restricted period (which, in the case of a public distribution, generally commences two days prior to the determination of pricing and ends on the completion of the selling process and, in the case of a take-over bid, issuer bid, amalgamation, arrangement, capital reorganization or similar transaction, commences on the date of the dissemination of the circular or similar document and ends on the termination of the bid or transaction or the approval of the transaction), a dealer-restricted person is not permitted to bid for or purchase a restricted security or attempt to "induce or cause any person to purchase a restricted security". A number of exemptions apply including the ability to bid for or purchase a restricted security:

- in the case of an offered security, at a price which does not exceed the lesser of:
  - the price at which the offered security will be issued if that price has been determined, and
  - the last independent sale price at the time of the entry of the order to purchase;
- in the case of a connected security, at a price which does not exceed the lesser of:

- the last independent sale price at the commencement of the restricted period, and
- the last independent sale price at the time of the entry of the order to purchase;

- that is a "highly-liquid security" (being a security that trades an average of at least 100 times per day with an average trading value of $1,000,000 per trading day over a 60-day period or a security subject to Regulation M ("Reg. M.) of the United States Securities and Exchange Commission ("SEC") and is considered an "actively-traded security" for the purposes of Reg. M) or an "Exchange-traded Fund" (being a mutual fund the securities of which are listed or quoted and in continuous distribution for the purposes of securities legislation); and
- that is an unsolicited client order or a client order that was solicited prior to the commencement of the restricted period.

Exemptions are also provided for trades that are:

- basket trades (at least 10 securities with restricted securities comprising not more than 20% of the value of the transaction);
- Program Trades (undertaken in conjunction with a trade in a derivative in accordance with marketplace rules);
- rebalancing of portfolios based on index changes;
- arbitrage activities for inter-listed securities;
- activities pursuant to market maker obligations in accordance with marketplace rules; and
- activities undertaken by derivatives market makers.

Where permitted by applicable securities legislation, a dealer-restricted person may "attempt to induce or cause a person to purchase a restricted security" by:

- soliciting tenders to a take-over bid or issuer bid; and
- publishing or disseminating information, opinions or recommendations on any other restricted security if similar information opinions or recommendations are included on other issuers or if the security of the issuer is a "highly-liquid security".

Subject to certain limited exemptions, a dealer-restricted person may not bid for or purchase a restricted security during the applicable restricted period on behalf of an "issuer-restricted person" (which includes the issuer, a selling securityholder, an affiliated entity, an associated entity, an insider, an account over which any of these persons exercises direction or control, and any person acting jointly or in concert with any of these other persons).

Summary of Changes from the Revised Proposal

Based on comments received in response to the Request for Comments contained in Market Integrity Notice 2004-024 and based on comments received from the Recognizing Regulators, RS made a number of changes to the Revised Proposal. The text of the Amendments is set out in Appendix "A" and the revisions made to the Revised Proposal are highlighted in Appendix "B". The following is a summary of the significant changes made to the Revised Proposal on the adoption of the Amendments:

Definitions

- ***"restricted period" – commencement of period for amalgamations, arrangements or capital reorganizations***

  In the Revised Proposal, the restricted period in connection with a take-over bid, issuer bid, amalgamation, capital reorganization or similar transaction began on the date of the take-over bid circular, issuer bid circular, similar document or information circular (materials) for the transaction. Comment was received that the date of dissemination of the materials would be preferable to the date of the materials. The Amendments harmonize with Reg. M so that the restrictions start on the date of the commencement of the dissemination of the materials.

- ***"restricted period" – selling process has ended***

  In the Revised Proposal, the restricted period for prospectus distributions and private placements ended on the date that the selling process ended (which for a prospectus distribution meant that the receipt for the prospectus had been issued, the Participant had allocated all of its portion of the securities, and delivered to each subscriber a copy of the prospectus) and all stabilization arrangements relating to the offered security were terminated. Commenters wrote requesting more consistency with Reg. M and greater clarity.

  As a result of comments received, several changes have been made. Rule 1.2(6) has been amended with respect to when the selling process shall be considered to end. The requirement that a copy of the prospectus be delivered to each subscriber has been deleted. In summary, there are three requirements for the end of the selling process: a receipt has been issued for the final prospectus, the Participant has allocated all of its portion of the securities to be distributed and all selling efforts have ceased.

  Policy 1.2 has been amended to clarify that securities allocated to a Participant in a distribution that are transferred to the Participant's inventory account at the end of the distribution would be considered to be distributed and therefore that subsequent sales of these securities will not be subject to the restrictions as long as the subsequent sales are not otherwise considered distributions under securities legislation. Clarification has also been added to Policy 1.2 to provide where there is a syndicate, the syndicate must be broken for the restricted period to have ended.

- ***"dealer-restricted person" – agents***

  Comments were received regarding the scope of the definition of "dealer-restricted person" as it relates to agents, and in particular, submissions were made that including agent was unnecessary since Participants acting as agents, who would not be considered to be underwriters pursuant to securities legislation, would not generally have the same incentive to manipulate. The OSC and RS believe that where a distribution takes place by way of a private placement, there is still sufficient incentive for a dealer to engage in manipulation where the offering is of sufficient size and the dealer's allocation is significant enough. To capture when an agent's involvement is significant, and hence there is a greater incentive to manipulate, the definition in the Amendments provides that when a Participant is acting as an agent but not as an underwriter in a "restricted private placement" of securities, the Participant will be considered to be a "dealer-restricted person" only if the number of securities issued under the restricted private placement would constitute more than 10% of the total issued and outstanding securities and the Participant has been allotted and is entitled to sell more than 25% of the securities to be issued.

- ***"issuer-restricted person" –*** **carve** ***out for insiders without material knowledge***

  The definition of "issuer-restricted person" includes insiders of the issuer and selling securityholders. Concern was expressed that certain institutions, such as for example firms that manage discretionary accounts, could become insiders under clause (c) of the definition of insider under the Act or similar provisions of applicable securities legislation by virtue of owning or having control or discretion over more than 10% of the voting securities of an issuer but do not necessarily have an interest in the outcome of a distribution or transaction nor any knowledge which is any different from a securityholder who is not an insider. The definition of "issuer-restricted person" has been changed in the Amendments to exclude a person who is an insider of an issuer only by virtue of clause (c) of the definition of "insider" under the Act or similar provisions of applicable securities legislation if that person has not had within the preceding 12 months any board or management representation in respect of the issuer or selling securityholder and has no knowledge of any material information concerning the issuer or its securities that has not been generally disclosed.

- ***"offered security"***

  The Amendments clarify that an "offered security" must be either a listed security or a quoted security including in circumstances where the security is be offered in connection with a take-over bid, issuer bid, amalgamation, arrangement, capital reorganization or similar transaction.

- ***"public distribution"***

  In the Revised Proposal, the term "public distribution" was defined as a distribution of a security pursuant to a prospectus or private placement. From the comments received, it was clear that there was some confusion as to type of distribution to which restrictions would apply. The term has been removed and replaced in the Amendments with the terms "prospectus distribution" and "restricted private placement". The term "restricted private placement" has been defined as a distribution pursuant to subsection 72(1)(b) of the Act or section 2.3

of Ontario Securities Commission Rule 45-501 – Exempt Distributions or similar provisions of applicable securities legislation.

Exemptions

- ***Bids or Purchases at the Last Independent Sale Price***

  Comments were received expressing concern that the exemption would limit the market stabilization price to the lesser of the distribution price (or if not determined, the last independent sale price) and the best independent bid price at the time of the bid and may, in certain circumstances, be more restrictive than the current exemption which restricts the bid to the lesser of the issue price (if determined) and the last independent sale price. The OSC was of the view that the price of the last independent sale is the fairest indicator of where market is since it represents an actual transaction. Use of the last independent sale price is also consistent with the initial stabilizing price in Reg. M. Further, the maximum price at which stabilization activities may take place has been revised in the rule. In the case of an offered security, the bid or purchase must not exceed the lesser of the distribution price and the last independent sale price. In the case of a connected security, the bid or purchase must not exceed the lesser of the last independent sale price at the commencement of the restricted period and at the time of the bid or purchase.

Research Reports

- ***Research on single-issuers - Exemption for highly-liquid securities***

  Considerable comment was received regarding the removal of the exemption for the issuance of single-issuer research reports in the first publication of the proposed rule. In particular, commenters noted that Ontario dealers would be significantly disadvantaged compared to their U.S. counterparts in a cross-border offering. Reg. M permits single-issuer reports to be issued, provided certain conditions are met including that the research is contained in a publication which is distributed with reasonable regularity in the normal course of business. In order to facilitate cross-border offerings by harmonizing regulatory requirements in the Amendments and Reg. M, and to provide a level playing field between issuers inter-listed with a market in the United States and other issuers in Ontario, the Amendments include an exemption for research reports in respect of issuers of securities which meet the definition of a "highly-liquid security".

Differences Between the Amendments and OSC Rule

Concurrent with the publication of this Market Integrity Notice regarding the approval of the Amendments, the OSC is publishing a notice regarding the Commission's approval of the OSC Rule and the rescission of paragraph 26 of OSC Policy 5.1 and OSC Policy 62-601.

The provisions adopted under the UMIR parallel the provisions included in the OSC Rule. There are a number of minor differences in language and structure that reflect:

- the use of different defined terms and drafting protocols;
- the application of the UMIR provisions in all jurisdictions in which RS is recognized as a self-regulatory entity as compared to the application of the OSC Rule in Ontario only;
- the application of the UMIR provisions to listed securities and quoted securities as compared to the application of the OSC Rule to all securities the trading of which are subject to transparency requirements under National Instrument 21-101 – *Marketplace Operation*; and
- the application of the UMIR provisions to Participants and Access Persons as compared to the application of the OSC Rule to all persons, including issuers and dealers.

It should be noted that clause 3.1(i) of the OSC Rule allows a dealer to rely on exemptions contained in UMIR. In particular, the UMIR provisions allow a dealer-restricted person to bid for or purchase a restricted security as part of:

- a basket trade;
- a Program Trade;
- rebalancing of portfolios based on index changes;

- arbitrage activities for inter-listed securities;
- activities pursuant to Market Maker Obligations; and
- activities undertaken by derivatives market makers.

