The Ontario Securities Commission

OSC Bulletin

August 26, 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

AUGUST 26, 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
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20 Queen Street West
Toronto, Ontario
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Carol S. Perry	—	CSP
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: TBA
TBA	**Cornwall *et al*** s. 127 K. Manarin in attendance for Staff Panel: TBA
TBA	**Philip Services Corp. *et al*** s. 127 K. Manarin in attendance for Staff Panel: TBA
TBA	**Robert Patrick Zuk, Ivan Djordjevic, Matthew Noah Coleman, Dane Alan Walton, Derek Reid and Daniel David Danzig** s. 127 J. Waechter in attendance for Staff Panel: TBA
TBA	**Jose L. Castaneda** s.127 T. Hodgson in attendance for Staff Panel: TBA
TBA	**John Illidge, Patricia McLean, David Cathcart, Stafford Kelley and Devendranauth Misir** S. 127 & 127.1 K. Manarin in attendance for Staff Panel: TBA

August 29, 2005 to September 16, 2005 10:00 a.m.	**In the matter of Allan Eizenga,** Richard Jules Fangeat*, Michael Hersey*, Luke John McGee* and Robert Louis Rizzuto* **and In the matter of Michael Tibollo** s.127
September 12, 2005 2:30 p.m.	T. Pratt in attendance for Staff Panel: WSW/PKB/ST * Hersey settled May 26, 2004 * Fangeat settled June 21, 2004 * Rizzuto settled August 17, 2004 * McGee settled November 11, 2004
September 15, 2005 2:30 p.m.	**James Patrick Boyle, Lawrence Melnick and John Michael Malone** s. 127 and 127.1 Y. Chisholm in attendance for Staff Panel: TBA
September 16, 2005 10:00 a.m.	**Portus Alternative Asset Management Inc., and Portus Asset Management, Inc.** s. 127 M. MacKewn in attendance for Staff Panel: TBA
September 28 and 29, 2005 10:00 a.m.	**Francis Jason Biller** s.127 J. Cotte in attendance for Staff Panel: RLS/RWD/CSP
October 4, 2005 2:30 p.m.	**Momentas Corporation, Howard Rash, Alexander Funt, Suzanne Morrison and Malcolm Rogers** s. 127 and 127.1 P. Foy in attendance for Staff Panel: PMM/WSW/CSP
October 11, 2005 9:00 a.m.	**Hollinger Inc., Conrad M. Black, F. David Radler, John A. Boultbee and Peter Y. Atkinson** s.127 J. Superina in attendance for Staff Panel: TBA
October 12, 2005 10:00 a.m.	**Christopher Freeman** s. 127 and 127.1 P. Foy in attendance for Staff Panel: TBA
November 2005	**Andrew Currah, Colin Halanen, Joseph Damm, Nicholas Weir, Penny Currah, Warren Hawkins** s.127 J. Waechter in attendance for Staff Panel: TBA

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 OSC Notice 11-754

OSC NOTICE 11-754

AMENDMENTS TO NATIONAL POLICY 43-201 MUTUAL RELIANCE REVIEW SYSTEM FOR PROSPECTUSES AND ANNUAL INFORMATION FORMS,

AMENDMENTS TO NATIONAL POLICY 12-201 MUTUAL RELIANCE REVIEW SYSTEM FOR EXEMPTIVE RELIEF APPLICATIONS,

AMENDMENTS TO NATIONAL INSTRUMENT 51-101 STANDARDS OF DISCLOSURE FOR OIL AND GAS ACTIVITIES, AND MULTILATERAL INSTRUMENT 81-104 COMMODITY POOLS

The Commission is publishing in today's Bulletin a Notice regarding:

- Multilateral Instrument 11-101 *Principal Regulator System,* Form 11-101F1 *Principal Regulator Notice Under National Instrument 11-101,* and Companion Policy 11-101CP *Principal Regulator System;*
- Amendments to National Policy 43-201 *Mutual Reliance Review System for Prospectuses;*
- Amendments to National Policy 12-201 *Mutual Reliance Review System for Exemptive Relief Applications*;
- Amendments to National Instrument 51-101 *Standards of Disclosure For Oil and Gas Activities*; and
- Amendments to Multilateral Instrument 81-104 *Commodity Pools.*

The documents are published in Chapter 5 of today's Bulletin.

1.1.3 CSA Staff Notice 41-304 - Income Trusts: Prospectus Disclosure of Distributable Cash

CSA STAFF NOTICE 41-304 -INCOME TRUSTS: PROSPECTUS DISCLOSURE OF DISTRIBUTABLE CASH

Purpose

This notice provides guidance on staff's expectations about the nature and extent of disclosure necessary to ensure transparency when an income trust issuer presents information about estimated distributable cash in a prospectus. Estimated distributable cash is a non-GAAP financial measure for which disclosure expectations are outlined in CSA Staff Notice 52-306 *Non-GAAP Financial Measures* (Staff Notice 52-306) and National Policy 41-201 *Income Trusts and Other Indirect Offerings*. This notice expands on guidance provided in those documents.

Issue

Most income trust issuers present information about estimated distributable cash in their prospectuses. Staff Notice 52-306 directs issuers to provide with this non-GAAP financial measure a quantitative reconciliation to the most directly comparable measure calculated in accordance with GAAP.

Based on the disclosure that income trust issuers have provided, it is often difficult to assess the transparency of the esti mated distributable cash information. Specifically, the discussion surrounding each reconciling adjustment often provides limited information on the underlying significant estimates and assumptions used to determine the adjustment. In addition, it is difficult to assess whether the reconciliation includes all adjustments that would be necessary for full, true and plain disclosure of estimated distributable cash.

The nature of the reconciling items also varies significantly. In some cases, the reconciling adjustments are based on the issuer's own historical amounts or on the historical amounts of other entities. For example, an income trust issuer may estimate the impact of a recent acquisition based on the acquired entity's previously reported results. In other cases, the adjustments are based entirely on anticipated strategies, programs and actions, which may or may not involve contractual commitments. When any reconciling adjustment is based on the expected economic effects of anticipated future events, it is clear that this presentation is providing a forward-looking perspective on estimated distributable cash. In these instances, the presentation therefore raises many of the same issues that have concerned staff with other forms of future-oriented fina ncial information (FOFI).

Staff Expectations

National Policy 48 *Future-oriented financial information* describes the general expectation that an issuer present FOFI in a prospectus in the format of historical financial statements and that it prepare them in accordance with

CICA Handbook Section 4250 *Future-oriented financial information* (a S.4250 forecast). Although this might not always be necessary for the presentation of estimated distributable cash in a prospectus, the issuer should provide sufficient disclosure to help an investor determine whether the adjustments made by management represent a balanced and complete assessment of all factors affecting estimated distributable cash.

General Presentation

We expect issuers to consider the best way to provide transparency about the presentation of each adjusting item including a discussion of the work that was done by the issuer to ensure the completeness and reasonableness of the estimated distributable cash information.

To achieve adequate transparency, the reconciliation of estimated distributable cash to the most directly comparable GAAP measure should be accompanied by detailed disclosure that:

- explains the purpose and relevance of the estimated distributable cash information;
- describes the extent to which actual financial results are incorporated into the reconciliation;
- explicitly states that the reconciliation has been prepared using reasonable and supportable assumptions, all of which reflect the trust's planned courses of action given management's judgment about the most probable set of economic conditions; and
- cautions investors that actual results may vary, perhaps materially, from the forward-looking adjustments.

Underlying Assumptions

We expect adjustments made in the reconciliation of estimated distributable cash to the most directly comparable GAAP measure to be supported by:

- a detailed discussion of the nature of the adjustments;
- a description of the underlying assumptions used in preparing each element of the forward-looking information and the forward-looking information as a whole, including how those assumptions are supported; and
- a discussion of the specific risks and uncertainties that may affect each individual assumption and that may cause actual results to differ materially from the estimated distributable cash figure.

For assumptions to be supportable, they should take into account the past performance of the underlying operating entity, the performance of other entities engaged in similar activities, and any other sources that provide objective corroboration of the assumptions used. Further, for assumptions to be considered reasonable, we believe that they should be consistent with the anticipated plans of the income trust issuer.

In some circumstances, assumptions may be consistent with the issuer's anticipated plans but may not provide an adequate level of transparency about the sustainability of estimated distributable cash. For example, capital expenditures to replace productive capacity may be relatively low in initial years but may rise significantly in later years. In these instances, adequate disclosure of the adjustment for estimated future capital maintenance expenditures might include a discussion of the time period over which the issuer anticipates incurring capital maintenance expenditures at the level disclosed and any expected long-term plans to replace productive capacity.

Another example of providing adequate transparency about the sustainability of estimated distributable cash relates to instances where an issuer makes prior arrangements with investors. For example, for some income trust issuers, the original vendors' entitlement to cash distributions based on their continuing interest is subordinated to that of other investors. The original vendors will not receive cash distributions for a defined period of time if the estimated level of distributable cash disclosed in the prospectus is not achieved. Estimated distributable cash available for distribution to other investors may be higher in the short termwhile cash distributions are not paid to the original vendors, however may decrease once the subordination conditions are satisfied. In these instances, the key terms and impact of these arrangements should be summarized in proximity to the estimated distributable cash information.

S.4250 forecast and other alternative disclosures

If the estimated distributable cash information includes forward-looking adjustments that are based on significant assumptions [1], and those adjustments materially affect estimated distributable cash, we expect the quantitative reconciliation to begin with a GAAP measure that is derived from a S.4250 forecast. We expect these forward-looking adjustments to be integrated into the S.4250 forecast, and the S.4250 forecast to be included in the prospectus.

A S.4250 forecast may not be necessary if the adjusting items are derived from historical amounts and those amounts can be adequately explained by alternative

[1] An assumption would usually be considered significant when: (a) it reflects an expectation of economic conditions significantly different from those currently prevailing, (b) there is a relatively high probability of a sizeable variation, or (c) a small change in the assumption would have a significant impact on the forward-looking information.

disclosures. This may include:

- Historical financial statements that support the adjustments. In some cases, a recent acquisition may not be considered significant under the significant acquisition tests set out in OSC Rule 41-501 *General Prospectus Requirements* (Rule 41-501) or the equivalent rule in the applicable jurisdiction for purposes of providing financial statements of the acquired entity. However, the acquisition's anticipated impact on distributable cash may be clearly material. In these cases, issuers may choose to provide financial statements of the acquired entity in the prospectus in addition to those required by Rule 41-501, and, when appropriate, to incorporate these financial statements into pro forma financial statements of the issuer; or

- Other historical financial information that supports the calculation of the adjustments.

In some cases, an issuer may include adjusting ite ms that are based on recent contracts or agreements for which historical financial statements or other historical financial information cannot be provided. In these cases, alternative disclosure may include a detailed description of the contract or agreement including the relevant terms and conditions of the contractual commitment and any other financial information that supports the amount of the adjusting item.

We also remind income trust issuers to include appropriate and specific cautionary language and risk disclosure in the prospectus. A simple statement in the prospectus that 'actual results may vary materially from the amounts presented' is not sufficient.

Summary

If an income trust issuer includes forward-looking information such as estimated distributable cash in its prospectus, the prospectus should contain adequate disclosure about any forward-looking adjustments. We advise income trust issuers that the expectations in this notice will be reflected in our prospectus review comments. The expectations in this notice will also be considered by staff when analyzing similar issues arising in other contexts or documents. We remind issuers that staff may recommend to the Director that a receipt for a prospectus not be issued where, due to inadequate disclosure, issuing a receipt for the offering would appear to be contrary to the public interest.
We invite feedback on this notice. We plan to continue monitoring developments with respect to the issues addressed in this notice, as well as any feedback that we receive. We may provide future additional guidance by updating this notice or through other instruments.

Questions or feedback on this notice may be referred to:

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1.1.4 Notice of Commission Approval - Amendment to Recognition Order of TSX Group Inc. and TSX Inc. to Reflect Changes to the Definition of an Independent Director

NOTICE OF COMMISSION APPROVAL

AMENDMENT TO RECOGNITION ORDER OF TSX GROUP INC. AND TSX INC. TO REFLECT CHANGES TO THE DEFINITION OF AN INDEPENDENT DIRECTOR

TSX Group Inc. and TSX Inc.

On August 12, 2005, the Commission approved the following documents in connection with changes to the definition of an independent director in the recognition order of TSX Group Inc. (TSX Group) and TSX Inc. (TSX):

(a) An amended and restated recognition order for TSX Group and TSX. A copy is published in Chapter 2 of this bulletin.

(b) Board standards on the independence of directors for TSX Group and TSX. A copy is published in Chapter 13 of this bulletin.

On April 22, 2005, the Commission published for comment the application to amend the recognition order of TSX Group and TSX at (2005) 28 OSCB 3917. No comments were received.

TSX Venture Exchange Inc.

On August 12, 2005, the Commission also approved an amended and restated exemption order for TSX Venture Exchange Inc. to reflect changes to the definition of an independent director. A copy is published in Chapter 2 of this bulletin.

1.1.5 Notice of Commission Approval - Amendments to Market-On-Close System

THE TORONTO STOCK EXCHANGE INC. (TSX)

AMENDMENTS TO MARKET-ON-CLOSE SYSTEM

NOTICE OF COMMISSION APPROVAL

On July 29, 2005, the Commission approved amendments (Amendments) to the rules and policies of TSX. The Amendments provide for three changes to existing Market-On-Close (MOC) procedures: (i) an increase in the duration of the price movement extension period; (ii) the publication of an indicative calculated closing price; and (iii) a revision to the manner in which the calculated closing price is calculated on a "failed" MOC security. The Amendments were published for comment on January 14, 2005, at (2005) 28 OSCB 814. Six comment letters were received during the comment period. A summary of comments received and the responses of the TSX is published in Chapter 13 of this Bulletin.

1.1.6 CSA Notice 12-309 - Impact of MI 11-101 on the the MMRS for Exemptive Relief Applications

CSA NOTICE 12-309

IMPACT OF THE MI 11-101 PRINCIPAL REGULATOR SYSTEM ON THE MUTUAL RELIANCE REVIEW SYSTEM FOR EXEMPTIVE RELIEF APPLICATIONS

The CSA has published CSA Notice 12-309 to provide issuers with practical guidance on how the principal regulator system under Multilateral Instrument 11-101 works in conjunction with the existing MRRS Applications Policy.

The Notice is published in Chapter 5 of today's Bulletin.

1.2 Notices of Hearing

1.2.1 Francis George Lee Simpson - s. 127

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

AND

IN THE MATTER OF
FRANCIS GEORGE LEE SIMPSON

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* (the "Act"), at the offices of the Commission located on the 17th Floor, 20 Queen Street West, Toronto on Wednesday, August 17, 2005 at 10:00 a.m. or as soon thereafter as the hearing can be held.

TO CONSIDER whether, pursuant to section 127 of the Act, it is in the public interest for the Commission to make an order regarding Francis George Lee Simpson ("Simpson") that:

(a) the settlement agreement in this matter dated August 15, 2005 be approved;

(b) the registration of Simpson under securities law be suspended or restricted or terminated, or that terms and conditions be imposed on his registration;

(c) Simpson resign all positions that he holds as director or officer of a registrant and of a reporting issuer;

(d) Simpson be prohibited from becoming or acting as director or officer of a registrant and a reporting issuer; and

(e) pursuant to section 127.1 of the Act, Simpson pay the costs of the investigation of the matters set out in the Statement of Allegations regarding Simpson dated August 15, 2005 (the "Statement of Allegations").

BY REASON OF the allegations set out in the Statement of Allegations 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 at the hearing;

AND TAKE FURTHER NOTICE that upon 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.

August 15, 2005

"Daisy Aranha"
per: John Stevenson
A/Secretary to the Commission

TO: **Borden Ladner Gervais**
40 King Street West
Toronto, Ontario
M5H 3Y4

James Douglas
David Di Paolo

Solicitors to Francis George Lee Simpson

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

AND

**IN THE MATTER OF
FRANCIS GEORGE LEE SIMPSON**

**STATEMENT OF ALLEGATIONS
OF STAFF OF THE ONTARIO SECURITIES
COMMISSION**

A. Background

(a) F. G. Lee Simpson

1. At all relevant times, Francis George Lee Simpson was the President, Chief Executive Officer and Chief Financial Officer of Thomson Kernaghan & Co. Ltd. ("TK"). Simpson was also TK's Ultimate Designated Person ("UDP"), as defined by the Investment Dealers' Association ("IDA").