There are no substantive differences between the Amendments and the OSC Rule other than as a result of the four factors outlined above.

Future Harmonization with Regulation M and the OSC Rule

One of the key purposes of the Amendments was to harmonize to the extent possible with the OSC Rule and Reg. M.

The SEC published for comment on December 9, 2004 proposed amendments to Reg. M, after having proposed amendments to the provisions regarding research reports on November 3, 2004. The more significant proposed amendments to Reg. M would:

- amend the definition of restricted period for an initial public offering, merger, acquisition and exchange offer;
- update the dollar value thresholds for "actively-traded security" to take into account inflation since the adoption of Reg. M; and
- require disclosure of syndicate covering transactions and penalty bids when stabilization is undertaken.

RS will consider any amendments to Reg. M when adopted. If appropriate, RS may propose additional amendments to UMIR at a future date. It would be anticipated that any amendments to UMIR would be made in conjunction with amendments by the OSC to the OSC Rule.

List of "Highly-Liquid Securities"

The amendments provide that a "highly-liquid security" will be exempt from certain of the restrictions and prohibitions. A "highly-liquid security" is defined as a listed security or quoted security that:

(a) has traded, in total, on one or more marketplaces as reported on a consolidated market display during a 60-day period ending not earlier than 10 days prior to the commencement of the restricted period:

  (i) an average of at least 100 times per trading day, and

  (ii) with an average trading value of at least $1,000,000 per trading day; or

(b) is subject to Reg. M and is considered to be an "actively-traded security" under that regulation.

RS intends to maintain and distribute a list of securities which, based on data available to RS, fall within the definition of a "highly-liquid security" as a result of achieving the required number of average daily trades and average daily trading value on Canadian marketplaces. RS will not maintain a list of securities considered to be "actively-traded" under Reg. M. Persons may rely on this list or they may independently verify if a security meets the requirements of a "highly-liquid security" so long as they retain a record of the data they rely upon in verifying the requirements. RS expects that the list will be available on its website (at www.rs.ca) on or about May 2, 2005.

Appendices

- Appendix "A" sets out the text of the amendments to UMIR and the Policies to replace the current Rules 7.7 and 7.8;
- Appendix "B" highlights the changes made to the Amendments from the Revised Proposal; and
- Appendix "C" contains a summary of the comments received by RS on the Revised Proposal and by the OSC on the Revised OSC Rule together with the joint response of RS and the OSC to each of the comments.

Questions

Questions concerning this notice may be directed to:

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Appendix "A"

Universal Market Integrity Rules

AMENDMENTS RESPECTING TRADING DURING CERTAIN SECURITIES TRANSACTIONS

The Universal Market Integrity Rules are hereby amended as follows:

1. Rule 1.1 is amended by deleting the definition of "restricted person".

2. Rule 1.1 is amended by deleting the definition of "offered security" and substituting the following:

   "offered security" means all securities of the class of security that is, or will be upon issuance, a listed security or a quoted security and:

   (a) is offered pursuant to a prospectus distribution or a restricted private placement;

   (b) is offered by an offeror in a securities exchange take-over bid in respect of which a take-over bid circular or similar document is required to be filed under securities legislation;

   (c) is offered by an issuer in an issuer bid in respect of which an issuer bid circular or similar document is required to be filed under securities legislation; or

   (d) would be issuable to a securityholder pursuant to an amalgamation, arrangement, capital reorganization or similar transaction in relation to which proxies are being solicited from securityholders that will receive the offered security in such circumstances that the issuance would be a distribution exempt from prospectus requirements in accordance with applicable securities legislation,

   provided that, if the security described in clauses (a) to (d) is a unit comprised of more than one type or class, each security comprising the unit shall be considered to be an "offered security".

3. Rule 1.1 is amended by adding the following definitions:

   "basket trade" means a simultaneous purchase of at least 10 listed securities or quoted securities, provided that any restricted security comprises not more than 20% of the total value of the transaction.

   "connected security" means, in respect of an offered security:

   (a) a listed security or quoted security into which the offered security is immediately convertible, exchangeable or exercisable unless the price at which the offered security is convertible, exchangeable or exercisable is greater than 110% of the best ask price of the listed security or quoted security at the commencement of the restricted period;

   (b) a listed security or quoted security of the issuer of the offered security or another issuer that, according to the terms of the offered security, may significantly determine the value of the offered security;

   (c) if the offered security is a special warrant, a listed security or quoted security which would be issued on the exercise of the special warrant; and

   (d) if the offered security is an equity security, any other equity security of the issuer that is a listed security or quoted security.

   "dealer-restricted person" means, in respect of a particular offered security:

   (a) a Participant that:

      (i) is an underwriter, as defined in applicable securities legislation, in a prospectus distribution or a restricted private placement,

(ii) is participating, as agent but not as an underwriter, in a restricted private placement of securities and:

(A) the number of securities to be issued under the restricted private placement would constitute more than 10% of the issued and outstanding offered securities, and

(B) the Participant has been allotted or is otherwise entitled to sell more than 25% of the securities to be issued under the restricted private placement,

(iii) has been appointed by an offeror to be the dealer-manager, manager or soliciting dealer or adviser in respect of a securities exchange take-over bid or issuer bid, or

(iv) has been appointed by an issuer to be the soliciting dealer or adviser in respect of obtaining securityholder approval for an amalgamation, arrangement, capital reorganization or similar transaction that would result in the issuance of securities that would be a distribution exempt from prospectus requirements in accordance with applicable securities law,

where, in each case, adviser means an adviser whose compensation depends on the outcome of the transaction;

(b) a related entity of the Participant referred to in clause (a) but does not include such related entity, or any separate and distinct department or division of the Participant if:

(i) the Participant maintains and enforces written policies and procedures in accordance with Rule 7.1 that are reasonably designed to prevent the flow of information from the Participant regarding the offered security and the related transaction,

(ii) the Participant has no officers or employees that solicit client orders or recommend transactions in securities in common with the related entity, department or division, and

(iii) the related entity, department or division does not during the restricted period in connection with the restricted security:

(A) act as a market maker (other than pursuant to Market Maker Obligations),

(B) solicit client orders, or

(C) enter principal orders or otherwise engage in proprietary trading;

(c) a partner, director, officer, employee or a person holding a similar position or acting in a similar capacity, of the Participant referred to in clause (a) or for a related entity of the Participant referred to in clause (b); or

(d) any person acting jointly or in concert with a person described in clause (a), (b) or (c) for a particular transaction.

"equity security" means any security of an issuer that carries a residual right to participate in the earnings of the issuer and, upon liquidation or winding-up of the issuer, in its assets.

"highly-liquid security" means a listed security or quoted security that:

(a) has traded, in total, on one or more marketplaces as reported on a consolidated market display during a 60-day period ending not earlier than 10 days prior to the commencement of the restricted period:

(i) an average of at least 100 times per trading day, and

(ii) with an average trading value of at least $1,000,000 per trading day; or

(b) is subject to Regulation M under the 1934 Act and is considered to be an "actively-traded security" under that regulation.

"issuer-restricted person" means, in respect of a particular offered security:

(a) the issuer of the offered security;

(b) a selling securityholder of the offered security in connection with a prospectus distribution or restricted private placement;

(c) an affiliated entity, an associated entity or insider of the issuer or selling securityholder of the offered security as determined in accordance with the provisions of applicable securities legislation but does not include a person who is an insider of an issuer by virtue of clause (c) of the definition of "insider" under the *Securities Act* (Ontario) and similar provisions of applicable securities legislation if that person:

(i) does not have, and has not had in the previous 12 months, any board or management representation in respect of the issuer or selling securityholder; and

(ii) does not have knowledge of any material information concerning the issuer or its securities that has not been generally disclosed; or

(d) any person acting jointly or in concert with a person described in clause (a), (b) or (c) for a particular transaction.

"last independent sale price" means the last sale price of a trade, other than a trade that a dealer-restricted person knows or ought reasonably to know has been executed by or on behalf of a person that is a dealer-restricted person or an issuer-restricted person.

"restricted period" means, for a dealer-restricted person or an issuer-restricted person, the period:

(a) in connection with a prospectus distribution or a restricted private placement of any offered security, commencing two trading days prior to the day the offering price of the offered security is determined and ending on the date the selling process has ended and all stabilization arrangements relating to the offered security are terminated provided that, if the person is a dealer-restricted person, the period shall commence on the date the Participant enters into an agreement or reaches an understanding to participate in the prospectus distribution or restricted private placement of securities, whether or not the terms and conditions of such participation have been agreed upon if that date is later;

(b) in connection with a securities exchange take-over bid or issuer bid, commencing on the date of dissemination of the securities exchange take-over bid circular or issuer bid circular or similar document and ending with the termination of the period during which securities may be deposited under such bid, including any extension thereof, or the withdrawal of the bid; and

(c) in connection with an amalgamation, arrangement, capital reorganization or similar transaction, commencing on the date of dissemination of the information circular for such transaction and ending on the date for approval of the transaction by the securityholders that will receive the offered security or the termination of the transaction by the issuer or issuers.

"restricted private placement" means a distribution of offered securities made pursuant to clause 72(1)(b) of the *Securities Act* (Ontario) or section 2.3 of Ontario Securities Commission Rule 45-501 - *Exempt Distributions* or similar provisions of applicable securities legislation.

"restricted security" means:

(a) the offered security; or

(b) any connected security.

4. Rule 1.2 is amended by adding the following subsections:

(6) For the purposes of the definition of “restricted period”:

(a) the selling process shall be considered to end:

(i) in the case of a prospectus distribution, if a receipt has been issued for the final prospectus by the applicable securities regulatory authority and the Participant has allocated all of its portion of the securities to be distributed under the prospectus and all selling efforts have ceased, and

(ii) in the case of a restricted private placement, the Participant has allocated all of its portion of the securities to be distributed under the offering; and

(b) stabilization arrangements shall be considered to have terminated in the case of a syndicate of underwriters or agents when, in accordance with the syndication agreement, the lead underwriter or agent determines that the syndication agreement has been terminated such that any purchase or sale of a restricted security by a Participant after the time of termination is not subject to the stabilization arrangements or otherwise made jointly for the Participants that were party to the stabilization arrangements.