(b) Thomson Kernaghan

2. TK is a corporation incorporated pursuant to the laws of Ontario and was registered with the IDA as an Investment Dealer in the provinces of Ontario, British Columbia, Alberta and Quebec. TK's headquarters were located in Toronto.

(c) Mark Valentine

3. At all relevant times, Mark Edward Valentine was the Chairman of TK. Valentine was also a Registered Representative licensed through TK with the IDA. In his role as TK's President and UDP, Simpson was ultimately responsible for the supervision of all of Valentine's trading activities at TK.

4. On December 14, 2004, Valentine executed a settlement agreement with Staff (the "Valentine Settlement Agreement"). In the Valentine Settlement Agreement, Valentine admitted that while employed at TK and supervised by Simpson, he committed several breaches of Ontario securities law, and engaged in conduct contrary to the public interest.

(d) The Funds

5. Valentine was the President, Director and a shareholder of VMH Management Ltd. ("VMH"), an Ontario corporation. VMH held trading accounts at TK. Valentine was the Registered Representative assigned to those accounts and held trading authority over them.

6. VMH was the General Partner of the Canadian Advantage Limited Partnership ("CALP"), an Ontario limited partnership which operated as a private investment fund.

7. Advantage (Bermuda) Fund Ltd. ("CALP Offshore Fund") is a mutual fund company incorporated under the laws of Bermuda and is CALP's corresponding offshore fund.

8. Valentine was the President, Director and a shareholder of VC Advantage Limited ("VC Ltd."), an Ontario corporation. VC Ltd. was the General Partner of the VC Advantage Fund Limited Partnership ("VC Fund"), an Ontario limited partnership which operated as a private investment fund.

9. VC Advantage (Bermuda) Fund Ltd. ("VC Offshore Fund") is a mutual fund company incorporated under the laws of Bermuda and is the VC Fund's corresponding offshore fund.

10. Collectively, CALP, CALP Offshore Fund, VC Fund and VC Offshore Fund will be referred to as the "Funds".

11. Pursuant to written partnership agreements and offering memoranda, Valentine, acting through VMH and VC Ltd. (together, the "General Partners"), was authorized to recommend, advise on and enter into all investments on behalf of the Funds and he did so.

12. The majority of the limited partners (unitholders) of the Funds were individual retail clients of TK. The Funds performed all of their securities transactions through trading accounts held at TK. Valentine was the Registered Representative at TK for all of these trading accounts. In his role as TK's UDP, Simpson was ultimately responsible for the supervision of all of Valentine's trades on behalf of the Funds.

B. The JAWZ Transaction

13. In the Valentine Settlement Agreement, Valentine admitted that in August of 2000, Valentine caused the Funds to enter into a financing transaction with JAWZ Inc. ("JAWZ"). JAWZ was a Canadian company whose shares traded on the NASDAQ exchange.

14. According to Valentine, in return for their investment, the Funds acquired floorless warrants to purchase shares of JAWZ. The warrants provided that the Funds would receive increasing numbers of JAWZ shares as the share price declined. This type of financing creates a strong incentive for the investor to sell securities short in a relatively illiquid market, which is often referred to as "death spiral" or "toxic" financing.

15. On November 7, 2000, TK's research department issued a research report regarding JAWZ shares

which rated them as a "buy". TK did not disclose in this report, or to any of its clients holding JAWZ shares at that time, the fact that JAWZ had entered into this type of financing, the fact that the warrants were held by TK clients, or the fact that the Chairman of TK controlled the holders of the "death spiral" warrants.

16. In or about December of 2000, a retail client of TK who had purchased shares of JAWZ met with Valentine and Simpson and informed them that the firm was in a conflict of interest position in advocating the purchase of JAWZ shares by retail investors in the face of the "death spiral" warrants. In response, Valentine stated that the terms of the warrants would be modified to mitigate the Funds' incentive to sell the shares short. The warrants, however, were never amended and Valentine continued to sell JAWZ shares short through the Funds' accounts.

C. The Trilon Loans

17. In the spring of 2001, Simpson, Valentine and other senior officers of TK approached Trilon Bancorp Inc. ("Trilon") to obtain a short-term loan. On March 30, 2001, Trilon advanced the sum of $5,000,000 to TK Holdings Inc (the "TK Loan"). The TK Loan required the approval of both the Executive Committee and Board of Directors of TK. The funds advanced under the TK Loan were used by TK Holdings to purchase $5,000,000 worth of preferred shares of TK. The TK Loan was to be repaid in full by June 30, 2001. This transaction was properly reported to the IDA. On July 3, 2001, the TK Loan was repaid in full.

18. In July of 2001, Valentine approached Trilon to borrow money which he planned to use to pay off his debts to TK. Trilon agreed to provide Valentine a US$5,000,000 loan facility with an initial advance of US$3,000,000 (the "Valentine Loan"). The approval of the Executive Committee and Board of Directors of TK was not sought for the Valentine Loan. The funds under the Valentine Loan were advanced to Valentine personally. The Valentine Loan was to be repaid in full by December 31, 2001.

19. Simpson, on behalf of TK, signed a guarantee of all of Valentine's obligations under the Valentine Loan.

20. On July 31, 2001, US $3,000,000 was advanced to Valentine under the Valentine Loan. US $816,945 ($1,250,579.41) of this sum was placed in a trading account at TK held in the name of Trilon Securities Corp.

21. TK reported to the IDA that the $1,250,579.41 represented a subordinated loan made by Valentine to TK. TK did not disclose to the IDA that further funds had been advanced by Trilon to Valentine. TK also did not disclose to the IDA that it had guaranteed Valentine's entire obligation to Trilon.

22. Simpson and Valentine signed the mandatory quarterly report filed with the IDA which disclosed the $1,250,579.41 "subordinated loan", certifying that the report contained full and accurate disclosure of TK's liabilities.

23. In the Valentine Settlement Agreement, Valentine admitted that he was unable to repay the US $3,000,000 advance by the due date of December 31, 2001. He therefore negotiated several further advances of funds and extensions of the repayment deadline under the Valentine Loan, the last of which expired on July 15, 2002. As of that date, the amount outstanding on the loan was approximately US $5,600,000. Valentine defaulted on the Valentine Loan on July 15, 2002.

D. The March 28, 2002 Transactions by Valentine

24. The Valentine Settlement Agreement includes the details of two series of improper transactions that he executed on March 28, 2002, as set out below.

(a) The Chell Corp. Transaction

25. Chell Group Corporation ("Chell Corp.") was a Canadian company whose shares traded on the NASDAQ exchange.

26. On March 28, 2002, Valentine's pro account received 1,060,000 shares of Chell Corp. that belonged to CALP without any cash payment by Valentine. Valentine claimed that the shares were provided to repay a debt of US $1,060,000 owed by CALP to him personally. The shares were thus transferred at a value of US $1 per share.

27. Valentine's explanation for CALP's debt to him was that CALP had borrowed US $360,000 from him in July 2001, and another US $700,000 from him in January 2002. The $360,000 that was transferred to CALP came from the proceeds of the Trilon loan, described above.

28. Also on March 28, 2002, pursuant to sell orders placed March 26, 2002, after receiving the Chell Corp. shares from CALP, Valentine effected the following transactions:

(a) Valentine sold 1,000,000 Chell Corp. shares at a price of US $2 per share to his inventory account;

(b) Valentine sold 375,000 Chell Corp. shares at a price of US $2 per share from his inventory account to the VC Fund;

(c) Valentine sold 375,000 Chell Corp. shares at a price of US $2 per share from

his inventory account to the VC Offshore Fund; and

(d) Valentine sold 250,000 Chell Corp. shares at a price of US $2 per share.

29. Of the US $2 million in proceeds in his pro account from these sales, Valentine transferred US $450,000 ($717,000) to his trader receivable account to reduce his liabilities to TK.

30. On April 30, 2002, the VC Fund sold 200,000 shares of Chell Corp. at a price of US $2.09 per share. At the time, there was an agreement between Valentine and the VC Fund that Valentine would buy 250,000 shares of Chell Corp. per quarter from the VC Fund commencing July 1, 2002 at a price of US $2.20 per share. The agreement was purportedly guaranteed by the General Partners.

31. Valentine could not produce evidence of a loan of US $700,000 to CALP in January of 2002. No evidence of the loan could be found in the books and records of TK that were provided to Staff.

(b) The IKAR Transaction

32. In the Valentine Settlement Agreement, Valentine admitted that he had a beneficial interest in Hammock Group Ltd., a corporation registered pursuant to the laws of Bermuda. Hammock had a trading account at TK. Valentine was the Registered Representative for that account. The Hammock account was not designated by Valentine as a pro account on the books and records of TK, as it was required to be.

33. On March 28, 2002, CALP paid US $1.3 million to Hammock to purchase a debenture issued by a company named IKAR Minerals. The debenture was dated March 1998 and had expired in March of 2000.

34. Valentine stated that the rationale for the transaction was to settle a debt that CALP owed to Hammock of US $1,582,830. The debt related to transactions in the shares of JAWZ. Valentine explained that this debt had been incurred as follows:

(a) In July, 2001, Hammock paid CALP US $537,068 for 652,573 shares of JAWZ at a price of US $0.823 per share. JAWZ shares were then trading at a price of US $0.59 per share. Valentine explained this step as Hammock assisting CALP in meeting its margin requirement at TK. In consideration for its help, CALP guaranteed the JAWZ investment by promising that any losses Hammock might suffer from its eventual sale of the JAWZ shares would be reimbursed by CALP;

(b) Over the next three weeks, Hammock sold the JAWZ shares at an average price of US $0.218 per share, generating a loss of US $386,895.54 which Valentine claimed that CALP was obliged to reimburse pursuant to its "guarantee";

(c) In a separate transaction, Valentine stated that CALP had sold 900,000 shares of a firm called Global Path short to Hammock at a price of US $1.33 per share for net proceeds of US $1,196,500. Valentine claimed that CALP made the short sale "believing that it was to receive Global Path shares as partial compensation for its JAWZ losses"; and

(d) CALP was unable to deliver the Global Path shares and was therefore indebted to Hammock for total of US $1,582,830 as a result of the JAWZ guarantee and the undeliverable Global Path shares.

35. "To allow Hammock to recoup the bulk of its out of pocket cost in supporting the funds", Valentine stated that he took the following steps:

(a) Valentine's company VMH was the owner of the IKAR debenture which it "gifted" to Hammock;

(b) Hammock in turn sold the debenture to CALP for US $1.3 million as payment for the "debt" which CALP owed to Hammock;

(c) The debenture had value because IKAR's principal had recently promised Valentine to make up the US $1.3 million loss by converting the IKAR debenture into shares of the renamed company, Patriot Energy Corporation. This promise was later set out in a letter addressed to Valentine by the President of Patriot Energy.

This promise was purportedly given because Valentine had personally made a US $250,000 private placement investment in Patriot Energy; and

(d) Valentine claimed that as a result, CALP was the beneficiary of a "gift" from him through VMH of the IKAR position.

36. The evidence did not support this explanation. Hammock did not purchase JAWZ shares from CALP but rather from Valentine's inventory account. Therefore CALP did not guarantee Hammock's JAWZ investment, and correspondingly was not liable for Hammock's US $386,330.70 loss in the JAWZ transaction.

37. CALP did not sell 900,000 shares of Global Path to Hammock but rather sold 1,000,000 shares of Global Path to Valentine's inventory account. The price per share and net proceeds of this transaction were not US $1.33 and US $1,196,500 respectively, but rather US $0.65 and US $635,000.

38. Hammock did not purchase 900,000 Global Path shares at a price of US $1.33 per share from CALP but rather from Valentine's inventory account. The price per share and net proceeds of this transaction were not US $1.33 and US $1,196,500 respectively but rather US $1.05 and US $945,000.

39. The Global Path trade did not fail as delivery slips confirm the transfer of share certificates.

E. The TK Report and TK's Bankruptcy

40. On May 7, 2002, the Executive Committee of TK was informed by Marty Sims, TK's Retail Branch Manager and Executive Vice President, that Valentine had executed a series of questionable transactions. As a result, Simpson retained outside counsel for TK and commenced an investigation into Valentine's activities (the "Investigation"). Simpson advised both the OSC and the IDA of the fact that he had commenced the Investigation.

41. On June 13, 2000, Valentine was suspended from his employment at TK for 30 days pending the final results of the Investigation. On June 19, 2002, Simpson delivered a report reflecting the results of the Investigation to the IDA (the "TK Report"). The TK Report was tendered into evidence in proceedings taken by the OSC against Valentine on June 24, 2002.

42. On July 11, 2002, Simpson informed the IDA and the Canadian Investor Protection Fund ("CIPF") that TK might not be able to meet its Risk-Adjusted Capital requirement, and its registration as an Investment Dealer was suspended. On the same date, CIPF brought a motion for an order declaring TK bankrupt and appointing Ernst & Young Inc. as the trustee of its estate. The motion was unopposed by TK and a receiving order was made by the Ontario Superior Court of Justice on July 12, 2002.

43. Conduct Contrary to the Public Interest

44. Simpson's conduct was contrary to the public interest for the reasons set out below.

A. Failure to Disclose the Valentine Loan Guarantee

45. Simpson failed to ensure that the terms of the Valentine Loan were properly disclosed to the IDA, as required by IDA By-laws 17 and 38. This failure had the effect of presenting an inaccurate picture of TK's financial circumstances to the IDA.

B. Failure to Supervise Valentine's Transactions

46. Simpson failed to ensure that Valentine's handling of the Funds' business in the JAWZ, Chell Corp. and IKAR transactions was within the bounds of ethical conduct and consistent with just and equitable principles of trade, contrary to IDA Regulation 1300 and By-law 38.

47. In these transactions, Simpson failed to supervise Valentine in accordance with Ontario securities law, and failed to ensure that Valentine dealt fairly, honestly and in good faith with his clients, contrary to sections 3.1 and 2.1 of OSC Rule 31-505.

48. Such additional allegations as Staff may advise and the Commission may permit.

August 15, 2005.

1.2.2 Christopher Freeman - ss. 127, 127.1

August 8, 2005

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

- AND -

IN THE MATTER OF
CHRISTOPHER FREEMAN

NOTICE OF HEARING
(Sections 127 and 127.1)

TAKE NOTICE that the Ontario Securities Commission (the "Commission") will hold a hearing pursuant to sections 127 and 127.1 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 12th day of October, 2005 at 10:00 a.m. or as soon thereafter as the hearing can be held;

TO CONSIDER whether, in the opinion of the Commission, it is in the public interest for the Commission to make an order:

(i) pursuant to s. 127 (1), paragraph 2 of the *Act*, that Freeman cease trading in any securities permanently or for such time as the Commission may direct;

(ii) pursuant to s. 127 (1), paragraph 6 of the *Act*, that Freeman be reprimanded;

(iii) pursuant to s. 127 (1), paragraph 9 of the *Act*, that Freeman pay an administrative penalty;

(iv) pursuant to s. 127.1 of the *Act*, that Freeman pay a portion of the costs of Staff's investigation and the costs of, or related to, the hearing incurred on behalf of the Commission; and

(v) such other order as the Commission may deem appropriate.

BY REASON OF the allegations set out in the Statement of Allegations of Staff dated August 8, 2005 and such additional allegations as Staff may advise and the Commission may permit;

AND TAKE FURTHER NOTICE that any party to the proceeding may be represented by counsel 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.

"John Stevenson"

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

- AND -

IN THE MATTER OF
CHRISTOPHER FREEMAN

STATEMENT OF ALLEGATIONS
OF STAFF OF THE
ONTARIO SECURITIES COMMISSION

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

Background

1. Throughout 2003 and 2004, Christopher Freeman ("Freeman") was an officer and director of Interquest Incorporated ("Interquest"), NIR Diagnostics Inc. ("NIR Diagnostics") and International CHS Resource Corporation ("International CHS").

2. Interquest is a reporting issuer in Ontario which previously traded under the ticker symbol of "IQT" on the TSX Venture Exchange but which was delisted on February 21, 2005.

3. NIR Diagnostics and International CHS are also reporting issuers in Ontario. NIR Diagnostics and International CHS trade on the TSX Venture Exchange under the respective ticker symbols of "NID" and "ICJ".

4. Throughout 2003 and 2004, Freeman maintained a number of nominee trading accounts over which he had control, including accounts at CIBC World Markets Inc., Standard Securities Capital Corporation, Union Securities Ltd., First Associates Investments Inc., Edward Jones, Transfer Services Inc. and Computershare Trust Company of Canada.

Failure to File Insider Trading Reports

5. Throughout 2003 and 2004, Freeman directed a number of transactions in his various trading accounts, including:

   (a) a minimum of 38 transactions in the shares of Interquest;

   (b) a minimum of 10 transactions in the shares of International CHS; and

   (c) a minimum of 4 transactions in the shares of NIR Diagnostics.

6. Section 107(2) of the *Ontario Securities Act*, R.S.O. 1990, C.s.5. as amended (the "*Act*") required Freeman to file a report of each change in his control or direction over securities of Interquest, International CHS and NIR Diagnostics. Section 107(2) of the *Act* required Freeman to file the reports within 10 days from the day the change took place.

7. Notwithstanding that he executed an aggregate of over 50 transactions in Interquest, International CHS and NIR Diagnostics in his various trading accounts throughout 2003 and 2004, Freeman has not filed any section 107(2) reports in respect of those transactions.

Conduct Contrary to the Public Interest

8. By failing to make timely insider trading reports as required by s. 107(2), Freeman has repeatedly breached Ontario securities law and engaged in conduct contrary to the public interest.

DATED AT TORONTO this 8th day of August, 2005

1.2.3 Francis George Lee Simpson - s. 127

August 15, 2005

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

- AND -

IN THE MATTER OF
FRANCIS GEORGE LEE SIMPSON

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* (the "Act"), at the offices of the Commission located on the 17th Floor, 20 Queen Street West, Toronto on Wednesday, August 17, 2005 at 10:00 a.m. or as soon thereafter as the hearing can be held.

TO CONSIDER whether, pursuant to section 127 of the Act, it is in the public interest for the Commission to make an order regarding Francis George Lee Simpson ("Simpson") that:

(a) the settlement agreement in this matter dated August 15, 2005 be approved;

(b) the registration of Simpson under securities law be suspended or restricted or terminated, or that terms and conditions be imposed on his registration;

(c) Simpson resign all positions that he holds as director or officer of a registrant and of a reporting issuer;

(d) Simpson be prohibited from becoming or acting as director or officer of a registrant and a reporting issuer; and

(e) pursuant to section 127.1 of the Act, Simpson pay the costs of the investigation of the matters set out in the Statement of Allegations regarding Simpson dated August 15, 2005 (the "Statement of Allegations").

BY REASON OF the allegations set out in the Statement of Allegations 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 at the hearing;

AND TAKE FURTHER NOTICE that upon 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.

"Daisy Aranha"

per: John Stevenson
A/Secretary to the Commission

TO: Borden Ladner Gervais
40 King Street West
Toronto, Ontario
M5H 3Y4

James Douglas
David Di Paolo

Solicitors to Francis George Lee Simpson

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

- AND -

IN THE MATTER OF
FRANCIS GEORGE LEE SIMPSON

STATEMENT OF ALLEGATIONS
OF STAFF OF THE ONTARIO SECURITIES COMMISSION

A. Background

(a) F. G. Lee Simpson

1. At all relevant times, Francis George Lee Simpson was the President, Chief Executive Officer and Chief Financial Officer of Thomson Kernaghan & Co. Ltd. ("TK"). Simpson was also TK's Ultimate Designated Person ("UDP"), as defined by the Investment Dealers' Association ("IDA").

(b) Thomson Kernaghan

2. TK is a corporation incorporated pursuant to the laws of Ontario and was registered with the IDA as an Investment Dealer in the provinces of Ontario, British Columbia, Alberta and Quebec. TK's headquarters were located in Toronto.

(c) Mark Valentine

3. At all relevant times, Mark Edward Valentine was the Chairman of TK. Valentine was also a Registered Representative licensed through TK with the IDA. In his role as TK's President and UDP, Simpson was ultimately responsible for the supervision of all of Valentine's trading activities at TK.

4. On December 14, 2004, Valentine executed a settlement agreement with Staff (the "Valentine Settlement Agreement"). In the Valentine Settlement Agreement, Valentine admitted that while employed at TK and supervised by Simpson, he committed several breaches of Ontario securities law, and engaged in conduct contrary to the public interest.

(d) The Funds

5. Valentine was the President, Director and a shareholder of VMH Management Ltd. ("VMH"), an Ontario corporation. VMH held trading accounts at TK. Valentine was the Registered Representative assigned to those accounts and held trading authority over them.

6. VMH was the General Partner of the Canadian Advantage Limited Partnership ("CALP"), an Ontario limited partnership which operated as a private investment fund.

7. Advantage (Bermuda) Fund Ltd. ("CALP Offshore Fund") is a mutual fund company incorporated under the laws of Bermuda and is CALP's corresponding offshore fund.

8. Valentine was the President, Director and a shareholder of VC Advantage Limited ("VC Ltd."), an Ontario corporation. VC Ltd. was the General Partner of the VC Advantage Fund Limited Partnership ("VC Fund"), an Ontario limited partnership which operated as a private investment fund.

9. VC Advantage (Bermuda) Fund Ltd. ("VC Offshore Fund") is a mutual fund company incorporated under the laws of Bermuda and is the VC Fund's corresponding offshore fund.

10. Collectively, CALP, CALP Offshore Fund, VC Fund and VC Offshore Fund will be referred to as the "Funds".

11. Pursuant to written partnership agreements and offering memoranda, Valentine, acting through VMH and VC Ltd. (together, the "General Partners"), was authorized to recommend, advise on and enter into all investments on behalf of the Funds and he did so.

12. The majority of the limited partners (unitholders) of the Funds were individual retail clients of TK. The Funds performed all of their securities transactions through trading accounts held at TK. Valentine was the Registered Representative at TK for all of these trading accounts. In his role as TK's UDP, Simpson was ultimately responsible for the supervision of all of Valentine's trades on behalf of the Funds.

B. The JAWZ Transaction

13. In the Valentine Settlement Agreement, Valentine admitted that in August of 2000, Valentine caused the Funds to enter into a financing transaction with JAWZ Inc. ("JAWZ"). JAWZ was a Canadian company whose shares traded on the NASDAQ exchange.

14. According to Valentine, in return for their investment, the Funds acquired floorless warrants to purchase shares of JAWZ. The warrants provided that the Funds would receive increasing numbers of JAWZ shares as the share price declined. This type of financing creates a strong incentive for the investor to sell securities short in a relatively illiquid market, which is often referred to as "death spiral" or "toxic" financing.

15. On November 7, 2000, TK's research department issued a research report regarding JAWZ shares

which rated them as a "buy". TK did not disclose in this report, or to any of its clients holding JAWZ shares at that time, the fact that JAWZ had entered into this type of financing, the fact that the warrants were held by TK clients, or the fact that the Chairman of TK controlled the holders of the "death spiral" warrants.

16. In or about December of 2000, a retail client of TK who had purchased shares of JAWZ met with Valentine and Simpson and informed them that the firm was in a conflict of interest position in advocating the purchase of JAWZ shares by retail investors in the face of the "death spiral" warrants. In response, Valentine stated that the terms of the warrants would be modified to mitigate the Funds' incentive to sell the shares short. The warrants, however, were never amended and Valentine continued to sell JAWZ shares short through the Funds' accounts.

C. The Trilon Loans

17. In the spring of 2001, Simpson, Valentine and other senior officers of TK approached Trilon Bancorp Inc. ("Trilon") to obtain a short-term loan. On March 30, 2001, Trilon advanced the sum of $5,000,000 to TK Holdings Inc (the "TK Loan"). The TK Loan required the approval of both the Executive Committee and Board of Directors of TK. The funds advanced under the TK Loan were used by TK Holdings to purchase $5,000,000 worth of preferred shares of TK. The TK Loan was to be repaid in full by June 30, 2001. This transaction was properly reported to the IDA. On July 3, 2001, the TK Loan was repaid in full.

18. In July of 2001, Valentine approached Trilon to borrow money which he planned to use to pay off his debts to TK. Trilon agreed to provide Valentine a US$5,000,000 loan facility with an initial advance of US$3,000,000 (the "Valentine Loan"). The approval of the Executive Committee and Board of Directors of TK was not sought for the Valentine Loan. The funds under the Valentine Loan were advanced to Valentine personally. The Valentine Loan was to be repaid in full by December 31, 2001.

19. Simpson, on behalf of TK, signed a guarantee of all of Valentine's obligations under the Valentine Loan.

20. On July 31, 2001, US $3,000,000 was advanced to Valentine under the Valentine Loan. US $816,945 ($1,250,579.41) of this sum was placed in a trading account at TK held in the name of Trilon Securities Corp.

21. TK reported to the IDA that the $1,250,579.41 represented a subordinated loan made by Valentine to TK. TK did not disclose to the IDA that further funds had been advanced by Trilon to Valentine. TK also did not disclose to the IDA that it had guaranteed Valentine's entire obligation to Trilon.

22. Simpson and Valentine signed the mandatory quarterly report filed with the IDA which disclosed the $1,250,579.41 "subordinated loan", certifying that the report contained full and accurate disclosure of TK's liabilities.

23. In the Valentine Settlement Agreement, Valentine admitted that he was unable to repay the US $3,000,000 advance by the due date of December 31, 2001. He therefore negotiated several further advances of funds and extensions of the repayment deadline under the Valentine Loan, the last of which expired on July 15, 2002. As of that date, the amount outstanding on the loan was approximately US $5,600,000. Valentine defaulted on the Valentine Loan on July 15, 2002.

D. The March 28, 2002 Transactions by Valentine

24. The Valentine Settlement Agreement includes the details of two series of improper transactions that he executed on March 28, 2002, as set out below.

(a) The Chell Corp. Transaction

25. Chell Group Corporation ("Chell Corp.") was a Canadian company whose shares traded on the NASDAQ exchange.

26. On March 28, 2002, Valentine's pro account received 1,060,000 shares of Chell Corp. that belonged to CALP without any cash payment by Valentine. Valentine claimed that the shares were provided to repay a debt of US $1,060,000 owed by CALP to him personally. The shares were thus transferred at a value of US $1 per share.

27. Valentine's explanation for CALP's debt to him was that CALP had borrowed US $360,000 from him in July 2001, and another US $700,000 from him in January 2002. The $360,000 that was transferred to CALP came from the proceeds of the Trilon loan, described above.

28. Also on March 28, 2002, pursuant to sell orders placed March 26, 2002, after receiving the Chell Corp. shares from CALP, Valentine effected the following transactions:

(a) Valentine sold 1,000,000 Chell Corp. shares at a price of US $2 per share to his inventory account;

(b) Valentine sold 375,000 Chell Corp. shares at a price of US $2 per share from his inventory account to the VC Fund;

(c) Valentine sold 375,000 Chell Corp. shares at a price of US $2 per share from

his inventory account to the VC Offshore Fund; and

(d) Valentine sold 250,000 Chell Corp. shares at a price of US $2 per share.

29. Of the US $2 million in proceeds in his pro account from these sales, Valentine transferred US $450,000 ($717,000) to his trader receivable account to reduce his liabilities to TK.

30. On April 30, 2002, the VC Fund sold 200,000 shares of Chell Corp. at a price of US $2.09 per share. At the time, there was an agreement between Valentine and the VC Fund that Valentine would buy 250,000 shares of Chell Corp. per quarter from the VC Fund commencing July 1, 2002 at a price of US $2.20 per share. The agreement was purportedly guaranteed by the General Partners.

31. Valentine could not produce evidence of a loan of US $700,000 to CALP in January of 2002. No evidence of the loan could be found in the books and records of TK that were provided to Staff.

(b) The IKAR Transaction

32. In the Valentine Settlement Agreement, Valentine admitted that he had a beneficial interest in Hammock Group Ltd., a corporation registered pursuant to the laws of Bermuda. Hammock had a trading account at TK. Valentine was the Registered Representative for that account. The Hammock account was not designated by Valentine as a pro account on the books and records of TK, as it was required to be.

33. On March 28, 2002, CALP paid US $1.3 million to Hammock to purchase a debenture issued by a company named IKAR Minerals. The debenture was dated March 1998 and had expired in March of 2000.

34. Valentine stated that the rationale for the transaction was to settle a debt that CALP owed to Hammock of US $1,582,830. The debt related to transactions in the shares of JAWZ. Valentine explained that this debt had been incurred as follows:

(a) In July, 2001, Hammock paid CALP US $537,068 for 652,573 shares of JAWZ at a price of US $0.823 per share. JAWZ shares were then trading at a price of US $0.59 per share. Valentine explained this step as Hammock assisting CALP in meeting its margin requirement at TK. In consideration for its help, CALP guaranteed the JAWZ investment by promising that any losses Hammock might suffer from its eventual sale of the JAWZ shares would be reimbursed by CALP;

(b) Over the next three weeks, Hammock sold the JAWZ shares at an average price of US $0.218 per share, generating a loss of US $386,895.54 which Valentine claimed that CALP was obliged to reimburse pursuant to its "guarantee";

(c) In a separate transaction, Valentine stated that CALP had sold 900,000 shares of a firm called Global Path short to Hammock at a price of US $1.33 per share for net proceeds of US $1,196,500. Valentine claimed that CALP made the short sale "believing that it was to receive Global Path shares as partial compensation for its JAWZ losses"; and

(d) CALP was unable to deliver the Global Path shares and was therefore indebted to Hammock for total of US $1,582,830 as a result of the JAWZ guarantee and the undeliverable Global Path shares.

35. "To allow Hammock to recoup the bulk of its out of pocket cost in supporting the funds", Valentine stated that he took the following steps:

(a) Valentine's company VMH was the owner of the IKAR debenture which it "gifted" to Hammock;

(b) Hammock in turn sold the debenture to CALP for US $1.3 million as payment for the "debt" which CALP owed to Hammock;

(c) The debenture had value because IKAR's principal had recently promised Valentine to make up the US $1.3 million loss by converting the IKAR debenture into shares of the renamed company, Patriot Energy Corporation. This promise was later set out in a letter addressed to Valentine by the President of Patriot Energy. This promise was purportedly given because Valentine had personally made a US $250,000 private placement investment in Patriot Energy; and

(d) Valentine claimed that as a result, CALP was the beneficiary of a "gift" from him through VMH of the IKAR position.

36. The evidence did not support this explanation. Hammock did not purchase JAWZ shares from CALP but rather from Valentine's inventory account. Therefore CALP did not guarantee Hammock's JAWZ investment, and correspondingly was not liable for Hammock's US $386,330.70 loss in the JAWZ transaction.

37. CALP did not sell 900,000 shares of Global Path to Hammock but rather sold 1,000,000 shares of Global Path to Valentine's inventory account. The price per share and net proceeds of this transaction were not US $1.33 and US $1,196,500 respectively, but rather US $0.65 and US $635,000.

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39. The Global Path trade did not fail as delivery slips confirm the transfer of share certificates.

E. The TK Report and TK's Bankruptcy

40. On May 7, 2002, the Executive Committee of TK was informed by Marty Sims, TK's Retail Branch Manager and Executive Vice President, that Valentine had executed a series of questionable transactions. As a result, Simpson retained outside counsel for TK and commenced an investigation into Valentine's activities (the "Investigation"). Simpson advised both the OSC and the IDA of the fact that he had commenced the Investigation.

41. On June 13, 2000, Valentine was suspended from his employment at TK for 30 days pending the final results of the Investigation. On June 19, 2002, Simpson delivered a report reflecting the results of the Investigation to the IDA (the "TK Report"). The TK Report was tendered into evidence in proceedings taken by the OSC against Valentine on June 24, 2002.

42. On July 11, 2002, Simpson informed the IDA and the Canadian Investor Protection Fund ("CIPF") that TK might not be able to meet its Risk-Adjusted Capital requirement, and its registration as an Investment Dealer was suspended. On the same date, CIPF brought a motion for an order declaring TK bankrupt and appointing Ernst & Young Inc. as the trustee of its estate. The motion was unopposed by TK and a receiving order was made by the Ontario Superior Court of Justice on July 12, 2002.

43. Conduct Contrary to the Public Interest

44. Simpson's conduct was contrary to the public interest for the reasons set out below.

A. Failure to Disclose the Valentine Loan Guarantee

45. Simpson failed to ensure that the terms of the Valentine Loan were properly disclosed to the IDA, as required by IDA By-laws 17 and 38. This failure had the effect of presenting an inaccurate picture of TK's financial circumstances to the IDA.

B. Failure to Supervise Valentine's Transactions

46. Simpson failed to ensure that Valentine's handling of the Funds' business in the JAWZ, Chell Corp. and IKAR transactions was within the bounds of ethical conduct and consistent with just and equitable principles of trade, contrary to IDA Regulation 1300 and By-law 38.