(7) Where used to indicate a relationship with an entity, associated entity has the meaning ascribed to the term "associate" in applicable securities legislation and also includes any person of which the entity beneficially owns voting securities carrying more than 10 per cent of the voting rights attached to all outstanding voting securities of the person.

5. Rule 7.7 is deleted and the following substituted:

Trading During Certain Securities Transactions

(1) **Prohibitions -** Except as permitted, a dealer-restricted person shall not at any time during the restricted period:

(a) bid for or purchase a restricted security for an account:

(i) of a dealer-restricted person, or

(ii) over which the dealer-restricted person exercises direction or control; or

(b) attempt to induce or cause any person to purchase a restricted security.

(2) **Prohibitions on Acting for Issuer-Restricted Persons -** Except as permitted, if a dealer-restricted person knows or ought reasonably to know that a person is an issuer-restricted person, the dealer-restricted person shall not at any time during the restricted period applicable to a particular issuer-restricted person bid for or purchase a restricted security for the account of that issuer-restricted person or an account over which that issuer-restricted person exercises direction or control.

(3) **Deemed Recommencement of a Restricted Period -** If a Participant appointed to be an underwriter in a prospectus distribution or a restricted private placement receives a notice or notices of the exercise of statutory rights of withdrawal or rights of rescission from purchasers of, in the aggregate, not less than 5% of the offered securities allotted to or acquired by the Participant in connection with the prospectus distribution or the restricted private placement then a restricted period shall be deemed to have commenced upon receipt of such notice or notices and shall be deemed to have ended at the time the Participant has distributed its participation, including the securities that were the subject of the notice or notices of the exercise of statutory rights of withdrawal or rights of rescission.

(4) **Exemptions -** Subsection (1) does not apply to a dealer-restricted person in connection with:

(a) market stabilization or market balancing activities where the bid for or purchase of a restricted security is for the purpose of maintaining a fair and orderly market in the offered security by reducing the price volatility of or addressing imbalances in buying and selling interests for the restricted security provided that the bid or purchase is at a price which does not exceed the lesser of:

(i) in the case of an offered security:

(A) the price at which the offered security will be issued in a prospectus distribution or restricted private placement, if that price has been determined, and

(B) the last independent sale price at the time of the entry on a marketplace of the order to purchase,

(ii) in the case of a connected security:

(A) the last independent sale price at the commencement of the restricted period, and

(B) the last independent sale price at the time of the entry on a marketplace of the order to purchase,

provided that if the restricted security has not previously traded on a marketplace, the price also does not exceed the price of the last trade of the security executed on an organized regulated market outside of Canada that publicly disseminates details of trades executed on that market other than a trade that the dealer-restricted person knows or ought reasonably to know has been entered by or on behalf of a person that is a dealer-restricted person or an issuer-restricted person;

(b) a restricted security that is:

(i) a highly-liquid security,

(ii) a unit of an Exchange-traded Fund, or

(iii) a connected security of a security referred to in subclause (i) or (ii);

(c) a bid or purchase by a dealer-restricted person on behalf of a client, other than a client that the dealer-restricted person knows or ought reasonably to know is an issuer-restricted person provided that:

(i) the client order has not been solicited by the dealer-restricted person, or

(ii) if the client order was solicited, the solicitation by the dealer-restricted person occurred prior to the commencement of the restricted period;

(d) the exercise of an option, right, warrant or a similar contractual arrangement held or entered into by the dealer-restricted person prior to the commencement of the restricted period;

(e) a bid for or purchase of a restricted security is made pursuant to a Small Securityholder Selling and Purchase Arrangement undertaken in accordance with National Instrument 32-101 or similar rules applicable to any marketplace on which the bid or purchase is entered or executed;

(f) the solicitation of a tender of securities to a securities exchange take-over bid or issuer bid;

(g) a subscription for or purchase of an offered security pursuant to a prospectus distribution or restricted private placement;

(h) a bid or purchase of a restricted security to cover a short position entered into prior to the commencement of the restricted period;

(i) a bid or purchase of a restricted security is solely for the purpose of rebalancing a portfolio, the composition of which is based on an index as designated by the Market Regulator, to reflect an adjustment made in the composition of the index;

(j) a purchase that is or a bid that on execution would be:

(i) a basket trade, or

(ii) a Program Trade; or

(k) a bid for a purchase of a restricted security for an arbitrage account and the dealer-restricted person knows or has reasonable grounds to believe that a bid enabling the dealer-restricted person to cover the purchase is then available and the dealer-restricted person intends to accept such bid immediately.

(5) **Exemptions on Acting for an Issuer-restricted Person -** Subsection (2) does not apply to a dealer-restricted person in connection with:

(a) the exercise by an issuer-restricted person of an option, right, warrant, or a similar contractual arrangement held or entered into by the issuer-restricted person prior to the commencement of the restricted period;

(b) a bid or purchase by an issuer-restricted person of a restricted security pursuant to a Small Securityholder Selling and Purchase Arrangement made in accordance with National Instrument 32-101 or similar rules applicable to any marketplace on which the bid or purchase is entered or executed;

(c) an issuer bid described in clauses 93(3)(a) through (d) of the *Securities Act* (Ontario) or similar provisions of applicable securities legislation if the issuer did not solicit the sale of the securities sold under those provisions;

(d) the solicitation of the tender of securities to a securities exchange take-over bid or issuer bid; or

(e) a subscription for or purchase of an offered security pursuant to a prospectus distribution or a restricted private placement.

(6) **Compilations and Industry Research -** Despite subsection (1), a dealer-restricted person may, if permitted under applicable securities legislation, publish or disseminate any information, opinion or recommendation relating to the issuer of a restricted security, if the information, opinion or recommendation is in a publication that is disseminated with reasonable regularity in the normal course of business of the dealer-restricted person and:

(a) the restricted security is a highly-liquid security; or

(b) the publication:

(i) includes similar coverage in the form of information, opinions or recommendations with respect to a substantial number of issuers in the issuer's industry or contains a comprehensive list of securities currently recommended by the dealer-restricted person, and

(ii) gives no materially greater space or prominence to the information, opinion or recommendation related to the restricted security or the issuer of the restricted security than that given to other securities or issuers.

(7) **Transactions by Person with Market Maker Obligations -** Despite subsection (1), a dealer-restricted person with Market Maker Obligations for a restricted security may, for their market making trading account:

(a) with the prior approval of a Market Integrity Official, enter a bid to move the calculated opening price of a restricted security to a more reasonable level;

(b) purchase a restricted security pursuant to their Market Maker Obligations; and

(c) bid for or purchase a restricted security:

(i) that is traded on another market for the purpose of matching a higher-priced bid posted on such market,

(ii) that is convertible, exchangeable or exercisable into another listed security for the purpose of maintaining an appropriate conversion, exchange or exercise ratio, and

(iii) to cover a short position resulting from sales made under their Market Maker Obligations.

(8) **Transactions by the Derivatives Market Maker -** Despite subsection (1), a dealer-restricted person who is a derivatives market maker with responsibility for a derivative security the underlying interest of which is a restricted security may, for their derivatives market making trading account, bid for or purchase a restricted security if:

(a) the restricted security is the underlying security of the option for which the person is the specialist;

(b) there is not otherwise a suitable derivative hedge available; and

(c) such bid or purchase is:

(i) for the purpose of hedging a pre-existing options position,

(ii) reasonably contemporaneous with the trade in the option, and

(iii) consistent with normal market-making practice.

(9) **Application of Exemptions to a Dealer-Restricted Person and Issuer-Restricted Person -** Where a dealer-restricted person is also an issuer-restricted person the exemptions in subsections (4), (6), (7) and (8) continue to be available to the dealer-restricted person.

6. Rule 7.8 is deleted.

The Policies under the Universal Market Integrity Rules are hereby amended as follows:

1. The following is added as Policy 1.1:

Policy 1.1 - Definitions

Part 1 – Definition of "connected security"

The definition of a "connected security" includes, among other things, a security of the issuer of the offered security or another issuer that, according to the terms of the offered security, may "significantly determine" the value of the offered security. The Market Regulator takes the view that, absent other mitigating factors, a connected security "significantly determines" the value of the offered security, if, in whole or in part, it accounts for more than 25% of the value of the offered security.

Part 2 – Definition of "Exchange-traded Fund"

An "Exchange-traded Fund" is defined, in part, as a mutual fund designated by the Market Regulator as an exchange-traded fund for the purposes of the Rule. As guidance, an exchange-traded fund may be designated by the Market Regulator where it is determined that it would be difficult to manipulate the price of units of the mutual fund.

It would be the intention of the Market Regulator that the designation of a security would be done after consultation with the Ontario Securities Commission or other applicable securities regulatory authority. Acceptance of the designation by applicable securities regulatory authorities would be a pre-condition to any designation of a security as an "Exchange-traded Fund". Other factors which the Market Regulator would take into account are:

- the liquidity or public float of the security (or the underlying securities which comprise the portfolio of the mutual fund);
- whether the units are redeemable at any time for a "basket" of the underlying securities in addition to cash;
- whether a "basket" of the underlying securities may be exchanged at any time for units of the fund;
- whether the fund tracks a recognized index on which information is publicly disseminated and generally available through the financial media; and
- whether derivatives based on units of the fund, the underlying index or the underlying securities are listed on a marketplace.

None of these additional five factors is determinative in and of itself and each security will be evaluated on its own merits before a request is made to the applicable securities regulatory authority to concur in the designation.

2. The following is added as Policy 1.2:

Policy 1.2 - Interpretation

Part 1 – Meaning of "acting jointly or in concert"

The definitions of a "dealer-restricted person" and "issuer-restricted person" include a person acting jointly or in concert with a person that is also a dealer-restricted person or an issuer-restricted person, as applicable, for a particular transaction. For the purposes of these definitions, "acting jointly or in concert" has a similar meaning to that phrase as defined in section 91 of the *Securities Act* (Ontario) or similar provisions of applicable securities legislation, with necessary modifications. In the context of these definitions only, it is a question of fact whether a person is acting jointly or in concert with a dealer- or issuer-restricted person and, without limiting the generality of the foregoing, every person who, as a result of an agreement, commitment or understanding, whether formal or informal, with a dealer-restricted person or an issuer-restricted person, bids for or purchases any restricted security will be presumed to be acting jointly or in concert with such dealer- or issuer-restricted person.