47. In these transactions, Simpson failed to supervise Valentine in accordance with Ontario securities law, and failed to ensure that Valentine dealt fairly, honestly and in good faith with his clients, contrary to sections 3.1 and 2.1 of OSC Rule 31-505.

48. Such additional allegations as Staff may advise and the Commission may permit.

DATED at Toronto, this 15th day of August, 2005

1.3 News Releases

1.3.1 OSC News Release - OSC to Consider Settlement Agreement Reached in the Matter of optionsXpress, Inc.

FOR IMMEDIATE RELEASE
August 19, 2005

OSC TO CONSIDER SETTLEMENT AGREEMENT REACHED IN THE MATTER OF OPTIONSXPRESS, INC.

TORONTO – The Ontario Securities Commission (OSC) will convene a hearing in the matter of optionsXpress, Inc. to consider a settlement agreement reached between Staff of the Commission, Staff of certain other provincial securities regulators and optionsXpress, Inc. The hearing will occur jointly with the Alberta Securities Commission, the Manitoba Securities Commission, the Nova Scotia Securities Commission, the New Brunswick Securities Commission and the Bureau de décision et de revision en valeurs mobilières (Quebec).

The terms of the settlement agreement are confidential until approved by the Commission and the above-noted provincial securities regulators. The hearing is scheduled for Wednesday, August 31, 2005, at 3:30 p.m. in the Large Hearing Room on the 17th floor of the Commission's offices, 20 Queen Street West, Toronto. Copies of the Notice of Hearing and Statement of Allegations dated August 17, 2005, are available on the OSC website (**www.osc.gov.on.ca**).

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

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

1.4 Notices from the Office of the Secretary

1.4.1 Brian Peter Verbeek

FOR IMMEDIATE RELEASE
July 28, 2005

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

AND

IN THE MATTER OF
BRIAN PETER VERBEEK

TORONTO – The Commission issued its Decision and Reasons following a hearing in the above matter.

A copy of the Decision and Reasons is 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

2.1.1 MRF 2005 Resource Limited Partnership - MRRS Decision

Headnote

Limited partnership exempted from interim financial reporting requirements for third quarter of first financial year.

Applicable Ontario Statutory Provisions

Securities Act, R.S.O. 1990, c. S.5, as am, ss. 77(1), 79 and 80(b)(iii).

Rules Cited

National Instrument 81-106 – Investment Fund Continuous Disclosure, (2005) 28 OSCB (Supp-1).

August 22, 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
MRF 2005 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") 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 the third quarter of the Filer's first financial year (the "Third Quarter Interim Financials") 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 18, 2005. The first financial year end of the Filer is December 31, 2005.

2. The principal office of the Filer is located at 1 First Canadian Place, 58th Floor, P.O. Box 192, Toronto, Ontario, M5X 1A6. MRF 2005 Resource Management Limited (the “General Partner”) is the general partner of the Filer and has co-ordinated the organization and registration of the Filer.

3. The Filer was formed to invest in certain flow-through shares ("Flow-Through Shares") of Canadian companies involved primarily in oil and gas, mining or renewable energy exploration and development ("Resource Companies").

4. The Filer will enter into agreements to subscribe for Flow-Through Shares or any other agreements 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 Agreements") with Resource Companies. Under the terms of each Resource Agreement, the Filer will subscribe for Flow-Through Shares of the Resource Company and 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 February 28, 2005, 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 third quarter interim financial statements), issued a receipt under the Mutual Reliance Review System for the prospectus of the Filer dated February 28, 2005 (the "Prospectus") relating to an offering of up to 4,000,000 units of the Filer (the "Partnership Units").

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

7. On or about May 31, 2007, the Filer will be liquidated and the Limited Partners will receive their *pro rata* share of the net assets of the Filer. 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 Growth Class of the Mutual Fund on or about April 12, 2007. Upon dissolution, Limited Partners would then receive their pro rata share of the shares of the Growth Class of the Mutual Fund.

8. Since its formation on January 18, 2005, 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.

9. In accordance with the requirements of the Legislation, the Filer is required to file and deliver quarterly interim financial statements in respect of its first financial year. Further to the coming into force of National Instrument 81-106 – *Investment Fund Continuous Disclosure* ("NI 81-106") on June 1, 2005, the Filer will be required to file interim financial statements on only a semi-annual as opposed to quarterly basis for its second financial year which begins on January 1, 2006. Consistent with the reporting frequency prescribed by NI 81-106, the Filer wishes not to be required to file Third Quarter Interim Financials for its first financial year.

10. Unless a material change takes place in the business and affairs of the Filer on or before September 30, 2005, the Limited Partners will obtain adequate financial information concerning the Filer from the following documents:

    (a) the semi-annual financial statements as at June 30, 2005, filed and delivered in accordance with the Legislation; and

    (b) the audited annual financial statements as at December 31, 2005 filed and delivered in accordance with NI 81-106.

11. Given the limited range of business activities to be conducted by the Filer, the nature of the investment of the Limited Partners in the Filer, and the fact that the Filer intends to dissolve by no later than May 31, 2007, the provision by the Filer of the Third Quarter Interim Financials will not be of significant benefit to the Limited Partners and may impose a material financial burden on the Filer.

12. It is disclosed in the Prospectus that the General Partner will apply on behalf of the Filer for relief from, among others, the requirements to send to Limited Partners the Third Quarter Interim Financials.

13. 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 the Filer's Third Quarter Interim Financials shall not apply to the Filer in respect of its first financial year provided that this exemption shall terminate upon the occurrence of a material change in the affairs of the Filer on or before September 30, 2005, unless the Filer satisfies the Decision Makers that the exemptions should continue, which satisfaction shall be evidenced in writing.

"Paul M. Moore"

"Robert W. Davis"

2.1.2 Phoenix Capital Income Trust - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – 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 securities issued pursuant to a distribution reinvestment and optional trust unit purchase plan – Relief for first trades of additional trust units, subject to conditions. Sunset provision included in decision document in anticipation of the coming into force of National Instrument 45-106 – Prospectus and Registration Exemptions.

Statutes Cited

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

Instruments Cited

Multilateral Instrument 45-102 Resale of Securities, s. 2.6.

August 22, 2005

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA, MANITOBA, ONTARIO, QUÉBEC,
NOVA SCOTIA, PRINCE EDWARD ISLAND AND
NEWFOUNDLAND AND LABRADOR
(THE "JURISDICTIONS")

AND

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

AND

IN THE MATTER OF
PHOENIX CAPITAL INCOME TRUST
(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, pursuant to the securities legislation of the Jurisdictions (the "Legislation"), that the requirement contained in the Legislation to be registered to trade in a security and to file and obtain a receipt for a preliminary prospectus and a final prospectus (the "Registration and Prospectus Requirements") shall not apply to the distribution of units of the Filer pursuant to a distribution reinvestment plan (the "Requested Relief");

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

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

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

Interpretation

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

Representations

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

1. The Filer is an unincorporated, open-ended, limited purpose trust established under and governed by the laws of the Province of Ontario pursuant to a declaration of trust dated April 30, 2005.

2. The Filer's head office is located in Toronto, Ontario.

3. The Filer is a reporting issuer in Alberta, British Columbia, Manitoba and New Brunswick, by virtue of its units (the "Units") being listed on the TSX Venture Exchange ("TSXV"). The Filer is not in default of any requirements under the Legislation.

4. On July 27, 2005 the Filer filed a preliminary prospectus in all of the provinces and territories of Canada. Upon the issuance of a final receipt in respect of such prospectus, the Filer will be a reporting issuer or the equivalent in each province and territory of Canada.

5. The beneficial interests in the Filer are divided into interests of one class, described and designated as "Trust Units". The Filer is authorized to issue an unlimited number of Trust Units, of which 507,838 are issued and outstanding as of July 29, 2005.

6. The objectives of the Filer are to: (i) generate stable and growing cash distributions on a tax efficient basis regularizing the intermittent cash flows of Phoenix Capital Inc.; (ii) enhance the value of the Filer's assets and maximize long-term Unit value; and (iii) expand the asset base of the Filer through an accretive acquisition program.

7. The Filer intends to make cash distributions on the 15th day of each month (the "Distribution Payment Date") to the Filer's Unitholders (the "Unitholders") of record on the last day of the preceding month (the "Distribution Record Date").

8. The Filer has adopted a distribution reinvestment plan (the "Plan") which, subject to obtaining all necessary regulatory approvals, will permit distributions to be automatically reinvested, at the election of each Unitholder, to purchase additional

Units ("Plan Units") pursuant to the Plan and in accordance with a distribution reinvestment plan agency agreement (the "Plan Agreement") to be entered into by the Filer and Equity Transfer Services Inc. in its capacity as agent under the Plan (in such capacity, the "Plan Agent").

9. Pursuant to the terms of the Plan, a Unitholder will be able to elect to become a participant in the Plan by notifying the Plan Agent, or with respect to beneficial owners, by causing the Plan Agent to be notified, in writing, of the Unitholder's decision to participate in the Plan. Participation in the Plan will not be available to Unitholders who are not residents of Canada for the purposes of the *Income Tax Act* (Canada).

10. Distributions due to participants in the Plan ("Plan Participants") will be paid to the Plan Agent and applied to purchase Plan Units in accordance with the terms and conditions of the Plan.

11. The Plan Agent will purchase Plan Units only in accordance with the mechanics described in the Plan and Plan Agreement.

12. The Plan is open for participation by all Unitholders (other than non-residents of Canada), so that such Unitholders can ensure protection against potential dilution, albeit insignificant, by electing to participate in the Plan.

13. Plan Units purchased under the Plan will be registered in the name of the Plan Participants, or Canadian Depository for Securities Limited with respect to beneficial owners.

14. A Plan Participant may terminate his or her participation in the Plan by providing written notice to the Plan Agent at least five business days prior to a Distribution Record Date. If a notice of termination is received less then five business days before the Distribution Record Date, the termination will be effective only after the Distribution Payment Date.

15. The price at which the Plan Units will be purchased with purchaser's distributions will be the weighted average closing price of all Units traded on the exchange upon which Units are then listed for trading for the 5 trading days immediately preceding the relevant Distribution Payment Date.

16. No commissions, services charges or brokerage fees will be payable on the purchase of Plan Units and administrative costs will be borne by the Filer.

17. The Filer reserves the right to amend, suspend or terminate the Plan at any time in its sole discretion, subject to approval of the TSXV, in which case Plan Participants and the Plan Agent will be sent written notice. The Filer may also, in consultation with the Plan Agent, adopt additional rules and regulations to facilitate the administration of the Plan.

18. The distribution of the Plan Units by the Filer pursuant to the Plan can be made in reliance on certain registration and prospectus exemptions contained in the securities Legislation of Alberta, New Brunswick and Saskatchewan but not in reliance on registration and prospectus exemptions contained in the Legislation of the other Jurisdictions because the Plan involves the reinvestment of distributable income distributed by the Filer and not the reinvestment of dividends or interest of the Filer.

19. The distribution of the Plan Units by the Filer pursuant to the Plan cannot be made in reliance on registration and prospectus exemptions contained in the Legislation for distribution reinvestment plans of mutual funds, as the Filer is not considered to be a "mutual fund" as defined in the applicable securities legislation.

Decision

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

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

a) at the time of the trade the Filer is a reporting issuer or the equivalent in a jurisdiction in Canada, and is not in default of any requirements under the securities legislation of any jurisdiction;

b) no sales charge is payable in respect of the distributions of Plan Units from treasury;

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

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

   ii) instructions on how to exercise the right referred to in (i);

d) except in Québec, the first trade in Plan Units acquired pursuant to this Decision will be a distribution or primary distribution to the public under the Legislation unless the conditions of

subsection 2.6(3) of Multilateral Instrument 45-102 *Resale of Securities* are satisfied; and

e) in Québec, the first trade (alienation) in Plan Units acquired pursuant to this Decision will be a distribution or primary distribution to the public unless:

i) the Filer 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 Filer, the seller has no reasonable grounds to believe that the Filer is in default of any requirement of the Legislation; and

f) this Decision will expire in a Jurisdiction on the date which is sixty (60) days from the date National Instrument 45-106 *Prospectus and Registration Exemptions* comes into force in that Jurisdiction.

"Paul Moore"

"Robert Davis"

2.1.3 Real Assets Investment Management Inc. - MRRS Decision

Headnote

Approval granted for a change of control of a mutual fund manager as a result of increase in voting share ownership by an existing significant shareholder, and corresponding relief granted to reduce the required notice period required for this change of control given the very specific fact scenario.

Rules cited

National Instrument 81-102 Mutual Funds Sections 5.5(2), 5.8(1)(a) and 19.1

July 8, 2005

IN THE MATTER OF
THE SECURITIES LEGISLATION
OF BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN, MANITOBA, ONTARIO, NOVA SCOTIA, NEW BRUNSWICK,
NEWFOUNDLAND AND LABRADOR
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
REAL ASSETS INVESTMENT MANAGEMENT INC.
(REAL ASSETS)

MRRS DECISION DOCUMENT

Background

The local securities regulatory authority or regulator (the Decision Maker) in each of the Jurisdictions has received an application from Real Assets for a decision under the securities legislation of the Jurisdictions and under Sections 5.5(2) and 19.1 of National Instrument 81-102 *Mutual Funds* (the Legislation) approving a proposed change in control of Real Assets and reducing the amount of notice required to investors before completing the change of control transaction.

Under the Mutual Reliance System for Exemptive Relief Applications:

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

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

Interpretation

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

Representations

This decision is based on the following facts represented by Real Assets:

1. Real Assets is the manager of Real Assets Social Impact Balanced Fund and Real Assets Social Leaders Fund (the Funds);

2. When the Funds were first qualified for sale by simplified prospectus on September 12, 2003, Vancouver City Savings Credit Union ("Vancity") held approximately 44% of the voting securities of Real Assets, and currently it holds approximately 45.8%;

3. After conducting a review of its operations in 2004, Real Assets has developed a business plan involving strengthening its marketing and management capabilities, which it anticipates will require significant new financing, which Vancity is willing to provide. In preparation for making this additional investment, Vancity proposes to acquire shares from several other existing shareholders, including shares to be purchased from the founder and former President of Real Assets. After these share purchases are complete, Vancity will hold approximately 88.57% of the voting securities of Real Assets, resulting in acquisition of voting control of Real Assets;

4. Real Assets believes that these plans will be beneficial to the Funds and is anxious to proceed with them as soon as possible;

5. Since inception, investors in the funds have been made aware of the connection between Vancity and Real Assets, and Real Assets has been described as "a member of the VanCity group of companies" or in similar terms on marketing materials for the Funds;

6. Real Assets believes that shortening the notice period to 21 days will not be prejudicial to the unitholders of the Funds;

7. On July 27, 2005, Real Assets mailed notices to the Funds' securityholders providing notice of the proposed change of control; and

8. Vancity is not proposing to replace Real Assets as manager of the Funds, and Real Assets will make no changes to the management or to the overall approach to implementing the investment strategies described in the current simplified prospectus of the Funds for at least 60 days following the provision of notice.

Decision

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

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

(a) the acquisition of voting control of Real Assets by Vancity is approved; and

(b) the notice period required under Section 5.8(1)(a) of NI 81-102 is reduced from 60 days to 21 days.

Allan Lim
Manager, Corporate Finance
British Columbia Securities Commission
Sedar Project No. 801706

2.1.4 VX Technologies Inc. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – Issuer filed and obtained a receipt for a final prospectus relating to a proposed initial public offering of – IPO did not close – no securities were distributed under the prospectus – as a consequence of obtaining a receipt for the prospectus, issuer became a reporting issuer – issuer seeking an order that it be deemed to have ceased to be a reporting issuer – issuer has obtained approval from securityholders holding 86.3% of issuer's issued and outstanding voting securities to make application - issuer deemed to have ceased to be a reporting issuer.

Applicable Ontario Statutory Provisions

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

Citation: VX Technologies Inc., 2005 ABASC 705

August 18, 2005

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

AND

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

AND

IN THE MATTER OF
VX TECHNOLOGIES INC. (THE FILER)

MRRS DECISION DOCUMENT

Background

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

Representations

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

   4.1 The Filer was formed on January 1, 2004 through the amalgamation of VX Technologies Inc., VX Optronics Corp. and 1074889 Alberta Ltd., pursuant to the *Business Corporations Act* (Alberta).

   4.2 The Filer's head office is located in Calgary, Alberta.

   4.3 The Filer has been a reporting issuer in the Jurisdictions since April 26, 2005, the date on which the Filer received receipts from each of the Decision Makers for a final prospectus (the Prospectus) in connection with an initial public offering (the IPO) of the Filer's securities.

   4.4 The Filer did not close the IPO and no securities have been, or will be, issued under the Prospectus.

   4.5 The issued and outstanding securities of the Filer, including debt securities, are beneficially owned, directly or indirectly, by 59 security holders (the Security Holders) of which 33 have addresses in Alberta, 6 have addresses in British Columbia and 9 have addresses in Ontario.

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

   4.7 The Filer is applying for the Requested Relief in all of the jurisdictions of Canada in which it is currently a reporting issuer.

   4.8 The Filer is not in default of any of its obligations as a reporting issuer under the Legislation.

   4.9 Security Holders representing 86.3% of the Filer's issued and outstanding voting securities have consented to the Filer making application to each of the Decision Makers for the Requested Relief and have acknowledged that they are aware that as a consequence of each of the Decision Makers granting the Requested Relief the Filer will not be

required to provide the Security Holders with continuous disclosure documents as prescribed under the Legislation.

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.

"Blaine Young"
Director, Legal Services & Policy Development
Alberta Securities Commission

2.2 Orders

2.2.1 Huntington Real Estate Investment Trust - s. 83.1(1)

Headnote

Subsection 83.1(1) – issuer deemed to be a reporting issuer in Ontario – issuer already a reporting issuer in British Columbia, Alberta and Manitoba– issuer's securities listed for trading on the TSX Venture Exchange – continuous disclosure requirements in British Columbia, Alberta and Manitoba substantially the same as those in Ontario – trustee of issuer was principal of numerous issuers with cease trade orders against them.

Statutes Cited

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

August 19, 2005

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

AND

IN THE MATTER OF
HUNTINGDON REAL ESTATE INVESTMENT TRUST.

ORDER
(Subsection 83.1(1))

UPON the application of Huntingdon Real Estate Investment Trust (the "Trust") for an order, pursuant to subsection 83.1(1) of the Act, deeming the Trust to be a reporting issuer for the purposes of Ontario securities law;

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

AND UPON the Trust representing to the Commission as follows:

1. The full name of the Trust is "Huntingdon Real Estate Investment Trust".

2. The head office of the Trust is located in Winnipeg, Manitoba.

3. The Trust was established under the laws of the Province of Manitoba pursuant a Declaration of Trust dated January 10, 2005.

4. The authorized capital of the Trust consists of an unlimited number of trust units ("Units"), of which 51,248,742 Units have been issued and are outstanding at the date hereof. The Trust has also issued and outstanding 11,321 5 Year 8% subordinate convertible debentures ("Debentures") in the aggregate principal amount

of $11,321,000. $6,000,000 principal of these Debentures mature on March 22, 2010 and $5,321,000 principal amount of Debentures mature on June 30, 2010.

5. The Trust is the resulting issuer of WPVC Inc., a former capital pool company under Policy 2.4 Capital Pool Companies (the "CPC Policy") of the TSX Venture Exchange Inc. (the "Exchange") which completed its "qualifying transaction" under the CPC Policy on February 23, 2005. WPVC Inc.'s qualifying transaction involved, among other things, a plan of arrangement (the "Plan of Arrangement") under section 192 of the *Canada Business Corporations Act* pursuant to which the common shares ("Shares") of WPVC Inc. were exchanged for Units on the basis of one Unit for every five Shares.

6. The Trust is not designated as a capital pool company by the Exchange.

7. The Trust or its predecessor WPVC Inc. has been a reporting issuer or equivalent under the *Securities Act* (British Columbia) (the "BC Act") since September 1, 2004, under the *Securities Act* (Alberta) (the "Alberta Act") since September 1, 2004, and under the *Securities Act* (Manitoba) (the "Manitoba Act") since September 1, 2004 and are not in default of any requirements of the BC Act, the Alberta Act, or the Manitoba Act or the regulations thereunder.

8. Other than British Columbia, Alberta and Manitoba, the Trust is not a reporting issuer or equivalent under the securities legislation of any other jurisdiction in Canada.

9. The Trust is in compliance with all of the requirements of the BC Act, the Alberta Act and the Manitoba Act (the "Legislation") and of the Exchange.

10. The Trust has completed the following financings:

    1. on February 23, 2005, a private placement to accredited investors of 2,500,000 Units to accredited investors;

    2. on March 22, 2005, a private placement to accredited investors of 13,340,000 Units and 6,000 Debentures in the aggregate principal amount of $6,000,000 to accredited investors. These Debentures mature on March 22, 2010; and

    3. on June 30, 2005, a private placement to accredited investors of 34,428,742 Units and 5,321 Debentures in the aggregate principal amount of 5,321,000. These Debentures mature on June 30, 2010

    (collectively, the "Private Placements").

11. The Units of the Trust are listed for trading on the Exchange under the symbol "HNT.UN". The Debentures are not listed on the Exchange.

12. As a result of the Private Placements, the Trust has a significant connection to Ontario in that more than 20% of the Trust's issued and outstanding Units are held by beneficial owners who are residents of Ontario.

13. The combined continuous disclosure requirements under the Legislation are substantially the same as required under the Act.

14. The continuous disclosure materials filed by the Trust under the Legislation are available on the System for Electronic Document Analysis and Retrieval.

15. There have been no penalties or sanctions imposed against the Trust by any court relating to Canadian securities legislation or by a Canadian securities regulatory authority, and the Trust has not entered into a settlement agreement with any Canadian securities regulatory authority.

16. Neither the Trust nor any of its officers, trustees nor, to the knowledge of the Trust, its officers and trustees, any unitholders holding sufficient trust units to affect materially the control of the Trust ("controlling unitholders") has (i) been the subject of any penalties or sanctions imposed by a court relating to Canadian securities legislation or by a Canadian securities regulatory authority, (ii) entered into a settlement agreement with a Canadian securities regulatory authority, or (iii) been subject to any other penalties or sanctions imposed by a court or regulatory body that would likely be considered important to a reasonable investor making an investment decision.

17. Neither the Trust nor any of its officers, trustees nor, to the knowledge of the Trust, its trustees and officers, any of its controlling unitholders, is or has been subject to:

    a. any known ongoing or concluded investigations by:

        i. a Canadian securities regulatory authority, or

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

b. any bankruptcy or insolvency proceedings, or other proceedings, arrangements or compromises with creditors, or the appointment of a receiver, receiver-manager or trustee, within the preceding ten (10) years, other than the proposal made by Arni C. Thorsteinson, a trustee and officer of Trust, in 1996 under applicable Canadian bankruptcy legislation, the terms of which proposal have been fully performed.

18. None of the officers or trustees of the Trust, nor, to the knowledge of the Trust, its trustees and officers, any its controlling unitholders, is or has been at the time of such event an officer or director of any other issuer which is or has been subject to:

a. any cease trade or similar orders, or orders that denied access to any exemptions under Ontario securities law, for a period of more than thirty (30) consecutive days, within the preceding ten (10) years, other than Arni C. Thorsteinson, a trustee and officer of the Trust, who has been an insider of a large number of issuers, of which some have been subject to such orders, the result being that such issuers and orders are not easily identifiable due to the aforementioned volume of issuers of whom Mr. Thorsteinson has been an insider; or

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

19. The Trust shall remit all participation fees due and payable by it pursuant to Ontario Securities Commission Rule 13-502 *Fees* by no later than two (2) business days from the date hereof.

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

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

"John Hughes"

2.2.2 Mediterranean Minerals Corp. - s. 144

Headnote:

Section 144 – full revocation of cease trade order upon remedying of defaults.

Statutes Cited:

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

August 17, 2005

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

IN THE MATTER OF
MEDITERRANEAN MINERALS CORP.

ORDER
(Section 144)

WHEREAS the securities of Mediterranean Minerals Corp. ("Mediterranean") have been subject to a cease trade order (the "Ontario CTO") of the Ontario Securities Commission (the "Commission") pursuant to paragraph 2 of subsection 127(1) of the Act, issued on April 21, 2005 and extended May 3, 2005, directing trading of the securities of Mediterranean cease until the Ontario CTO is revoked by an order of revocation;

AND WHEREAS Mediterranean has applied to the Commission pursuant to section 144 of the Act (the "Application") for a revocation of the Ontario CTO;

AND WHEREAS Mediterranean has represented to the Commission that:

1. Mediterranean was incorporated under the laws of British Columbia on November 8, 1985.

2. Mediterranean is a reporting issuer under the securities legislation of the provinces of British Columbia, Alberta, Manitoba and Ontario.

3. Mediterranean's authorized share capital consists of an unlimited number of common shares with no par value of which 68,558,858 common shares were issued and outstanding as of August 2, 2005. In addition to its common shares, Mediterranean has outstanding 8,318,593 share purchase warrants, 1,352,800 stock options, and $2,363,000 (principal amount) of convertible notes.

4. The Ontario CTO was issued as a result of Mediterranean's failure to file its annual audited financial statements for the year ended December 31, 2004. Subsequently, Mediterranean failed to file its interim financial statements for the three month period ended March 31, 2005.

5. The British Columbia Securities Commission (the "BCSC") also issued a cease trade order (the "BC CTO") dated April 19, 2005; and the Manitoba Securities Commission (the "MSC") also issued a cease trade order (the "Manitoba CTO") dated April 25, 2005 relating to Mediterranean's failure to file its annual audited financial statements for the year ended December 31, 2004.

6. On May 5, 2005 the Toronto Stock Exchange (the "TSX") suspended trading of the common shares of Mediterranean for failure to meet certain continuous listing requirements. On June 7, 2005 Mediterranean's shares were delisted from the TSX and listed on the NEX board of the TSX Venture Exchange;

7. To bring its continuous disclosure records up to date, on July 21, 2005 Mediterranean SEDAR filed its audited financial statements for the fiscal year ended December 31, 2004; and on July 22, 2005, SEDAR filed its interim financial statements for the period ending March 31, 2005;

8. The BC CTO was rescinded on July 21, 2005, and the Manitoba CTO was rescinded on August 2, 2005.

9. Mediterranean cannot complete listing of its securities on the NEX board until the Ontario CTOs is revoked.

10. Except for the Ontario CTO, Mediterranean is not in default of any requirement of the Act or the rules or regulations made thereunder.

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

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

IT IS ORDERED pursuant to section 144 of the Act, that the Ontario CTO be revoked provided that no trades in Mediterranean's securities are made until its securities are listed for trading on the NEX board.

"John Hughes"

2.2.3 Norman Frydrych - ss. 127 and 127.1

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

AND

IN THE MATTER OF
NORMAN FRYDRYCH

ORDER
(Sections 127 and 127.1)

WHEREAS on the 6th day of July, 2001, the Ontario Securities Commission (the "Commission") ordered, among other things, pursuant to clause 1 of subsection 127(1) of the *Securities Act*, R.S.O. 1990, c.S.5, as amended (the "Act"), that the registration of Buckingham Securities be suspended and that trading in any securities by Buckingham, Lloyd Bruce ("Bruce") and David Bromberg ("Bromberg") cease for a period of fifteen days from the date of the order (the "Temporary Order");

AND WHEREAS on the 20th day of July, 2001 the Commission ordered as described above, pursuant to subsection 127(7) of the Act that the Temporary Order, among other things, be extended against Buckingham, Bruce and Bromberg until the hearing is concluded and that the hearing be adjourned *sine die*;

AND WHEREAS on April 15, 2004, the Commission issued a Notice of Hearing (the "Notice of Hearing") pursuant to sections 127 and 127.1 of the Act in respect of Norman Frydrych;

AND WHEREAS the respondent Norman Frydrych entered into a settlement agreement dated May 16, 2005 (the "Settlement Agreement"), in which the respondent agreed to a proposed settlement of the proceeding commenced by the Notice of Hearing, subject to the approval of the Commission; and wherein Frydrych provided to the Commission a written undertaking never to apply for registration in any capacity under Ontario securities law and never to own directly or indirectly any interest in a registrant;

AND UPON reviewing the Settlement Agreement and the Statement of Allegations of Staff of the Commission, and upon hearing submissions from the respondent and from Staff of the Commission;

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

IT IS HEREBY ORDERED THAT:

1. the Settlement Agreement dated May 16, 2005, attached to this order as Schedule "1", is hereby approved;

2. pursuant to clause 1 of subsection 127(1) of the Act, the registration granted to Frydrych under Ontario securities law be terminated;

3. pursuant to clause 2 of subsection 127(1) of the Act, trading in any securities by Frydrych cease for a period of fifteen years from the date of the order of the Commission approving the Settlement Agreement, with the exceptions that Frydrych be permitted to trade in securities:

   a. in personal accounts in his name in which he has sole beneficial interest; and

   b. in registered retirement savings plans in which he, either alone or with his spouse, has sole beneficial interest;

4. pursuant to clause 7 of subsection 127(1) of the Act, Frydrych resign forthwith any position he holds as an officer or director of any reporting issuer or any issuer which is a registrant or any issuer which has an interest directly or indirectly in a registrant;

5. pursuant to clause 8 of subsection 127(1) of the Act, Frydrych is prohibited permanently from becoming or acting as an officer or director of any reporting issuer or an officer or director of any registrant, or any issuer that directly or indirectly has any interest in any registrant, from the date of this order;

6. pursuant to clause 6 of subsection 127(1) of the Act, Frydrych is reprimanded by the Commission.

May 20, 2005.

"Robert Shirriff"

"Suresh Thakrar"

2.2.4 Kiewit Investment Fund LLLP and Offit Hall Capital Management LLC - s. 80

Headnote

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

Statutes Cited

Commodity Futures Act, R.S.O. 1990, c. C.20, as am., s. 22(1)(b) and s. 80.
Securities Act, R.S.O. 1990, c. S.5, as am. – Rule 35-502 – Non Resident Advisers.
Securities Act, R.S.O. 1990, c. S.5, as am. – Rule 45-501 – Exempt Distributions.

July 8, 2005

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

AND

IN THE MATTER OF
KIEWIT INVESTMENT FUND LLLP
AND
OFFIT HALL CAPITAL MANAGEMENT LLC

ORDER
(Section 80 of the Act)

UPON the application (the **Application**) of Offit Hall Capital Management LLC (the **Applicant**) to the Ontario Securities Commission (the **Commission**) for an order pursuant to section 80 of the CFA that the Applicant and its directors, officers and employees acting on its behalf as an adviser (collectively, the **Representatives**) are exempt, for a period of three years, from the registration requirements of paragraph 22(1)(b) of the CFA in respect of advising Kiewit Investment Fund LLLP (the **Fund**) in respect of trades in commodity futures and options contracts traded on commodity futures exchanges outside Canada and cleared through clearing corporations located outside Canada subject to certain terms and conditions;

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

AND UPON the Applicant having represented to the Commission that:

1. The Applicant is a limited liability company organized under the laws of the State of Delaware. The Applicant is registered with the

United States Securities and Exchange Commission (the **SEC**) as an investment adviser under the *Investment Advisers Act* of 1940 and is exempt from registration under the United States Commodity Futures Trading Commission. As of December 2004, the Applicant had more than U.S. $15.6 billion under advisement for 103 clients.

2. The Applicant is not registered in any capacity under the CFA or the *Securities Act* (Ontario) (the **OSA**).

3. The Fund is a Delaware limited partnership newly formed by Peter Kiewit Sons', Inc. (**PKS**). PKS is a corporation incorporated under the laws of the State of Delaware and is one of the largest construction contractors in North America.

4. The Fund is designed solely for the benefit of certain Eligible Employees (as defined below) of PKS and will offer such Eligible Employees a cost-effective opportunity to access types of investments and professional investment management that otherwise may not be available to them on an individual basis.

5. The Fund is registered in the United States as a diversified, closed-end management investment company, and will operate pursuant to an order of the SEC, as an "employees' securities company" within the meaning of Section 2(a)(13) of the *Investment Company Act of 1940*, as amended (the **1940 Act**).

6. The Fund is not and has no current intention of becoming a reporting issuer in Ontario or any other Canadian jurisdiction.

7. The Applicant serves as the Fund's investment adviser and provides investment management services to the Fund. The Adviser is responsible for providing investment advice with respect of trades in commodity futures contracts traded on commodity futures exchanges outside Canada and cleared through clearing corporations outside Canada, subject to the Fund's board of directors.