Part 2 – Meaning of "selling process has ended"

The definition of "restricted period", with respect to a prospectus distribution and a "restricted private placement", refers to the end of the period as the date that the selling process ends and all stabilization arrangements relating to the offered security are terminated. Rule 1.2(6)(a) provides interpretation as to when the selling process is considered to end. As further clarification, the selling process is considered to end for a prospectus distribution when the receipt for the prospectus has been issued, the Participant has distributed all securities allocated to it and, is no longer stabilizing, all selling efforts have ceased and the syndicate is broken. Selling efforts have ceased when the Participant is no longer making efforts to sell, and there is no intention to exercise an over-allotment option other than to cover the syndicate's short position. If the Participant or syndicate subsequently exercises an over-allotment option in an amount that exceeds the syndicate short position, the selling efforts would not be considered to have ceased. Securities allocated to a Participant that are held

and transferred to the inventory account of the Participant at the end of the distribution are considered distributed. Subsequent sales of such securities are secondary market transactions and should occur on a marketplace subject to any applicable exemptions (unless the subsequent sale transaction is a distribution by prospectus). To provide certainty around when the distribution has ended, appropriate steps should be taken to move the securities from the syndication account to the inventory account of the Participant.

3. The following is added as Policy 7.7:

Policy 7.7 – Trading During Certain Securities Transactions

Part 1 – Manipulative or Deceptive Activity

Provisions prohibiting manipulative or deceptive activities, including activities that may create misleading pricing or trading activity that is detrimental to investors and the integrity of the markets, are contained in Rule 2.2. Rule 7.7 generally prohibits purchases of or bids for restricted securities in circumstances where there is heightened concern over the possibility of manipulation by those with an interest in the outcome of the distribution or transaction. Rule 7.7 also provides certain exemptions to permit purchases and bids in situations where there is no, or a very low possibility of manipulation. However, the Market Regulator is of the view that notwithstanding that certain trading activities are permitted under Rule 7.7, these activities continue to be subject to the general provisions relating to manipulative or deceptive activities in Rule 2.2 and the provisions on manipulation and fraud found in applicable securities legislation such that any activities carried out in accordance with Rule 7.7 must still meet the spirit of the general anti-manipulation provisions.

Part 2 – Market Stabilization and Market Balancing

Rule 7.7(4)(a) provides a dealer-restricted person with an exemption from the prohibitions in subsection (1) for market stabilization and market balancing activities subject to price limitations. Market stabilization and market balancing activities should be engaged in for the purpose of maintaining a fair and orderly market in the offered security by reducing the price volatility of or addressing imbalances in buying and selling interests for the restricted security.

The Market Regulator considers it to be inappropriate for a dealer to engage in market stabilization activities in circumstances where dealer knows or should reasonably know that the market price is not fairly and properly determined by supply and demand. This might exist where, for example, the dealer is aware that the market price is a result of inappropriate activity by a market participant or that there is undisclosed material information regarding the issuer.

Market balancing activities should contribute to a fair and orderly market by contributing to price continuity and depth and by minimizing supply-demand disparity. Market balancing does not seek to prevent or unduly retard any price movements, but merely to prevent erratic or disorderly changes in price.

Part 3 – Short Position Exemption

Rule 7.7(4)(h) provides an exemption from the prohibitions in subsection (1) for a dealer-restricted person in connection with a bid for or purchase to cover a short position provided that short position was entered into before the commencement of the restricted period. Short positions entered into during the restricted period may be covered by purchases made in reliance upon the market stabilization exemption in Rule 7.7(4)(a), subject to the price limits set out in that exemption. (See "Part 5 – Trading Pursuant to Market Maker Obligations" for a discussion of the ability of persons with Market Maker Obligations to cover short positions arising during the restricted period pursuant to their Market Maker Obligations.)

Part 4 – Research

The Market Regulator is of the view that although sections 4.1 and 4.2 of OSC Rule 48-501 do permit a dealer-restricted person to disseminate research reports, this dissemination continues to be subject to the usual restrictions that are applicable to a dealer-restricted person in possession of material information regarding the issuer that has not been generally disclosed.

Rule 7.7(6) provides circumstances where a dealer-restricted person may publish or disseminate information, an opinion, or a recommendation relating to the issuer of a restricted security. The Rule requires that the information, opinion or recommendation is contained in a publication which is disseminated with reasonable regularity in the normal course of business of the dealer-restricted person. The Market Regulator considers that it is a question of fact whether a publication was disseminated "with reasonable regularity" and whether it was in the "normal course of business". A research publication would not likely be considered to have been published with reasonable regularity if it had not been published within the previous twelve month period or there had been no coverage of the issuer within the previous twelve month period. The nature and extent of the published information should also be consistent with prior publications and the dealer should not undertake new initiatives in the context of the distribution. For example, the inclusion of projections of issuers' earnings and revenues would likely only be permitted if they had previously been included on a regular basis. The Market Regulator may consider the distribution channels for the dissemination of the publication when considering whether a publication was "in the normal course of business". The research should be distributed through the dealer-restricted person's usual research distribution channels and should not be targeted or distributed specifically to prospective investors in the distribution as part of a marketing effort. However, the research may be distributed to a prospective investor if that investor was previously on the mailing list for the research publication.

Rule 7.7(6)(b) requires that the information, opinion or recommendation includes similar coverage in the form of information, opinions or recommendations with respect to a substantial number of issuers in the issuer's industry. In this context, reference should be made to the relevant industry when determining what constitutes a "substantial number of issuers". Generally, the Market Regulator would consider a minimum of six issuers to be a sufficient number. However, where there are less than six issuers in an industry, then all issuers should be included in the research report, and in any event the number of issuers should not be less than three.

Part 5 – Trading Pursuant to Market Maker Obligations

Under Rule 7.7(7)(b), a dealer-restricted person with Market Maker Obligations for a restricted security may, for their market making trading account, purchase a restricted security pursuant to their Market Making Obligations. Not every purchase of a restricted security by a Market Maker will be considered to undertaken pursuant to their Market Making Obligations. For example, if a market making system of a marketplace permits a Market Maker to voluntarily participate in trades that participation may only result in purchases that are:

- made at prices which are permitted by Rule 7.7(4)(a); or
- to cover a short position resulting from sales made under their Market Maker Obligations.

Use of a voluntary participation feature in other circumstances, may result in the Market Maker not complying with the prohibitions or restrictions on trading under Rule 7.7.

"Market Maker Obligations" are defined as the obligations imposed by the rules of an Exchange or a QTRS on a member or user or a person employed by a member or user to guarantee:

- a two-sided market for a particular security on a continuous or reasonably continuous basis; and
- the execution of orders for the purchase or sale of a particular security which are less than a minimum number of units of the security as designated by the marketplace.

Appendix "B"

Universal Market Integrity Rules

AMENDMENTS RESPECTING TRADING DURING CERTAIN SECURITIES TRANSACTIONS MARKED TO THE REVISED PROPOSAL IN MARKET INTEGRITY NOTICE 2004-024

The Universal Market Integrity Rules are hereby amended as follows:

1. Rule 1.1 is amended by deleting the definition of "restricted person".

2. Rule 1.1 is amended by deleting the definition of "offered security" and substituting the following:

   "offered security" means all securities of the class of security that is, or will be upon issuance, a listed security or a quoted security and:

   (a) ~~is a listed security or quoted security of the class that~~ is offered pursuant to a prospectus~~public~~ distribution or a restricted private placement;

   (b) is offered by an offeror in a securities exchange take-over bid in respect of which a take-over bid circular or similar document is required to be filed under securities legislation;

   (c) is offered by an issuer in an issuer bid in respect of which an issuer bid circular or similar document is required to be filed under securities legislation; or

   (d) would be issuable to a securityholder pursuant to an amalgamation, arrangement, capital reorganization or similar transaction in relation to which proxies are being solicited from securityholders that will receive the offered security in such circumstances that the issuance would be a distribution exempt from prospectus requirements in accordance with applicable securities legislation~~aw~~,

   provided that, if the security described in clauses (a) to (d) is a unit comprised of more than one type or class, each security comprising the unit shall be considered to be an "offered security".

3. Rule 1.1 is amended by adding the following definitions:

   "basket trade" means a simultaneous purchase of at least 10 listed securities or quoted securities, provided that any restricted security comprises not more than 20% of the total value of the transaction.

   ~~**"best independent bid price"** means the best bid price, other than a bid that a dealer-restricted person knows or ought reasonably to know has been entered by or on behalf of a person that is a dealer-restricted person or an issuer-restricted person.~~

   "connected security" means, in respect of an offered security:

   (a) a listed security or quoted security into which the offered security is immediately convertible, exchangeable or exercisable unless the price at which the offered security is convertible, exchangeable or exercisable is greater than 110% of the best ask price of the listed security or quoted security at the commencement of the restricted period;

   (b) a listed security or quoted security of the issuer of the offered security or another issuer that, according to the terms of the offered security, may significantly determine the value of the offered security;

   (c) if the offered security is a special warrant, a listed security or quoted security which would be issued on the exercise of the special warrant; and

   (d) if the offered security is an equity security, any other equity security of the issuer that is a listed security or quoted security.

"dealer-restricted person" means, in respect of a particular offered~~restricted~~ security:

(a) a Participant that:

(i) ~~has been appointed by an issuer to be~~is an underwriter, as defined in applicable securities legislation, in a prospectus ~~public~~ distribution or a restricted private placement,

(ii) is participating, as agent but not as an underwriter, in a ~~public distribution~~ restricted private placement of securities and:

(A) the number of securities to be issued under the restricted private placement ~~which~~ would constitute more than 10% of the issued and outstanding offered securities, and

(B) the Participant has been allotted or is otherwise entitled to sell more than 25% of the securities to be issued under the restricted private placement,

(iii) has been appointed by an offeror to be the dealer-manager, manager or soliciting dealer or adviser in respect of a securities exchange take-over bid or issuer bid, or

(iv) has been appointed by an issuer to be the soliciting dealer or adviser in respect of obtaining securityholder approval for an amalgamation, arrangement, capital reorganization or similar transaction that would result in the issuance of securities that would be a distribution exempt from prospectus requirements in accordance with applicable securities law,

where, in each case, adviser means an adviser whose compensation depends on the outcome of the transaction;

(b) a related entity of the Participant referred to in clause (a) but does not include such related entity, or any separate and distinct department or division of the Participant if:

(i) the Participant maintains and enforces written policies and procedures in accordance with Rule 7.1 that are reasonably designed to prevent the flow of information from the Participant regarding the offered security and the related transaction,

(ii) the Participant has no officers or employees that solicit client orders or recommend transactions in securities in common with the related entity, department or division, and

(iii) the related entity, department or division does not during the restricted period in connection with the restricted security:

(A) act as a market maker (other than pursuant to Market Maker Obligations),

(B) solicit client orders, or

(C) enter principal orders or otherwise engage in proprietary trading;

(c) a partner, director, officer, employee or a person holding a similar position or acting in a similar capacity, of the Participant referred to in clause (a) or for a related entity of the Participant referred to in clause (b); or

(d) any person acting jointly or in concert with a person described in clause (a), (b) or (c) for a particular transaction.

"equity security" means any security of an issuer that carries a residual right to participate in the earnings of the issuer and, upon liquidation or winding-up of the issuer, in its assets.

"highly-liquid security" means a listed security or quoted security that:

(a) has traded, in total, on one or more marketplaces as reported on a consolidated market display during a 60-day period ending not earlier than 10 days prior to the commencement of the restricted period:

(i) an average of at least 100 times per trading day, and

(ii) with an average trading value of at least $1,000,000 per trading day; or

(b) is subject to Regulation M under the 1934 Act and is considered to be an "actively-traded security" ~~there~~under that regulation.

"issuer-restricted person" means, in respect of a particular offered~~restricted~~ security:

(a) the issuer of the offered security;

(b) a selling securityholder of the offered security in connection with a prospectus ~~public~~ distribution or restricted private placement;

(c) an affiliated entity, an associated entity or insider of the issuer or selling securityholder of the offered security as determined in accordance with the provisions of applicable securities legislation but does not include a person who is an insider of an issuer by virtue of clause (c) of the definition of "insider" under the *Securities Act* (Ontario) and similar provisions of applicable securities legislation if that person:

(i) does not have, and has not had in the previous 12 months, any board or management representation in respect of the issuer or selling securityholder; and

(ii) does not have knowledge of any material information concerning the issuer or its securities that has not been generally disclosed; or

(d) any person acting jointly or in concert with a person described in clause (a), (b) or (c) for a particular transaction.

"last independent sale price" means the last sale price of a trade, other than a trade that a dealer-restricted person knows or ought reasonably to know has been executed by or on behalf of a person that is a dealer-restricted person or an issuer-restricted person.

~~**"public distribution"** means a distribution of a security pursuant to:~~

~~(a) a prospectus; or~~

~~(b) a private placement.~~

"restricted period" means, for a dealer-restricted person or an issuer-restricted person, the period:

(a) in connection with a prospectus ~~public~~ distribution or a restricted private placement of any offered security, commencing two trading days prior to the day the offering price of the offered security is determined and ending on the date the selling process has ended and all stabilization arrangements relating to the offered security are terminated provided that, if the person is a dealer-restricted person, the period shall commence on the date the Participant enters into an agreement or reaches an understanding to participate in the prospectus ~~public~~ distribution or restricted private placement of securities, whether or not the terms and conditions of such participation have been agreed upon if that date is later;

(b) in connection with a securities exchange take-over bid or issuer bid, commencing on the date of dissemination of the securities exchange take-over bid circular or issuer bid circular or similar document and ending with the termination of the period during which securities may be deposited under such bid, including any extension thereof, or the withdrawal of the bid; and

(c) in connection with an amalgamation, arrangement, capital reorganization or similar transaction, commencing on the date of dissemination of the information circular for such transaction and ending on the date for approval of the transaction by the securityholders

that will receive the offered security or the termination of the transaction by the issuer or issuers.

"restricted private placement" means a distribution of offered securities made pursuant to clause 72(1)(b) of the *Securities Act* (Ontario) or section 2.3 of Ontario Securities Commission Rule 45-501 - *Exempt Distributions* or similar provisions of applicable securities legislation.

"restricted security" means:

(a) the offered security; or

(b) any connected security.

4. Rule 1.2 is amended by adding the following subsections:

(6) For the purposes of the definition of "restricted period":

(a) the selling process shall be considered to end:

(i) in the case of a prospectus distribution ~~pursuant to a prospectus~~, if a receipt has been issued for the final prospectus by the applicable securities regulatory authority and the Participant has allocated all of its portion of the securities to be distributed under the prospectus and all selling efforts have ceased~~delivered to each subscriber a copy of the prospectus as required by applicable securities legislation~~, and

(ii) in the case of a restricted private placement, the Participant has allocated all of its portion of the securities to be distributed under the offering ~~and delivered to each subscriber a copy of all offering documents required to be provided to subscribers in connection with such offering~~; and

(b) stabilization arrangements shall be considered to have terminated in the case of a syndicate of underwriters or agents when, in accordance with the syndication agreement, the lead underwriter or agent determines that the syndication agreement has been terminated such that any purchase or sale of a restricted security by a Participant after the time of termination is not subject to the stabilization arrangements or otherwise made jointly for the Participants that were party to the stabilization arrangements.

(7) Where used to indicate a relationship with an entity, associated entity has the meaning ascribed to the term "associate" in applicable securities legislation and also includes any person of which the entity beneficially owns voting securities carrying more than 10 per cent of the voting rights attached to all outstanding voting securities of the person.

5. Rule 7.7 is deleted and the following substituted:

Trading During Certain Securities Transactions

(1) **Prohibitions -** Except as permitted, a dealer-restricted person shall not at any time during the restricted period:

(a) bid for or purchase a restricted security for an account:

(i) of a dealer-restricted person, or

(ii) over which the dealer-restricted person exercises direction or control; or

(b) attempt to induce or cause any person to purchase a restricted security.

(2) **Prohibitions on Acting for Issuer-Restricted Persons -** Except as permitted, if a dealer-restricted person knows or ought reasonably to know that a person is an issuer-restricted person, the dealer-restricted person shall not at any time during the restricted period applicable to a particular issuer-restricted person bid for or purchase a restricted security for

the account of that issuer-restricted person or an account over which that issuer-restricted person exercises direction or control.

(3) **Deemed Recommencement of a Restricted Period -** If a Participant appointed to be an underwriter in a prospectus~~public~~ distribution or a restricted private placement receives a notice or notices of the exercise of statutory rights of withdrawal or rights of rescission from purchasers of, in the aggregate, not less than 5% of the offered securities allotted to or acquired by the Participant in connection with the ~~public~~ prospectus distribution or the restricted private placement then a restricted period shall be deemed to have commenced upon receipt of such notice or notices and shall be deemed to have ended at the time the Participant has distributed its participation, including the securities that were the subject of the notice or notices of the exercise of statutory rights of withdrawal or rights of rescission.

(4) **Exemptions -** Subsection (1) does not apply to a dealer-restricted person in connection with:

(a) market stabilization or market balancing activities where the bid for or purchase of a restricted security is for the purpose of maintaining a fair and orderly market in the offered security by reducing the price volatility of or addressing imbalances in buying and selling interests for the restricted security provided that the bid or purchase is at a price which does not exceed the lesser of:

(i) in the case of an offered security:

(A) the price at which the offered security will be issued in a prospectus~~public~~ distribution or restricted private placement, if that price has been determined, ~~and otherwise, the last independent sale price,~~ and

(B) the ~~best~~last independent ~~bid~~sale price at the time of the entry on a marketplace of the order to ~~bid or~~ purchase,

(ii) in the case of a connected security:

(A) the last~~best~~ independent sale~~bid~~ price at the commencement of the restricted period, and

(B) the ~~best~~last independent ~~bid~~sale price at the time of the entry on a marketplace of the order to~~bid or~~ purchase,

provided that~~:~~

~~(iii) if the dealer restricted person enters the bid prior to the commencement of trading on a trading day, the price also does not exceed the last sale price of the restricted security on the previous trading day, and~~

~~(iv)~~ if the restricted security has not previously traded on a marketplace, the price also does not exceed the price of the last trade of the security executed on an organized regulated market outside of Canada that publicly disseminates details of trades executed on that market other than a trade that the dealer-restricted person knows or ought reasonably to know has been entered by or on behalf of a person that is a dealer-restricted person or an issuer-restricted person;

(b) a restricted security that is:

(i) a highly-liquid security,

(ii) a unit of an Exchange-traded Fund, or

(iii) a connected security of a security referred to in subclause (i) or (ii);

(c) a bid or purchase by a dealer-restricted person on behalf of a client, other than a client that the dealer-restricted person knows or ought reasonably to know is an issuer-restricted person provided that:

(i) the client order has not been solicited by the dealer-restricted person, or

(ii) if the client order was solicited, the solicitation by the dealer-restricted person occurred prior to the commencement of the restricted period;

(d) the exercise of an option, right, warrant or a similar contractual arrangement held or entered into by the dealer-restricted person prior to the commencement of the restricted period;

(e) a bid for or purchase of a restricted security is made pursuant to a Small Securityholder Selling and Purchase Arrangement undertaken in accordance with National Instrument 32-101 or similar rules applicable to any marketplace on which the bid or purchase is entered or executed;

(f) the solicitation of a tender of securities to a securities exchange take-over bid or issuer bid;

(g) a subscription for or purchase of an offered security pursuant to a prospectus~~public~~ distribution or restricted private placement;

(h) a bid or purchase of a restricted security to cover a short position entered into prior to the commencement of the restricted period;

(i) a bid or purchase of a restricted security is solely for the purpose of rebalancing a portfolio, the composition of which is based on an index as designated by the Market Regulator, to reflect an adjustment made in the composition of the index;

(j) a purchase that is or a bid that on execution would be:

(i) a basket trade, or

(ii) a Program Trade; or

(k) a bid for a purchase of a restricted security for an arbitrage account and the dealer-restricted person knows or has reasonable grounds to believe that a bid enabling the dealer-restricted person to cover the purchase is then available and the dealer-restricted person intends to accept such bid immediately.