8. Units of limited partnership interests in the Fund (the **Units**) will initially be offered to current full-time and certain former employees and directors of PKS or an affiliated company of PKS who are or previously were holders of common stock of PKS and directors of the Fund (collectively, the **Eligible Employees**). Thereafter, the Fund may, in the board of directors' discretion, offer Units to any person that is eligible to become a limited partner of the Fund, which includes Eligible Employees, PKS or any entity controlled by PKS and certain immediate family members of an Eligible Employee.

9. There is presently no rule under the CFA that provides an exemption from the adviser registration requirement in paragraph 22(1)(b) of the CFA for a person or company acting as an adviser in respect of commodity futures options and commodity futures contracts that is similar to the exemption from the adviser registration requirement in clause 25(1)(c) of the OSA for acting as an adviser (as defined in the OSA) in respect of securities that is provided under section 7.10 (Privately Placed Funds Offered Primarily Abroad) of OSC Rule 35-502 – *Non-Resident Advisers* (**Rule 35-502**).

10. As would be required under section 7.10 of Rule 35-502, the securities of the Funds will be:

    i. primarily offered outside of Canada;

    ii. only distributed in Ontario through one or more registrants under the OSA; and

    iii. distributed in Ontario in reliance upon an exemption from the prospectus requirements of the OSA to accredited investors (as defined in OSC Rule 45-501 – *Exempt Distributions* (**Rule 45-501**)) or persons relying on the minimum purchase exemption under section 2.12 of Rule 45-501 or persons relying on exemptive relief provided by the Commission.

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

12. The Fund intends to provide liquidity to investors in the Fund through semi-annual issuer bids effected in compliance with the OSA or pursuant to an exemption from the issuer bid requirements of the OSA.

AND UPON being satisfied that it would not be prejudicial to public interest for the Commission to grant the exemptions requested on the basis of the terms and conditions proposed,

IT IS ORDERED pursuant to section 80 of the CFA that each of the Applicant and its Representatives are, for a period of three years, not subject to the requirements of paragraph (22)(1)(b) of the CFA in respect of their

advisory activities in connection with the Fund, provided that:

(a) the Applicant is registered with the SEC as an investment adviser;

(b) the Fund invests, or may in the future invest, in commodity futures and options contracts traded on organized exchanges outside of Canada and cleared through clearing corporations located outside of Canada;

(c) securities of the Fund are and will be offered primarily outside Canada and are only distributed in Ontario through Ontario-registered dealers, in reliance on an exemption from the prospectus requirements of the OSA to accredited investors (as defined in Rule 45-501), persons relying on the minimum purchase exemption under section 2.12 of Rule 45-501 or persons relying on exemptive relief provided by the Commission, and upon an exemption from the adviser registration requirements of the OSA under section 7.10 of Rule 35-502; and

(d) prospective investors who are Ontario residents will receive disclosure that includes (a) a statement that there may be difficulty in enforcing legal rights against the Fund and or the Applicant which advises the Fund because such entities are resident outside of Canada and all or substantially all of their assets are situated outside of Canada; and (b) a statement that the Applicant advising the Fund is not registered with or licensed by any securities regulatory authority in Canada and, accordingly, the protections available to clients of a registered adviser will not be available to purchasers of Units.

“Paul M. Moore"

“H. Lorne Morphy”

2.2.5 TSX Group Inc. and TSX Inc. - s. 144

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

AND

IN THE MATTER OF
TSX GROUP INC. AND TSX INC.

AMENDMENT TO RECOGNITION ORDER

(Section 144)

WHEREAS the Commission issued an order dated April 3, 2000 granting and continuing the recognition of The Toronto Stock Exchange Inc. ("TSE") as a stock exchange pursuant to section 21 of the Act;

AND WHEREAS the Commission issued an amended and restated order dated January 29, 2002 to reflect that the TSE retained Market Regulation Services Inc. ("RS Inc.") to perform its market regulation functions;

AND WHEREAS the Commission issued an amended and restated order dated September 3, 2002 to reflect the name change of TSE to TSX Inc. ("TSX") and a reorganization under which TSX became a wholly-owned subsidiary of TSX Group Inc. (“TSX Group”), a holding company, and granted TSX Group recognition as a stock exchange pursuant to section 21 of the Act, in each case effective on the closing of the reorganization (“Previous Order”);

AND WHEREAS the Commission has determined that it is not prejudicial to the public interest to issue an order that amends and restates the Previous Order to reflect changes to the definition of an independent director;

IT IS ORDERED, pursuant to section 144 of the Act that the Previous Order be amended and restated as follows:

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

AND

IN THE MATTER OF
TSX GROUP INC. AND TSX INC.

RECOGNITION ORDER

(Section 21)

WHEREAS the Commission granted and continued the recognition of The Toronto Stock Exchange Inc. ("TSE") as a stock exchange on April 3, 2000 following the continuance of the TSE under the Business Corporations Act (Ontario);

AND WHEREAS the Commission granted the TSE an amended and restated recognition order dated January 29, 2002 to reflect that the TSE retained Market Regulation Services Inc. ("RS Inc.") as a regulation services provider ("RSP") under National Instrument 21-101 Marketplace Operation and National Instrument 23-101 Trading Rules ("ATS Rules");

AND WHEREAS the Commission granted the TSE an amended and restated recognition order dated September 3, 2002 to reflect the name change of TSE to TSX and a reorganization under which TSX became a wholly-owned subsidiary of TSX Group;

AND WHEREAS the Commission has determined that it is not prejudicial to the public interest to issue an order that amends and restates the Previous Order to reflect changes to the definition of an independent director;

AND WHEREAS the Commission considers it appropriate to set out in an order the terms and conditions of each of TSX's and TSX Group's continued recognition as a stock exchange, which terms and conditions are set out in Schedule "A" attached;

AND WHEREAS TSX and TSX Group have agreed to the terms and conditions applicable to each of them set out in Schedule "A";

AND WHEREAS the Commission has determined that continuing to recognize TSX and TSX Group is not prejudicial to the public interest;

The Commission hereby amends each of TSX's and TSX Group's recognition as a stock exchange so that the recognition pursuant to section 21 of the Act continues with respect to TSX and TSX Group, in each case effective, subject to the terms and conditions attached as Schedule "A", on the date hereof.

DATED April 3, 2000, as amended on January 29, 2002, on September 3, 2002, and on
August 12, 2005.

"Susan Wolburgh Jenah"

"Paul M. Moore"

SCHEDULE "A"

TERMS AND CONDITIONS

PART I--TSX GROUP

1. CORPORATE GOVERNANCE

(a) TSX Group's governance structure shall provide for:

(i) Fair and meaningful representation on its board of directors and any governance committee thereof, having regard to, among other things, TSX Group's ownership of TSX;

(ii) Appropriate representation of independent directors on TSX Group's committees; and

(iii) Appropriate qualifications, remuneration, conflict of interest provisions and limitation of liability and indemnification protections for directors and officers and employees of TSX Group generally.

(b) TSX Group shall ensure, on an annual basis and each time that an individual joins the board of directors, that at least fifty per cent (50%) of its directors are independent. For purposes of this recognition order, a director is independent if he or she is independent within the meaning of section 1.4 of Multilateral Instrument 52-110–Audit Committees, as amended from time to time. The board of directors will adopt standards which may be amended from time to time with the prior approval of the Commission, setting out criteria to determine whether individuals are independent, including criteria to determine whether an individual has a material relationship with TSX Group and is therefore considered not to be independent. These standards will be made available on the TSX website.

In the event that at any time TSX Group fails to meet such requirement, it shall promptly remedy such situation.

2. FITNESS

TSX Group will take reasonable steps to ensure that each officer or director of TSX Group is a fit and proper person and the past conduct of each officer or director affords reasonable grounds for belief that the officer or director will perform his or her duties with integrity.

3. ALLOCATION OF RESOURCES

(a) TSX Group will, subject to paragraph 3(b) hereof and for so long as TSX carries on business as a stock exchange, allocate sufficient financial and other resources to TSX to ensure that TSX can carry out its functions in a manner that is consistent with the public interest and the terms and conditions of Part II of this Schedule "A".

(b) TSX Group will notify the Commission immediately upon becoming aware that it is or will be unable to allocate sufficient financial and other resources to TSX to ensure that it can carry out its functions in a manner that is consistent with the public interest and the terms and conditions of Part II of this Schedule "A".

4. FINANCIAL INFORMATION

TSX Group will file with the Commission unaudited quarterly consolidated financial statements of TSX Group within 60 days of each quarter end and audited annual consolidated financial statements of TSX Group within 90 days of each year, or such shorter periods as are mandated for reporting issuers to file such financial statements under the Act.

5. COMPLIANCE

TSX Group will carry out its activities as a stock exchange recognized under section 21 of the Act. TSX Group will do everything within its control to cause TSX to carry out its activities as a stock exchange recognized under section 21 of the Act and to comply with the terms and conditions in Part II of this Schedule "A".

6. ACCESS TO INFORMATION

(a) TSX Group will and will cause its subsidiaries to permit the Commission to have access to and to inspect all data and information in its or their possession that is required for the assessment by the Commission of the performance of TSX of its regulation functions and the compliance of TSX with the terms and conditions in Part II of this Schedule "A".

(b) TSX Group will permit the Commission to have access to and to inspect all data and information in its possession that is required for the assessment by the Commission of the compliance of TSX Group with the terms and conditions in Part I of this Schedule "A".

7. SHARE OWNERSHIP RESTRICTIONS

The restrictions on share ownership set out in section 21.11(1) of the Act, as amended from time to time by

regulation, shall apply to the voting shares of TSX Group, and the articles of TSX Group shall contain the share ownership restrictions and provisions respecting the enforcement of such restrictions which, without limiting the foregoing, may provide for the filing of declarations, the suspension of voting rights, the forfeiture of dividends, the refusal of the issue or registration of voting shares and the sale or redemption of voting shares held contrary to the restrictions and payment of the net proceeds of the sale or redemption to the person entitled thereto.

PART II--TSX

8. CORPORATE GOVERNANCE

(a) To ensure diversity of representation, TSX will ensure that the composition of its board of directors provides a proper balance between the interests of the different entities using its services and facilities.

(b) TSX's governance structure shall provide for:

(i) Fair and meaningful representation on its board of directors and any governance committee thereof, in the context of the nature and structure of TSX;

(ii) Appropriate representation of independent directors on TSX's committees; and

(iii) Appropriate qualifications, remuneration, conflict of interest provisions and limitation of liability and indemnification protections for directors and officers and employees of TSX generally.

(c) TSX shall ensure, on an annual basis and each time that an individual joins the board of directors, that at least fifty per cent (50%) of its directors are independent. For purposes of this recognition order, a director is independent if he or she is independent within the meaning of section 1.4 of Multilateral Instrument 52-110–Audit Committees, as amended from time to time. The board of directors will adopt standards which may be amended from time to time with the prior approval of the Commission, setting out criteria to determine whether individuals are independent, including criteria to determine whether an individual has a material relationship with TSX and is therefore considered not to be independent. These standards will be made available on the TSX website.

In the event that at any time TSX fails to meet such requirement, it shall promptly remedy such situation.

9. FEES

(a) Any and all fees imposed by TSX on its Participating Organizations shall be equitably allocated. Fees shall not have the effect of creating barriers to access and shall be balanced with the criteria that TSX have sufficient revenues to satisfy its responsibilities.

(b) TSX's process for setting fees shall be fair and appropriate.

10. ACCESS

(a) The requirements of TSX shall permit all properly registered dealers that are members of a recognized self-regulatory organization and that satisfy TSX's criteria to access the trading facilities of TSX.

(b) Without limiting the generality of the foregoing, TSX shall:

(i) establish written standards for granting access to trading on its facilities;

(ii) not unreasonably prohibit or limit access by a person or company to services offered by it; and

(iii) keep records of:

(A) each grant of access including, for each entity granted access to its trading facilities, the reasons for granting such access; and

(B) each denial or limitation of access, including the reasons for denying or limiting access to any applicant.

11. FITNESS

TSX will take reasonable steps to ensure that each officer or director of TSX is a fit and proper person and the past

conduct of each officer or director affords reasonable grounds for belief that the officer or director will perform his or her duties with integrity.

12. FINANCIAL VIABILITY

(a) TSX shall maintain sufficient financial resources for the proper performance of its functions.

(b) TSX shall maintain: (i) a liquidity measure greater than or equal to zero; (ii) a debt to cash flow ratio less than or equal to 4.0/1; and (iii) a financial leverage ratio less than or equal to 4.0/1. For this purpose:

(i) liquidity measure is:

(working capital + borrowing capacity)

- 2 (adjusted budgeted expenses + adjusted capital expenditures – adjusted revenues)

where:

(A) working capital is current assets minus current liabilities,

(B) borrowing capacity is the principal amount of long term debt available to be borrowed under loan or credit agreements that are in force,

(C) adjusted budgeted expenses are 95% of the expenses (other than depreciation and other non-cash items) provided for in the budget for the current fiscal year,

(D) adjusted capital expenditures are 50% of average capital expenditures for the previous three fiscal years, and

(E) adjusted revenues are 80% of revenues plus 80% of investment income for the previous fiscal year,

(ii) debt to cash flow ratio is the ratio of total debt to EBITDA (or earnings before interest, taxes, depreciation and amortization) for the most recent 12 months, and

(iii) financial leverage ratio is the ratio of total assets to shareholders' equity,

in each case as calculated on a consolidated basis and consistently with the consolidated financial statements of TSX.

(c) On a quarterly basis (along with the financial statements required to be filed pursuant to paragraph 17), TSX shall report to the Commission the monthly calculation of the liquidity measure and debt to cash flow and financial leverage ratios, the appropriateness of the calculations and whether any alternative calculations should be considered.

(d) If TSX fails to maintain any of the liquidity measure, the debt to cash flow ratio or the financial leverage ratio in any month, it shall immediately report to the Commission or its staff.

(e) If TSX fails to maintain any of the liquidity measure, the debt to cash flow ratio or the financial leverage ratio for a period of more than three months, its Chief Executive Officer will immediately deliver a letter advising the Commission or its staff of the reasons for the continued ratio deficiencies and the steps being taken to rectify the problem, and TSX will not, without the prior approval of the Director, make any capital expenditures not already reflected in the financial statements, or make any loans, bonuses, dividends or other distributions of assets to any director, officer, related company or shareholder until the deficiencies have been eliminated for at least six months.

(f) TSX shall not enter into any agreement or transaction either (i) outside the ordinary course of business or (ii) with TSX Group or any subsidiary or associate of TSX Group if it expects that, after giving effect to the agreement or transaction, TSX is likely to fail to maintain the liquidity measure, the debt to cash flow ratio or the financial leverage ratio.

13. REGULATION

(a) TSX shall continue to retain RS Inc. as an RSP to provide, as agent for TSX, certain regulation services which have been approved by the Commission. TSX shall provide to the Commission, on an annual basis, a list outlining the regulation services provided by RS Inc. and the regulation services performed by TSX. All amendments to those listed services are subject to the prior approval of the Commission.

(b) In providing the regulation services, as set out in the agreement between RS Inc. and TSX (Regulation Services Agreement), RS Inc. provides certain regulation services to TSX as the agent of TSX pursuant to a delegation of TSX's authority in accordance with Section 13.0.8(4) of the Toronto Stock Exchange Act and will be entitled to exercise all the authority of TSX with respect to the administration and enforcement of certain market integrity rules and other related rules, policies and by-laws.

(c) TSX shall provide the Commission with an annual report with such information regarding its affairs as may be requested from time to time. The annual report shall be in such form as may be specified by the Commission from time to time.

(d) TSX shall continue to perform all other regulation functions not performed by RS Inc. TSX shall not perform such regulation functions through any other party, including its affiliates or associates. For greater certainty, any outsourcing of a business function that is done in accordance with paragraph 23 does not contravene this paragraph.

(e) Management of TSX (including the Chief Executive Officer) shall at least annually assess the performance by RS Inc. of its regulation functions and report thereon to the Board of TSX, together with any recommendations for improvements. TSX shall provide the Commission with copies of such reports and shall advise the Commission of any proposed actions arising therefrom.