(5) **Exemptions on Acting for an Issuer-restricted Person -** Subsection (2) does not apply to a dealer-restricted person in connection with:

(a) the exercise by an issuer-restricted person of an option, right, warrant, or a similar contractual arrangement held or entered into by the issuer-restricted person prior to the commencement of the restricted period;

(b) a bid or purchase by an issuer-restricted person of a restricted security pursuant to a Small Securityholder Selling and Purchase Arrangement made in accordance with National Instrument 32-101 or similar rules applicable to any marketplace on which the bid or purchase is entered or executed;

(c) an issuer bid described in clauses 93(3)(a) through (d) of the *Securities Act* (Ontario) or similar provisions of applicable securities legislation if the issuer did not solicit the sale of the securities sold under those provisions;

(d) the solicitation of the tender of securities to a securities exchange take-over bid or issuer bid; or

(e) a subscription for or purchase of an offered security pursuant to a prospectus~~public~~ distribution or a restricted private placement.

(6) **Compilations and Industry Research -** Despite subsection (1), a dealer-restricted person may, if permitted under~~in accordance with~~ applicable securities legislation, publish or disseminate any information, opinion or recommendation relating to the issuer of a restricted security if the ~~provided that such~~ information, opinion or recommendation~~:~~

~~(a)~~ is ~~contained~~ in a publication that ~~which:~~

~~(i)~~ is disseminated with reasonable regularity in the normal course of business of the dealer-restricted person~~,~~ and:

(a) the restricted security is a highly-liquid security; or

(b) the publication: ~~and~~

~~(ii)~~(i) includes similar coverage in the form of information, opinions or recommendations with respect to a substantial number of issuers in the issuer's industry or contains a comprehensive list of securities currently recommended by the dealer-restricted person~~;~~, and

~~(b)~~(ii) ~~is~~ gives~~n~~ no materially greater space or prominence to the information, opinion or recommendation related to the restricted security or the issuer of the restricted security ~~in that publication~~ than that given to other securities or issuers.

(7) **Transactions by Person with Market Maker Obligations -** Despite subsection (1), a dealer-restricted person with Market Maker Obligations for a restricted security may, for their market making trading account:

(a) with the prior approval of a Market Integrity Official, enter a bid to move the calculated opening price of a restricted security to a more reasonable level;

(b) purchase a restricted security pursuant to their Market Maker Obligations; and

(c) bid for or purchase a restricted security:

(i) that is traded on another market for the purpose of matching a higher-priced bid posted on such market,

(ii) that is convertible, exchangeable or exercisable into another listed security for the purpose of maintaining an appropriate conversion, exchange or exercise ratio, and

(iii) to cover a short position resulting from sales made under their Market Maker Obligations.

(8) **Transactions by the Derivatives Market Maker -** Despite subsection (1), a dealer-restricted person who is a derivatives market maker with responsibility for a derivative security the underlying interest of which is a restricted security may, for their derivatives market making trading account, bid for or purchase a restricted security if:

(a) the restricted security is the underlying security of the option for which the person is the specialist;

(b) there is not otherwise a suitable derivative hedge available; and

(c) such bid or purchase is:

(i) for the purpose of hedging a pre-existing options position,

(ii) reasonably contemporaneous with the trade in the option, and

(iii) consistent with normal market-making practice.

(9) **Application of Exemptions to a Dealer-Restricted Person and Issuer-Restricted Person -** Where a dealer-restricted person is also an issuer-restricted person the exemptions in subsections (4), (6), (7) and (8) continue to be available to the dealer-restricted person.

6. Rule 7.8 is deleted.

The Policies under the Universal Market Integrity Rules are hereby amended as follows:

1. The following is added as Policy 1.1:

Policy 1.1 - Definitions

Part 1 – Definition of "connected security"

The definition of a "connected security" includes, among other things, a security of the issuer of the offered security or another issuer that, according to the terms of the offered security, may "significantly determine" the value of the offered security. The Market Regulator takes the view that, absent other mitigating factors, a connected security "significantly determines" the value of the offered security, if, in whole or in part, it accounts for more than 25% of the value of the offered security.

Part 2 – Definition of "Exchange-traded Fund"

An "Exchange-traded Fund" is defined, in part, as a mutual fund designated by the Market Regulator as an exchange-traded fund for the purposes of the Rule. As guidance, an exchange-traded fund may be designated by the Market Regulator where it is determined that it would be difficult to manipulate the price of units of the mutual fund.

It would be the intention of the Market Regulator that the designation of a security would be done after consultation with the Ontario Securities Commission or other applicable securities regulatory authority. Acceptance of the designation by applicable securities regulatory authorities would be a pre-condition to any designation of a security as an "Exchange-traded Fund". Other factors which the Market Regulator would take into account are:

- the liquidity or public float of the security (or the underlying securities which comprise the portfolio of the mutual fund);
- whether the units are redeemable at any time for a "basket" of the underlying securities in addition to cash;
- whether a "basket" of the underlying securities may be exchanged at any time for units of the fund;
- whether the fund tracks a recognized index on which information is publicly disseminated and generally available through the financial media; and
- whether derivatives based on units of the fund, the underlying index or the underlying securities are listed on a marketplace.

None of these additional five factors is determinative in and of itself and each security will be evaluated on its own merits before a request is made to the applicable securities regulatory authority to concur in the designation.

2. The following is added as Policy 1.2:

Policy 1.2 - Interpretation

Part 1 – Meaning of "acting jointly or in concert"

The definitions of a "dealer-restricted person" and "issuer-restricted person" include a person acting jointly or in concert with a person that is also a dealer-restricted person or an issuer-restricted person, as applicable, for a particular transaction. For the purposes of these definitions, "acting

jointly or in concert" has a similar meaning to that phrase as defined in section 91 of the *Securities Act* (Ontario) or similar provisions of applicable securities legislation, with necessary modifications. In the context of these definitions only, it is a question of fact whether a person is acting jointly or in concert with a dealer- or issuer-restricted person and, without limiting the generality of the foregoing, every person who, as a result of an agreement, commitment or understanding, whether formal or informal, with a dealer-restricted person or an issuer-restricted person, bids for or purchases any restricted security will be presumed to be acting jointly or in concert with such dealer- or issuer-restricted person.

Part 2 – Meaning of "selling process has ended"

The definition of "restricted period", with respect to a prospectus distribution and a "restricted private placement", refers to the end of the period as the date that the selling process ends and all stabilization arrangements relating to the offered security are terminated. Rule 1.2(6)(a) provides interpretation as to when the selling process is considered to end. As further clarification, the selling process is considered to end for a prospectus distribution when the receipt for the prospectus has been issued, the Participant has distributed all securities allocated to it and, is no longer stabilizing, all selling efforts have ceased and the syndicate is broken. Selling efforts have ceased when the Participant is no longer making efforts to sell, and there is no intention to exercise an over-allotment option other than to cover the syndicate's short position. If the Participant or syndicate subsequently exercises an over-allotment option in an amount that exceeds the syndicate short position, the selling efforts would not be considered to have ceased. Securities allocated to a Participant that are held and transferred to the inventory account of the Participant at the end of the distribution are considered distributed. Subsequent sales of such securities are secondary market transactions and should occur on a marketplace subject to any applicable exemptions (unless the subsequent sale transaction is a distribution by prospectus). To provide certainty around when the distribution has ended, appropriate steps should be taken to move the securities from the syndication account to the inventory account of the Participant.

3. The following is added as Policy 7.7:

Policy 7.7 – Trading During Certain Securities Transactions

Part 1 – Manipulative or Deceptive Activity

Provisions prohibiting manipulative or deceptive activities~~trading~~, including activities that may create misleading pricing or trading activity that is detrimental to investors and the integrity of the markets, are contained in Rule 2.2. Rule 7.7 generally prohibits purchases of or bids for restricted securities in circumstances where there is heightened concern over the possibility of manipulation by those with an interest in the outcome of the distribution or transaction. Rule 7.7 also provides certain exemptions to permit purchases and bids in situations where there is no, or a very low possibility of manipulation. However, the Market Regulator is of the view that notwithstanding that certain trading activities are permitted under Rule 7.7, these activities continue to be subject to the general provisions relating to manipulative or deceptive activities~~trading~~ in Rule 2.2 and the provisions on manipulation and fraud found in applicable securities legislation such that any activities carried out in accordance with Rule 7.7 must still meet the spirit of the general anti-manipulation provisions.

Part 2 – Market Stabilization and Market Balancing

Rule 7.7(4)(a) provides a dealer-restricted person with an exemption from the prohibitions in subsection (1) for market stabilization and market balancing activities subject to price limitations. Market stabilization and market balancing activities should be engaged in for the purpose of maintaining a fair and orderly market in the offered security by reducing the price volatility of or addressing imbalances in buying and selling interests for the restricted security.

The Market Regulator considers it to be inappropriate for a dealer to engage in market stabilization activities in circumstances where dealer knows or should reasonably know that the market price is not fairly and properly determined by supply and demand. This might exist where, for example, the dealer is aware that the market price is a result of inappropriate activity by a market participant or that there is undisclosed material information regarding the issuer.

Market balancing activities should contribute to a fair and orderly market by contributing to price continuity and depth and by minimizing supply-demand disparity. Market balancing does not seek to

prevent or unduly retard any price movements, but merely to prevent erratic or disorderly changes in price.

Part 3 – Short Position Exemption

Rule 7.7(4)(h) provides an exemption from the prohibitions in subsection (1) for a dealer-restricted person in connection with a bid for or purchase to cover a short position provided that short position was entered into before the commencement of the restricted period. Short positions entered into during the restricted period may be covered by purchases made in reliance upon the market stabilization exemption in Rule 7.7(4)(a), subject to the price limits set out in that exemption. (See "Part 5 – Trading Pursuant to Market Maker Obligations" for a discussion of the ability of persons with Market Maker Obligations to cover short positions arising during the restricted period pursuant to their Market Maker Obligations.)