14. SYSTEMS

For each of its systems that support order entry, order routing, execution, data feeds, trade reporting and trade comparison, capacity and integrity requirements, TSX shall:

(a) on a reasonably frequent basis, and in any event, at least annually,

(i) make reasonable current and future capacity estimates;

(ii) conduct capacity stress tests of critical systems on a reasonably frequent basis to determine the ability of those systems to process transactions in an accurate, timely and efficient manner;

(iii) develop and implement reasonable procedures to review and keep current the development and testing methodology of those systems;

(iv) review the vulnerability of those systems and data centre computer operations to internal and external threats including physical hazards and natural disasters;

(v) establish reasonable contingency and business continuity plans;

(b) annually, cause to be performed an independent review and written report, in accordance with established audit procedures and standards, of its current systems technology plans and whether there are appropriate processes in place to manage the impact of changes in technology on the exchange and parties interfacing with exchange systems. This will include an assessment of TSX's controls for ensuring that each of its systems that support order entry, order routing, execution, data fees, trade reporting and trade comparisons, capacity and integrity requirements is in compliance with paragraph (a) above. Senior management will conduct a review of a report containing the recommendations and conclusions of the independent review; and

(c) promptly notify the Commission of material systems failures and changes.

15. PURPOSE OF RULES

(a) TSX shall, subject to the terms and conditions of this Recognition Order and the jurisdiction and oversight of the Commission in accordance with Ontario securities laws, through RS Inc. and otherwise, establish such rules, policies

and other similar instruments ("Rules") that are necessary or appropriate to govern and regulate all aspects of its business and affairs.

(b) In particular, TSX shall ensure that:

(i) the Rules are designed to:

(A) ensure compliance with securities legislation;

(B) prevent fraudulent and manipulative acts and practices;

(C) promote just and equitable principles of trade;

(D) foster co-operation and co-ordination with persons or companies engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in, securities; and

(E) provide for appropriate discipline;

(ii) the Rules do not:

(A) permit unreasonable discrimination among clients, issuers and Participating Organizations; or

(B) impose any burden on competition that is not reasonably necessary or appropriate; and

(iii) the Rules are designed to ensure that TSX's business is conducted in a manner so as to afford protection to investors.

16. RULES AND RULE-MAKING

(a) TSX shall comply with the existing protocol between TSX and the Commission, as it may be amended from time to time, concerning Commission approval of changes in its Rules.

(b) All Rules of general application, and amendments thereto, adopted by TSX must be filed with the Commission.

17. FINANCIAL STATEMENTS

TSX shall file unaudited quarterly financial statements (consolidated and unconsolidated) within 60 days of each quarter end and audited annual financial statements (consolidated and unconsolidated) within 90 days of each year end or such shorter period as is mandated for reporting issuers to file such financial statements under the Act.

18. SANCTION RULES

TSX shall ensure, through RS Inc. and otherwise, that its Participating Organizations and its listed issuers are appropriately sanctioned for violations of the Rules. In addition, TSX will provide notice to the Commission of any violations of securities legislation of which it becomes aware in the ordinary course operation of its business.

19. DUE PROCESS

TSX shall ensure that the requirements of TSX relating to access to the trading and listing facilities of TSX, the imposition of limitations or conditions on access and denial of access are fair and reasonable, including in respect of notice, an opportunity to be heard or make representations, the keeping of a record, the giving of reasons and the provisions for appeals.

20. INFORMATION SHARING

TSX shall co-operate by the sharing of information and otherwise, with the Commission and its staff, the Canadian Investor Protection Fund and other Canadian exchanges, recognized self-regulatory organizations and regulatory authorities responsible for the supervision or regulation of securities firms and financial institutions, subject to the applicable privacy or other laws about the sharing of information and the protection of personal information.

21. LISTED COMPANY RULES

TSX shall ensure, through RS Inc. and otherwise, that it has appropriate review procedures in place to monitor and enforce issuer compliance with the Rules.

22. SELF-LISTING CONDITIONS

TSX shall be subject to the terms and conditions relating to the listing on TSX of TSX Group as are set out in the attached Appendix I, as amended from time to time.

23. OUTSOURCING

In any material outsourcing of any of its business functions with parties other than TSX Group or an affiliate or associate of TSX Group, TSX shall proceed in accordance with industry best practices. Without limiting the generality of the foregoing, TSX shall:

(a) establish and maintain policies and procedures that are approved by its board of directors for the evaluation and

approval of such material outsourcing arrangements;

(b) in entering into any such material outsourcing arrangement:

(i) assess the risk of such arrangement, the quality of the service to be provided and the degree of control to be maintained by TSX; and

(ii) execute a contract with the service provider addressing all significant elements of such arrangement, including service levels and performance standards;

(c) ensure that any contract implementing such material outsourcing arrangement that is likely to impact on TSX's regulation functions provide in effect for TSX, its agents and the Commission to be permitted to have access to and to inspect all data and information maintained by the service provider that TSX is required to share under paragraph 20 or that is required for the assessment by the Commission of the performance of TSX of its regulation functions and the compliance of TSX with the terms and conditions in Part II of this Schedule "A"; and

(d) monitor the performance of the service provided under any such material outsourcing arrangement.

24. RELATED PARTY TRANSACTIONS

Any material agreement or transaction entered into between TSX and TSX Group or any subsidiary or associate of TSX Group shall be on terms and conditions that are at least as favourable to TSX as market terms and conditions.

25. CLEARING AND SETTLEMENT

The Rules impose a requirement on Participating Organizations to have appropriate arrangements in place for clearing and settlement through a clearing agency recognized by the Commission.

APPENDIX I

Listing-Related Conditions

1. UNDERLYING PRINCIPLES

1.1. TSX carries on the business of the Toronto Stock Exchange.

1.2. TSX Group proposes to become a listed company on TSX, which will be wholly-owned by TSX Group.

1.3. TSX will report to the Director (the "Director") of the Ontario Securities Commission ("OSC") or other members of the staff of the OSC certain matters provided for in this Appendix I (the "Listing-Related Procedures") with respect to TSX Group or certain other TSX-listed issuers that raise issues of conflict of interest or potential conflict of interest for TSX.

1.4. The purpose of this reporting process is to ensure that TSX follows appropriate standards and procedures with respect to the initial and continued listing of TSX Group and Competitors, to ensure that TSX Group is dealt with appropriately in relation to, and Competitors are treated fairly and not disadvantaged by, TSX Group's listing on TSX. For purposes of these Listing- Related Procedures, "Competitor" means any person, the consolidated business and operations or the disclosed business plans of which are in competition, to a significant extent, with the listing functions, trading functions, market data services or other material line of business of TSX Group or its affiliates.

2. INITIAL LISTING ARRANGEMENTS

2.1. TSX will review, in accordance with its procedures, the TSX Group initial listing application. A copy of the application will be provided by TSX to the OSC's Director, Corporate Finance at the same time that the application is filed with TSX.

2.2. Upon completing its review of the application and after allowing TSX Group to address any deficiencies noted by TSX, TSX will provide a summary report to the OSC's Director, Corporate Finance, with its recommendation for listing approval, if made. The summary report will provide details of any aspects of the application that were atypical as well as any issues raised in the process that required the exercise of discretion by TSX. Any related staff memoranda, analysis, recommendations and decisions not included in the summary report will be attached for review by the OSC's Director, Corporate Finance. A copy of TSX's current listing manual will also be provided to the OSC's Director, Corporate Finance.

2.3. The OSC's Director, Corporate Finance will have the right to approve or disapprove the listing of the TSX Group shares. In the event of disapproval, TSX Group will have the opportunity to address the concerns of the OSC's Director, Corporate Finance and may resubmit an amended application for listing, or amended parts thereof, to TSX, which will provide a revised summary report and any new materials to the OSC's Director, Corporate Finance in accordance with section 2.2, along with a copy of the amended application.

3. CONFLICTS COMMITTEE

3.1. TSX will establish a committee (the "Conflicts Committee") that will review any matters brought before it regarding a conflict of interest or potential conflict of interest relating to the continued listing on TSX of TSX Group or the initial listing or continued listing of Competitors (each, a "Conflict of Interest"). Without limiting the generality of the above sentence, continued listing matters include the following:

(a) matters relating to the continued listing of TSX Group or a Competitor or of a listing of a different class or series of securities of TSX Group or a Competitor than a class or series already listed;

(b) any exemptive relief applications of, or approvals applied for by, TSX Group or a Competitor;

(c) any other requests made by TSX Group or a Competitor that require discretionary involvement by TSX; and

(d) any listings matter related to a TSX-listed issuer or listing applicant that asserts that it is a Competitor.

3.2. Notwithstanding section 3.1, where a Competitor certifies to TSX that information required to be disclosed to the Conflicts Committee or TSX in connection with an initial listing or continued listing matter of the Competitor is competitively sensitive and the disclosure of that information would in its reasonable view put it at a competitive disadvantage with respect to TSX Group, TSX will refer the matter to the Director, requesting that the Director review issues relating to the competitively sensitive information. The Conflicts Committee shall consider all other aspects of the matter in accordance with the procedures set out in section 3.8. In addition, at any time that a Competitor believes that it is not being treated fairly by TSX as a result of TSX being in a conflict of interest position, TSX will refer the matter to the Director.

3.3. In any initial listing or continued listing matter of a Competitor, the Competitor may waive the application of these Listing-Related Procedures by providing a written waiver to TSX and the Director. Where a waiver is provided, TSX will deal with the initial listing or continued listing matter in the ordinary course as if no Conflict of Interest exists.

3.4. The Conflicts Committee will be composed of: the Chief Executive Officer of TSX, the general counsel of TSX (the "Committee Secretary"), the senior officer responsible for listings of each of TSX and TSX Venture Exchange Inc., the senior officer responsible for trading operations of TSX, a senior management representative of Market Regulation Services Inc. and two other persons who shall be independent of TSX (as independent is defined in paragraph 1(a) of Schedule "A" of the terms and conditions of the recognition order). At least one such independent member must participate in meetings of the Conflicts Committee, in order for there to be a quorum.

3.5. TSX shall use its best efforts to instruct senior management and relevant staff at TSX, and relevant senior management and staff at RS, in order that they are alerted to, and are able to identify, Conflicts of Interest which may exist or arise in the course of the performance of their functions. Without limiting the generality of the foregoing:

3.5.1. TSX shall provide instruction that any matter concerning TSX Group that is brought to the attention of staff at TSX must be immediately brought to the attention of the Committee Secretary.

3.5.2. TSX shall maintain a list in an electronic format, to be updated regularly and in any event at least monthly and reviewed and approved by the Conflicts Committee at least monthly, of all Competitors that are TSX-listed issuers, and shall promptly after the above-noted approval by the Conflicts Committee provide the current list to managers at TSX and RS who supervise departments that (i) review continuous disclosure; (ii) review requests/applications for exemptive relief; (iii) perform timely disclosure and monitoring functions relating to TSX-listed issuers; and (iv) otherwise perform tasks and/or make decisions of a discretionary nature. In maintaining this list, TSX shall ensure that senior executives in the issuer services division of TSX regularly prepare and review and update the list and provide it promptly to the Conflicts Committee.

3.5.3. TSX shall provide instruction to staff at TSX that any initial listing or continued listing matter or a complaint of a Competitor or of any TSX-listed issuer or listing applicant that asserts that it is a

Competitor must be immediately brought to the attention of the Committee Secretary.

3.5.4. TSX shall provide to staff who review initial listing applications and to senior executives in the issuer services division of TSX a summary of the types of businesses undertaken to a significant degree by TSX Group or its affiliates and shall update the list as these businesses change, in order that initial listings staff and senior executives in the issuer services division of TSX may recognize a Competitor.

3.6. The Committee Secretary shall convene a meeting of the Conflicts Committee to be held no later than one business day after a Conflict of Interest has been brought to his or her attention. The Committee Secretary or any member of the Conflicts Committee may also convene a meeting of the Conflicts Committee whenever he or she sees fit, in order to address any conflict issues that may not be related to any one specific matter or issuer.

3.7. TSX shall, at the time a Conflicts Committee meeting is called in response to a Conflict of Interest, immediately notify the OSC's Manager of Market Regulation that it has received notice of a Conflict of Interest and shall provide with such notice: (i) a written summary of the relevant facts; and (ii) an indication of the required timing for dealing with the matter.

3.8. The Conflicts Committee will consider the facts and form an initial determination with respect to the matter. The Conflicts Committee will then proceed as follows depending on the circumstances:

3.8.1. If the Conflicts Committee determines that a conflict of interest relating to the continued listing on TSX of TSX Group or the initial or continued listing of a Competitor on TSX does not exist and is unlikely to arise, it will notify the OSC's Manager of Market Regulation of this determination. If the OSC's Manager of Market Regulation approves such determination, TSX will deal with the matter in its usual course. When it has dealt with the matter, a brief written record of such determination with details of the analysis undertaken, and the manner in which the matter was disposed of, will be made by TSX and provided to the OSC's Manager of Market Regulation. If the OSC's Manager of Market Regulation does not approve the determination and provides notice of such non-approval to TSX, TSX will follow the procedures set out in section 3.8.2.

3.8.2. If the Conflicts Committee determines that a conflict of interest relating to the continued listing on TSX of TSX Group or the initial or continued listing of a Competitor on TSX does exist or is likely to arise or if TSX is provided non-approval notice from the OSC's Manager of Market Regulation under section 3.8.1, TSX shall: (i) formulate a written recommendation of how to deal with the matter; and (ii) provide its recommendation to the OSC's Manager of Market Regulation for his or her approval, together with a summary of the issues raised and details of any analysis undertaken. If the OSC's Manager of Market Regulation approves the recommendation, TSX will take steps to implement the terms of its recommendation.

3.9. Where the OSC's Manager of Market Regulation has considered the circumstances of an issue based on the information provided to him or her by the Conflicts Committee under section 3.8.2, and has determined that he or she does not agree with TSX's recommendation (i) and has requested that TSX reformulate its recommendation, TSX shall do so; or (ii) the OSC's Manager of Market Regulation may direct TSX to take such other action as he or she considers appropriate in the circumstances.

3.10. Where the OSC's Manager of Market Regulation or the Director is requested to review a matter pursuant to section 3.9 or 3.2, respectively, TSX shall provide to the OSC's Manager of Market Regulation or the Director any relevant information in its possession and, if requested by the OSC's Manager of Market Regulation or the Director, any other information in its possession, in order for the OSC's Manager of Market Regulation or the Director to review or, if appropriate, make a determination regarding the matter, including any notes, reports or information of TSX regarding the issue, any materials filed by the issuer or issuers involved, any precedent materials of TSX, and any internal guidelines of TSX. TSX shall provide its services to assist the matter, if so requested by the OSC's Manager of Market Regulation or by the Director.

3.11. TSX will provide to the OSC's Manager of Continuous Disclosure a copy of TSX Group's annual questionnaire and any other TSX Group disclosure documents that are filed with TSX but not with the OSC's Continuous Disclosure department. TSX will conduct its usual review process in connection with TSX Group's annual questionnaire and all prescribed periodic filings of

TSX Group. Any deficiencies or irregularities in TSX Group's annual questionnaire or other TSX-issuer prescribed filings will be communicated to the OSC's Manager of Continuous Disclosure and brought to the attention of the Conflicts Committee which shall follow the procedures outlined in this section 3.

4. TIMELY DISCLOSURE AND MONITORING OF TRADING

4.1. TSX shall use its best efforts to ensure that RS at all times is provided with the current list of the TSX-listed issuers that are Competitors.

5. MISCELLANEOUS

5.1. Information provided by a Competitor in connection with an initial listing or continued listing matter to the Conflicts Committee will not be used by TSX for any purpose other than addressing Conflicts of Interest. TSX will not disclose any confidential information obtained under these Listing-Related Procedures to a third party other than the OSC unless:

(a) prior written consent of the other parties is obtained;

(b) it is required or authorized by law to disclose the information; or

(c) the information has come into the public domain otherwise than as a result of its breach of this clause.

5.2. TSX will provide disclosure on its website and in the TSX Company Manual to the effect that an issuer can assert that it is a Competitor and will outline the procedures for making such an assertion, including appeal procedures.

2.2.6 TSX Venture Exchange Inc. - s. 144

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

AND

IN THE MATTER OF
TSX VENTURE EXCHANGE INC.