Part 4 – Research

The Market Regulator is of the view that although sections 4.1 and 4.2 of OSC Rule 48-501 does not permit a dealer-restricted person dealers to disseminate research reports, this dissemination continues to be subject to the usual restrictions that are applicable to a where the dealer-restricted person or the analyst covering the issuer of the offered security or any other representative of the dealer is in possession of material information regarding the issuer that has not been generally publicly disclosed.

Rule 7.7(6) provides circumstances where a dealer-restricted person may publish or disseminate information, an opinion, or a recommendation relating to the issuer of a restricted security. The Rule requires that the information, opinion or recommendation is contained in a publication which is disseminated with reasonable regularity in the normal course of business of the dealer-restricted person. The Market Regulator considers that it is a question of fact whether a publication was disseminated "with reasonable regularity" and whether it was in the "normal course of business". A research publication would not likely be considered to have been published with reasonable regularity if it had not been published within the previous twelve month period or there had been no coverage of the issuer within the previous twelve month period. The nature and extent of the published information should also be consistent with prior publications and the dealer should not undertake new initiatives in the context of the distribution. For example, the inclusion of projections of issuers' earnings and revenues would likely only be permitted if they had previously been included on a regular basis. The Market Regulator may consider the distribution channels for the dissemination of the publication when considering whether a publication was "in the normal course of business". The research should be distributed through the dealer-restricted person's usual research distribution channels and should not be targeted or distributed specifically to prospective investors in the distribution as part of a marketing effort. However, the research may be distributed to a prospective investor if that investor was previously on the mailing list for the research publication.

Rule 7.7(6)(ba) requires that the information, opinion or recommendation includes similar coverage in the form of information, opinions or recommendations with respect to a substantial number of issuers in the issuer's industry. In this context, reference should be made to the relevant industry when determining what constitutes a "substantial number of issuers". Generally, the Market Regulator would consider a minimum of six issuers to be a sufficient number. However, where there are less than six issuers in an industry, then all issuers should be included in the research report, and in any event the number of issuers should not be less than three.

Part 5 – Trading Pursuant to Market Maker Obligations

Under Rule 7.7(7)(b), a dealer-restricted person with Market Maker Obligations for a restricted security may, for their market making trading account, purchase a restricted security pursuant to their Market Making Obligations. Not every purchase of a restricted security by a Market Maker will be considered to undertaken pursuant to their Market Making Obligations. For example, if a market making system of a marketplace permits a Market Maker to voluntarily participate in trades that participation may only result in purchases that are:

- made at prices which are permitted by Rule 7.7(4)(a); or
- to cover a short position resulting from sales made under their Market Maker Obligations.

Use of a voluntary participation feature in other circumstances, may result in the Market Maker not complying with the prohibitions or restrictions on trading under Rule 7.7.

"Market Maker Obligations" are defined as the obligations imposed by the rules of an Exchange or a QTRS on a member or user or a person employed by a member or user to guarantee:

- a two-sided market for a particular security on a continuous or reasonably continuous basis; and
- the execution of orders for the purchase or sale of a particular security which are less than a minimum number of units of the security as designated by the marketplace.

~~As such, a Market Maker on the Toronto Stock Exchange will be entitled to make bids or purchases at prices above those permitted by Rule 7.7(4)(a) if the bid or purchase is required to satisfy:~~

- ~~the spread goal commitments of the Market Maker;~~
- ~~the minimum guaranteed fill obligation; or~~
- ~~the obligation for the trading of odd lots.~~

Appendix "C"

OSC RULE 48-501 AND AMENDMENTS TO THE UNIVERSAL MARKET INTEGRITY RULES

Joint Summary of Comments and Responses

RS and the OSC have prepared a joint summary of comments and responses in connection with the Revised OSC Rule 48-501 and the Revised Proposal for amendments to UMIR. See Chapter 5 of this Bulletin for the Joint Summary of Comments and Responses.

13.1.2 IDA Response to All the Comments Received on Proposed Amendments to IDA Policy 6 Parts I and II – Proficiency Requirements and Exemptions

INVESTMENT DEALERS ASSOCIATION OF CANADA (IDA) RESPONSE TO ALL THE COMMENTS RECEIVED ON PROPOSED AMENDMENTS TO IDA POLICY 6 PARTS I AND II – PROFICIENCY REQUIREMENTS AND EXEMPTIONS

On July 9, 2004, the IDA published for comment proposed amendments to Policy 6 Parts I and II, accepting that the completion of certain advanced courses offered by the Canadian Securities Institute (CSI) is a basis for an automatic exemption from the requirement to rewrite related entry-level courses. The Chartered Financial Analyst Program administered by the CFA Institute is recognized as an advanced course, thus allowing for an automatic exemption from rewriting CSI's Canadian Securities Course (CSC) and from writing the Investment Management Techniques Course (IMT). The Certified Financial Planning (CPF) Examination administered by the Financial Planners Standards Council is also recognized as equivalent and alternative to CSI's Professional Financial Planning Course (PFPC) for the purpose of satisfying IDA's 30-month post-licensing proficiency requirement.

Three comment letters were received: one from the Toronto Society of Financial Analyst (TSFA); another from the Institute of Canadian Bankers (ICB); and the third from the Canadian Bankers Association (CBA).

SUMMARY OF WRITTEN COMMENTS RECEIVED ON THE PROPOSED AMENDMENTS

TSFA Letter

Comment

The author supported the IDA's move towards recognizing courses other than those of the CSI, and especially the CFA as a basis for an automatic exemption from rewriting the Canadian Securities Course (CSC) and from writing the Investment Management Techniques Course (IMT). The author however questioned why the CFA is not also accepted as a basis for an automatic exemption from writing the CSC, given that the CFA is a more advanced course.

Response

The IDA responded that the notion of recognizing courses and programs other than the CSC for first-time securities registrants was previously discussed with the Canadian Securities Administrators (CSA) and it was decided that, for consistency of education and training, the CSC would remain the mandatory entry-level course for all new securities industry entrants regardless of their previous profession, education, training, or experience.

ICB Letter

Comment

Like that of the TSFA, this letter also supported the IDA in recognizing non-CSI courses as a positive move towards fostering competition, innovation, and quality education, and looked forward towards the recognition by the IDA of ICB's Professional Financial Planning Course (PFP) as equivalent and alternative to CSI's PFPC for the purpose of satisfying IDA's 30-month post-licensing requirement. The author urged future course recognitions and suggested a bridge course for mutual fund registrants so that upon successful completion of an examination, mutual fund registrants could become licensed to deal in a broader range of securities through an IDA Member. This, the author argued, would eliminating duplication of study time for subjects already covered, expedite the recruiting process, and reduce training costs for IDA Members. The author also urged the creation of a defined timeline or timeframe for course reviews and recognitions. Alternatively, the IDA should focus its review on examination equivalency, as opposed to course (content) equivalency, by publishing standard guidelines for setting specific examinations for the various categories of registration.

Response

The IDA responded that it was in the process of recognizing the PFP as equivalent to the PFPC for the purpose of satisfying the post-licensing proficiency requirement and, where appropriate, recognizes non-CSI courses and programs as fulfilling its Continuing education (CE) requirements. As for the recognition of non-CSI courses as alternative or equivalent to the CSC for new entrants, the IDA explained the decision of the CSA to retain the CSC as the standard, mandatory entry-level course for all new registrants regardless of their other qualifications, training or experience.

As for a bridge course to enable mutual fund registrants gain full securities registration with an IDA Member, the IDA responded that while such a course may expedite the registration process and save cost, it would not satisfy the level of competency and proficiency required for full service advisers, which become deeper and broader as the services provided become more integrated and complex; hence, the content-based, applied-knowledge model of learning in Canada. For the same reasons, the

IDA and its Members, through their representations in the Education and Proficiency Committee, do not believe a standardized examination-based model of learning will deliver competent advisers.

Regarding the request for a defined procedure or timeframe for reviewing and recognizing courses, the IDA explained that it is simply impossible to predict with any certainty what the review process might be, or how long it would last, given that courses vary in size, complexity, and content depth. Qualified reviewers are also not always readily available. As a result, it is not feasible to publish a defined review procedure or timeframe.

CBA Letter

Comment

This letter was simply to support the recognition by the IDA of courses and programs offered by other course providers, especially ICB's PFP as fulfilling the 30-month post-licensing requirement.

Response

The IDA advised that the PFP was under review and that it will continue with its endeavors to recognize other courses and programs as fulfilling CE requirements.

13.1.3 IDA By-law 2.4 – Housekeeping Amendments Regarding Membership

THE INVESTMENT DEALERS ASSOCIATION (IDA)

AMENDMENTS TO IDA BY-LAW No. 2.4
REGARDING MEMBERSHIP

I OVERVIEW

A Current Rules

By-law No. 2.4 requires all applications for Membership into the Association be accompanied by a $10,000 non-refundable deposit on account of the Entrance Fee. If the application is successful, the balance of the Entrance Fee shall be collected in the amount of $15,000. If the application is unsuccessful and is not approved or where the applicant withdraws the application, the Association shall retain the $10,000 deposit.

B The Issue

The current by-law attempts to address the situation whereby an applicant withdraws their application for Membership before being voted on by District Council or the Board of Directors. At this point, the Association may have incurred substantial costs in reviewing the application in addition to the time spent by Association staff in reviewing the application and consulting with the applicant. The $10,000 non-refundable deposit helps to offset the costs associated with the application process. However, as currently drafted the By-law does not address the situation where an applicant submits an application for Membership with the intent of becoming a Member sometime in the future but may not have the intention of proceeding with the application process on a timely basis. As such, the application process as structured is not limited to those applicants with serious intentions of becoming IDA Members forthwith.

C Objective

The objective of the proposed amendment is to limit the application process to those applicants with serious intentions of becoming IDA Members forthwith, and to provide an incentive to those applicants to complete the application process on a timely basis.

D Effect of Proposed Rules

The proposed amendments would help ensure that Association staff does not commit time and resources reviewing applications for Membership where the application is submitted without the intention of moving the Membership process forward on a timely basis. The proposed change would not alter the application process or change the cost of Membership for serious applicants.

II DETAILED ANALYSIS

A Present Rules, Relevant History and Proposed Policy

Present Rules

Prior to July 2004, all applications for Membership required a $2,000 non-refundable deposit to help defray the costs of reviewing applications for Membership. This deposit did not accurately reflect the cost of the review process and an amendment was made in July 2004 that required all Membership applications be accompanied by a non-refundable deposit of $10,000. The revised By-law was intended to act as an incentive so that only those applicants with serious intentions of becoming Members submitted applications. However, the amendment did not contemplate the situation whereby an applicant intends on becoming a Member at some point in time but does not intend to proceed with the application process on a timely basis.

Application Approval Process

The application process begins when an application and non-refundable deposit is submitted to and accepted for review by the Association Secretary. Once accepted, the application is reviewed by the Financial Compliance and Sales Compliance departments within the Member Regulation Division. Each department has a strict two week time period in which the review must be completed. The applicant is then provided with a detailed response outlining any deficiencies that exist in the application.

The Registration Department must also review the application and provide comments to the applicant within two weeks from the date the application is submitted to the National Registration Database. The applicant is required to correct all deficiencies and resubmit the information to the Association.

When the application is complete, IDA staff make a recommendation to the applicable District Council where the application is either approved, approved with conditions or refused. Approved applications are then submitted to the Board of Directors for approval

Proposed Rule Amendment

The proposed amendment would require that the application process for Membership be completed within a six-month time frame. Where the process is not completed within that time frame, the $10,000 deposit would be forfeited to the Association and the applicant would be required to start the application process over by resubmitting a new application along with an additional $10,000 non-refundable deposit. For the purposes of the proposed amendment, the application process will be considered to be completed when IDA staff are in a position to make a recommendation on an application to the applicable District Council.

B Issues and Alternatives Considered

No other alternatives were considered.

C Comparison With Similar Provisions

NASD Rule 1010 Series sets out the substantive standards and procedural guidelines for the entire Membership application process and the time frames associated with it. The process is very similar to that proposed under the IDA Rules although the NASD timeframes are more prescriptive. The Application process requires that all applications be processed within 180 days from the date the application is substantially completed. Applicants have 60 days to respond to the initial request for information and 30 days for any subsequent requests. Where any of these deadlines are not met the application may be cancelled and where the applicant wishes to continue to seek Membership they must resubmit all forms and fees.

D Systems Impact of Rule

There are no systems issues associated with the proposed amendment.

E Best interests of the Capital Markets

The Board has determined that the public interest rule is not detrimental to the best interests of the capital markets.

F Public Interest Objective

The proposal will not impact the public.

III COMMENTARY

A Filing in Other Jurisdictions

This proposed amendment will be filed for approval in Alberta, British Columbia, Manitoba, Ontario and Quebec will be filed for information in Nova Scotia and Saskatchewan.

B Effectiveness

The proposed change would deter applicants from submitting an application for Membership until such time as they intend to proceed on a timely basis. As such, Association staff would be available to devote their time in dealing with serious applicants.

C Process

The proposed change has been reviewed and approved by senior management.

IV SOURCES

IDA By-law No. 2.

NASD Rule 1010 Series.

V OSC REQUIREMENT TO PUBLISH FOR COMMENT

The Association has determined that the entry into force of this proposed amendment is housekeeping in nature. As a result, a determination has been made that this proposed rule amendment need not be published for comment.

Questions may be referred to:
Deborah Wise
Legal and Policy Counsel, Regulatory Policy
Investment Dealers Association of Canada
(416) 943-6994
dwise@ida.ca

INVESTMENT DEALERS ASSOCIATION OF CANADA
AMENDMENTS TO BY-LAW NO. 2.4 - MEMBERSHIP

THE BOARD OF DIRECTORS of the Investment Dealers Association of Canada hereby makes the following amendments to the By-laws, Regulations, Forms and Policies of the Association:

1. Section 2.4 of By-law No. 2 is amended by adding the following paragraph at the end of the section:

> "Furthermore, where for any reason the application process (excluding alternative trading system applications) has not been completed within six months from the date the application was submitted to and accepted for review by the Association Secretary, the $10,000 deposit shall be forfeited to the Association and the applicant shall be required to start the application process over by resubmitting the application for Membership accompanied by an additional $10,000 non refundable deposit. For the purposes of this section, the application process shall be considered to be completed, when staff are in a position to recommend to the applicable District Council the approval or refusal of the application."

PASSED AND ENACTED BY THE Board of Directors this 20th day of October 2004, to be effective on a date to be determined by Association staff.

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Chapter 25

Other Information

25.1 Exemptions

25.1.1 Legg Mason Canada Inc. - s. 147 of the Act and s. 6.1 of OSC Rule 13-502

Headnote

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

Rules Cited

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

BY FACSIMILE

February 22, 2005

Torys LLP
Suite 3000
79 Wellington Street West
Box 270, TD Centre
Toronto, Ontario
M5K 1N2

Attention: Marlene Davidge

Dear Sirs and Mesdames:

Re: Legg Mason Canada Inc. and the funds listed in Schedule A
Application under Section 147 of the *Securities Act* (Ontario) and Section 6.1 of OSC Rule 13-502 - Fees ("Rule 13-502")
Application # 042/05

By letter dated January 20, 2005 (the "Application"), you applied on behalf of Legg Mason Canada Inc. ("Legg Mason"), the manager of the funds listed at Schedule A (the "Existing Pooled Funds") and any similar limited partnerships or pooled funds managed by CI now or in the future (collectively with the Existing Pooled Funds, the "Pooled Funds"), to the Ontario Securities Commission (the "Commission") under section 147 of the *Securities Act* (Ontario) (the "Act") for relief from subsections 77(2) and 78(1) of the Act, which require every mutual fund in Ontario to file interim and comparative annual financial statements (the "Financial Statements") with the Commission.

By same date and cover, you additionally applied to the securities regulatory authority in Ontario (the "Decision Maker") on behalf of Legg Mason for an exemption, pursuant to subsection 6.1 of Rule 13-502, from the requirement to pay an activity fee of $5,500 in connection with the Application in accordance with item F(1) of Appendix C of the Rule, on the condition that fees be paid on the basis that the Application be treated as an application for other regulatory relief under item F(3) of Appendix C of Rule 13-502, and from the requirement to pay an activity fee of $1,500 in connection with the latter relief (the "Fee Exemption").

Item F of Appendix C of Rule 13-502 specifies the activity fee applicable for applications for discretionary relief. Item F(1) specifies that applications under section 147 of the Act pay an activity fee of $5,500, whereas item F(3) specifies that applications for other regulatory relief pay an activity fee of $1,500.

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

1. Legg Mason is a corporation existing under the laws of Ontario with its head office in Toronto, Ontario. Legg Mason is, or will be, the manager of the Pooled Funds.

2. Legg Mason is registered under the Act as an advisor in the categories of investment counsel and portfolio manager, as dealer in the category of mutual fund dealer, and has an exemption from membership in the Mutual Fund Dealers Association.

3. The Pooled Funds are, or will be, mutual fund trusts established under the laws of Ontario and as such each Pooled Fund is, or will be, "a mutual fund in Ontario" as defined in section 1(1) of the Act.

4. Sections 77(2) and 78(1) of the Act require every mutual fund in Ontario to file interim and annual financial statements with the Commission.

5. Sections 89 and 92 of the Regulation to the Act (the "Regulation") require that the Financial Statements filed pursuant to subsections 77(2) and 78(1) of the Act include the statement of portfolio transactions (the "Statement"). A mutual fund may omit the Statement required by section 89 and 92 of the Regulation from its Financial

Statements, if, among other conditions, a copy of the Statement is filed with the Commission prior to or concurrently with the filing of the Financial Statements. The Existing Pooled Funds and Legg Mason currently rely on section 94 of the Regulation.

6. Legg Mason acts as investment advisor to the Existing Pooled Funds, units of which are offered pursuant to statutory exemptive relief and, as such, are not reporting issuers in any of the provinces or territories in Canada.

7. Unitholders of the Existing Pooled Funds receive interim and annual financial statements for the Existing Pooled Funds they hold. The Existing Pooled Funds annual financial statements are audited by Deloitte LLP.

8. Pursuant to section 2.1(1) of National Instrument 13-101 – System for Electronic Document Analysis and Retrieval (SEDAR), every issuer required to file Financial Statements with the Commission must make this filing through SEDAR, whereupon the filing will be made available to the general public through the SEDAR internet website.

9. In the Application, Legg Mason and the Existing Pooled Funds have requested under section 147 of the Act relief from filing the Financial Statements with the Commission. The activity fee associated with the Application is $5,500 in accordance with item F(1) of Appendix C of Rule 13-502.

10. If Legg Mason and the Existing Pooled Funds had, as an alternative to the Application, sought an exemption from the requirement to file the Financial Statements via SEDAR, the activity fee for that application would be $1,500 in accordance with item F(3) of Appendix C of Rule 13-502.

11. If the Existing Pooled Funds were reporting issuers seeking the same relief as requested in the Application, such relief could be sought under section 80 of the Act, rather than under section 147 of the Act, and the activity fee for that application would be $1,500 in accordance with item F(3) of Appendix C of Rule 13-502.

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 Legg Mason and the Pooled Funds from:

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

ii) paying an activity fee of $1,500 in connection with the Fees Exemption application under item F(3) of Appendix C to Rule 13-502.

Yours truly,

"Leslie Byberg"
Manager, Investment Funds Branch

SCHEDULE A

POOLED FUNDS

Legg Mason Canada Liquidity Plus Pool

Legg Mason Brandywine Small/Mid Cap U.S. Value Equity Pool

Legg Mason Brandywine Small/Mid Cap U.S. Value Equity RP Pool

Legg Mason Private Capital Management U.S. Equity Pool

Legg Mason Canada Treasury Plus Pool

Legg Mason Canada Income Plus Pool

Legg Mason Fixed Income Alpha Pool

Legg Mason Canadian Equity Alpha Pool

Legg Mason Balanced Alpha Pool

Legg Mason U.S. Value RP Pool

Legg Mason Absolute Return Master Trust

Legg Mason Absolute Return Fund

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