AMENDED EXEMPTION ORDER
(Section 144)

WHEREAS Canadian Venture Exchange Inc. ("CDNX Inc.") applied to the Ontario Securities Commission (the "Commission") for and was granted on December 5, 2000 an order pursuant to section 147 of the Act (the "Initial Order") exempting CDNX Inc. from recognition under section 21 of the Act for the purposes of carrying on business as a stock exchange in Ontario;

AND WHEREAS, pursuant to section 144 of the Act, the Initial Order was revoked and another order (the "Second Order") was substituted therefore on July 31, 2001, pursuant to section 147 of the Act in connection with the transaction whereby CDNX Inc. became a wholly owned subsidiary of The Toronto Stock Exchange Inc. ("TSE Inc.") and CDNX Inc. became a for-profit corporation;

AND WHEREAS, pursuant to section 144 of the Act, the Second Order was revoked and another order (the "Existing Order") was substituted therefore on September 3, 2002, pursuant to Section 147 of the Act in connection with the reorganization of TSE Inc. and the renaming of TSE Inc. as TSX Inc. and the renaming of CDNX Inc. as TSX Venture Exchange Inc. ("TSX Venture Exchange");

AND WHEREAS the Commission considers it appropriate to issue an order that amends and restates the Existing Order to reflect the continued recognition of TSX Venture Exchange as an exchange by the Alberta Securities Commission and the British Columbia Securities Commission following changes to the definition of an independent director in the recognition orders of TSX Venture Exchange issued by the Alberta Securities Commission and the British Columbia Securities Commission.

IT IS ORDERED, pursuant to section 144 of the Act that the Existing Order be revoked and it is ordered, pursuant to section 147 of the Act, that the following be substituted therefor:

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

AND

IN THE MATTER OF
TSX VENTURE EXCHANGE INC.

AMENDED EXEMPTION ORDER
(Section 147)

WHEREAS TSX Venture Exchange Inc. ("TSX Venture Exchange") applied to the Ontario Securities Commission (the "Commission") for an order pursuant to section 147 of the Act exempting TSX Venture Exchange from recognition under section 21 of the Act for the purposes of carrying on business as a stock exchange in Ontario.

AND WHEREAS TSX Venture Exchange has represented to the Commission that:

Corporate Structure, Recognition and Services in Ontario

2.1 TSX Venture Exchange was incorporated on October 29, 1999 pursuant to the *Business* Corporations *Act* (Alberta).

2.2 On November 26, 1999, as amended on July 31, 2001, TSX Venture Exchange, formerly named Canadian Venture Exchange Inc., was recognized by the Alberta Securities Commission (the "ASC") as an exchange in Alberta under subsection 52(2) of the Securities Act (S.A. 1981, c. S-6.1, as amended) and by the British Columbia Securities Commission (the "BCSC") as an exchange in British Columbia under subsection 24(2) of the Securities Act (British Columbia), which recognition was amended and restated by the ASC and BCSC on September 3, 2002 and August 12, 2005 (together, the "Recognition Orders", which are attached as Schedules "A" and "B").

2.3 TSX Venture Exchange will operate a national exchange for junior issuers which is separate from Toronto Stock Exchange, a division of TSX Inc., and which has a separate TSX Venture Exchange brand identity. TSX Venture Exchange presently maintains offices in Calgary, Vancouver, Winnipeg, Montreal and Toronto and receives applications from issuers for listings and performs continuous listing services for issuers through all of its offices.

Regulatory Oversight

2.4 TSX Venture Exchange is subject to joint regulatory oversight by both the ASC and the BCSC.

2.5 TSX Venture Exchange is advised that the Commission, ASC and BCSC have entered into a memorandum of understanding ("MOU") respecting the continued oversight of TSX Venture Exchange by the ASC and BCSC (attached as Schedule "C") and that the existing MOU or any successor agreements, as amended from time to time, will continue to apply in respect of the regulatory oversight of TSX Venture Exchange. Under the terms of the MOU, the ASC and BCSC will continue to be responsible for conducting the regulatory oversight of TSX Venture Exchange and for conducting an oversight program of TSX Venture Exchange for the purpose of ensuring that TSX Venture Exchange meets appropriate standards for market operation and regulation.

2.6 TSX Venture Exchange provides any proposed changes to its by-laws, rules, policies, and other regulatory instruments to the ASC and BCSC for review and approval in accordance with the review and approval procedures established by the ASC and BCSC from time to time. TSX Venture Exchange will concurrently provide the Commission with copies of all by-laws, rules, policies and other regulatory instruments that it files for review and approval with the ASC and BCSC. Copies of all final by-laws, rules, policies and other regulatory instruments will also be provided to the Commission.

2.7 TSX Venture Exchange has represented to the ASC and BCSC that it will operate its exchange in accordance with the representations set forth in Schedules "A" and "B".

CDN Business

2.8 Effective September 29, 2000, TSX Venture Exchange entered into an agreement (the "Agreement") with TSX Inc. and the Canadian Dealing Network Inc. ("CDN"), a wholly-owned subsidiary of TSX Inc., pursuant to which TSX Inc. and CDN agreed to cease operating the quoted market and the reported market operated by CDN.

2.9 CDN ceased to operate the CDN quoted market in Ontario at the close of business on September 29, 2000 and TSX Venture Exchange commenced operating CDNX Tier 3 on October 2, 2000. Issuers that were quoted on CDN on September 1, 2000 or that had made a complete application to be quoted on CDN by September 1, 2000, which was subsequently approved, were eligible to be listed CDNX Tier 3.

2.10 Effective September 29, 2000 Canadian Unlisted Board, Inc. ("CUB"), a wholly-owned subsidiary of TSX Venture Exchange, TSX Venture Exchange and the Commission entered into an agreement which is attached as Schedule "D", pursuant to which CUB will operate an internet web-based reporting system for the reporting by dealers of

trading in unlisted and unquoted equity securities in Ontario.

Reporting Issuer Status and Incorporation of OSC Rule 61-501

2.11 TSX Venture Exchange has adopted certain amendments to its Corporate Finance Policies in the form attached as Schedule "E", as may be amended from time to time, which require that TSX Venture Exchange issuers that are not otherwise reporting issuers in Ontario and have a "significant connection to Ontario" make application to the Commission and become reporting issuers in Ontario.

2.12 TSX Venture Exchange has adopted Corporate Finance Policy 5.9, entitled "Insider Bids, Issuer Bids, Going Private Transactions and Related Party Transactions" in the form attached as Schedule "F".

AND UPON the Commission being satisfied that the amendment of the order granting an exemption from recognition to TSX Venture Exchange would not be contrary to the public interest.

IT IS HEREBY ORDERED that pursuant to section 147 of the Act, TSX Venture Exchange is exempt from recognition under section 21 of the Act provided that:

4.1 TSX Venture Exchange continues to be recognized as an exchange by the ASC and the BCSC in accordance with the terms and conditions set out in the Recognition Orders attached as Schedules "A" and "B".

4.2 TSX Venture Exchange continues to be subject to such joint regulatory oversight as may be established and prescribed by the ASC and BCSC from time to time;

4.3 The MOU referred to in clause 2.5 above, as may be amended from time to time, has not been terminated;

4.4 TSX Venture Exchange will not make any changes to the amendments to its Corporate Finance Policies referred to in clause 2.11 or to the Corporate Finance Policy referred to in clause 2.12 above without the prior consent of the Commission;

4.5 CUB will continue to be in compliance with the agreement referred to in clause 2.10 above until the Commission implements a local rule relating to Ontario over-the-counter trading;

4.6 TSX Venture Exchange concurrently provides to the Commission copies of all by-laws, rules, policies and other regulatory instruments that it files for review and approval with the ASC and BCSC. TSX Venture Exchange also provides to the Commission copies of all final by-laws, rules, policies and other regulatory instruments; and

4.7 TSX Venture Exchange provides to the Commission, where requested by the Commission through the ASC and the BCSC, any information in the possession of TSX Venture Exchange relating to members, shareholders and the market operations of TSX Venture Exchange, including, but not limited to, shareholder and participating organization lists, products, trading information and disciplinary decisions.

IT IS HEREBY FURTHER ORDERED that:

5.1 CUB is deemed to be in compliance with the agreement referred to in clause 4.5 above unless CUB has been provided with written notice of noncompliance and has failed to remedy the alleged non- compliance in accordance with the terms of the agreement; and

5.2 TSX Venture Exchange is deemed to be in compliance with clause 4.6 and 4.7 unless TSX Venture Exchange has been provided with written notice of non-compliance and failed to provide the documents or information within 10 business days of receipt of such written notice.

August 12, 2005.

"Susan Wolburgh Jenah"

"Paul M. Moore"

SCHEDULE "A"

Citation: TSX Venture Exchange Inc., 2005 ABASC 686

ALBERTA SECURITIES COMMISSION

RECOGNITION ORDER

Subsection 62(2) and Section 214 of the *Securities Act*, R.S.A 2000, c. S-4 (the "Act")

TSX Venture Exchange Inc.

WHEREAS by recognition order dated November 26, 1999 (the "First Recognition Order") the Alberta Securities Commission (the "Commission") recognized the Canadian Venture Exchange Inc., as an exchange in Alberta under subsection 52(2) of the *Securities Act*, S.A. 1981, c. S-6.1, as amended;

AND WHEREAS the Commission revoked and replaced the First Recognition Order with a revised recognition order dated July 31, 2001 (the "Second Recognition Order") following the acquisition of the Canadian Venture Exchange Inc. by The Toronto Stock Exchange Inc.;

AND WHEREAS the Commission revoked and replaced the Second Recognition Order with a revised recognition order dated September 3, 2002 (the "Third Recognition Order") to reflect:

(a) the name changes of The Toronto Stock Exchange Inc. to TSX Inc. ("TSX") and the Canadian Venture Exchange Inc. to TSX Venture Exchange Inc./Bourse de croissance TSX Inc. ("TSX Venture Exchange");

(b) a reorganization under which:

(i) TSX became a wholly-owned subsidiary of TSX Group Inc. ("TSX Group"), a holding company;

(ii) TSX Venture Exchange continued to be a wholly owned subsidiary of TSX; and

(iii) TSX Group agreed to provide certain corporate services, such as financial services, accounting, payroll, human resources, administration, legal and corporate information technology services, to TSX and TSX Venture Exchange; and

(c) the arrangement by which Market Regulation Services Inc. was retained as TSX Venture Exchange's regulation services provider for the performance of certain market regulation functions;

Date: 20050812

AND WHEREAS TSX Venture Exchange applied to the Commission to amend the Third Recognition Order to change the meaning of "independent" for the purpose of determining whether a director is independent;

AND WHEREAS the Commission considers it appropriate to continue its recognition of TSX Venture Exchange as an exchange following the changes to the definition of an independent director and to set out in an order the revised terms and conditions of TSX Venture Exchange's continued recognition as an exchange;

AND WHEREAS TSX Venture Exchange will continue to be subject to the joint regulatory oversight of the Commission and the British Columbia Securities Commission;

AND WHEREAS TSX Group, TSX and TSX Venture Exchange have agreed to the terms and conditions of this order;

AND WHEREAS based on the application by TSX Venture Exchange, including the representations, undertakings and acknowledgements made to the Commission by TSX Group and TSX in connection with TSX Venture Exchange's application for the Third Recognition Order, the Commission is satisfied that the continued recognition of TSX Venture Exchange as an exchange following the changes to the definition of an independent director is in the public interest:

IT IS HEREBY ORDERED that TSX Venture Exchange will continue to be recognized as an exchange in Alberta under subsection 62(2) of the Act effective as of the date hereof provided TSX Venture Exchange meets and continues to meet the revised terms and conditions set out in Schedule "A". Such recognition will continue until the Commission, after giving TSX Venture Exchange an opportunity to be heard, revokes it.

Calgary, Alberta, 12 August 2005

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

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

Schedule "A"
to Recognition Order
TSX Venture Exchange Inc.
(Amended 12 August 2005)

National junior exchange

1. TSX Venture Exchange will operate a national exchange for junior issuers under a separate brand identity and separately from the national exchange for senior issuers operated by TSX and TSX Group.

Local presence

2. TSX Venture Exchange will maintain an office in Calgary through which it will

   (a) provide corporate finance services to, and perform corporate finance functions for, its listed issuers and applicants for listing; and

   (b) perform issuer regulation functions.

3. TSX Venture Exchange will obtain, solicit and provide regional input on the development of listing and other corporate finance requirements for its listed issuers and applicants for listing.

Public interest

4. TSX Venture Exchange will operate in the public interest.

5. TSX Venture Exchange will maintain rules, policies, and other similar instruments ("Rules") that

   (a) are not contrary to the public interest;

   (b) regulate all aspects of its business and affairs; and

   (c) are appropriate to foster a vibrant and effective market for junior issuers.

6. More specifically, TSX Venture Exchange will ensure that

   (a) the Rules are designed to

      (i) ensure compliance with applicable securities legislation;

      (ii) prevent fraudulent and manipulative acts and practices;

      (iii) promote just and equitable principles of trade;

      (iv) foster co-operation and co-ordination with entities engaged in regulating, clearing, settling, processing information about, and facilitating transactions in, securities; and

      (v) provide for appropriate sanction or discipline for violation of its rules for all persons under the jurisdiction of TSX Venture Exchange and for its listed issuers;

   (b) the Rules do not

      (i) permit unreasonable discrimination between those seeking and granted access to the listing, trading and other services of TSX Venture Exchange; or

      (ii) impose any burden on competition that is not reasonably necessary or appropriate; and

   (c) the Rules are designed to ensure that the business of TSX Venture Exchange is conducted in a manner that affords protection to investors.

Regulatory functions

7. TSX Venture Exchange will continue to perform its corporate finance and issuer regulation functions, including

   (a) setting listing and other corporate finance requirements for its listed issuers and applicants for listing;

   (b) monitoring the conduct and activities of its listed issuers for compliance with its rules; and

   (c) making decisions under its Rules about its listed issuers, persons associated with its listed issuers and applicants for listing and providing for a review or appeal process for these decisions.

8. TSX Venture Exchange is and remains responsible for performing market regulation functions, including setting requirements governing the conduct of its members and participating organizations, monitoring their conduct and enforcing the requirements of TSX Venture Exchange governing their conduct.

9. TSX Venture Exchange has retained and, except with prior Commission approval, will continue to retain Market Regulation Services Inc. ("RS") as a regulation services provider to provide, as its

agent, certain regulation services that have been approved by the Commission. TSX Venture Exchange will provide to the Commission, on an annual basis, a list outlining the regulation services provided by RS and by TSX Venture Exchange. Any amendment to this list will be subject to prior Commission approval.

10. TSX Venture Exchange will continue to perform all other regulation functions not performed by RS, including its corporate finance and issuer regulation functions. TSX Venture Exchange will not perform these functions through any other party, including any of its affiliates or associates, without prior Commission approval. For greater certainty, any outsourcing of a business function that is done in accordance with paragraph 35 does not contravene this paragraph.

11. Management of TSX Venture Exchange will at least annually assess the performance by RS of its regulation services and submit a report to the board of TSX Venture Exchange with any recommendations for improvements. TSX Venture Exchange will give the Commission a copy of each report and advise the Commission of any actions it proposes to take as a result.

12. TSX Venture Exchange

    (a) will provide the Commission with an annual report in the form and with the information specified by the Commission from time to time; and

    (b) will not, without prior Commission approval, make any significant changes to the manner in which it provides and performs corporate finance services and functions and performs issuer regulation functions.

13. TSX Venture Exchange, through RS or otherwise, will ensure that its members, participating organizations and listed issuers are appropriately sanctioned or disciplined for violations of its Rules. In addition, TSX Venture Exchange will provide notice to the Commission of any violation of securities legislation of which it becomes aware in the ordinary course operation of its business.

14. TSX Venture Exchange will advise the Commission on at least a quarterly basis (or any other basis as the Commission may agree to in writing) of all significant issues arising from issuer non-compliance with TSX Venture Exchange Rules, and provide information in a form acceptable to the Commission on the issuers or other persons involved, the nature of the issues and the action taken or being taken by it to deal with the situation.

15. TSX Venture Exchange will advise the Commission in writing on at least a quarterly basis (or any other basis as the Commission may agree to in writing) of all significant exemptions or waivers of corporate finance policies and provide information on the issuers involved, the nature of the waivers or exemptions and the reasons for granting the waivers or exemptions.

Regulatory oversight

16. TSX Venture Exchange will

    (a) comply with the Rule review and approval procedures established from time to time by the Commission and the BCSC;

    (b) file with the Commission all Rules adopted by its board;

    (c) comply with the compliance or regulatory review program established from time to time by the Commission; and

    (d) permit the Commission to have access to and inspect, or provide to the Commission, all data and information in its possession that is required for the assessment by the Commission of the performance by TSX Venture Exchange of its regulation functions and its compliance with the terms of this Order.

Corporate governance

17. To ensure diversity of representation, TSX Venture Exchange will ensure that

    (a) its board is composed of individuals that provide a proper balance between the interests of the different entities using its services and facilities; and

    (b) a reasonable number and proportion of its directors are independent directors, as provided in paragraph 20.

18. TSX Venture Exchange's governance structure will provide for

    (a) fair and meaningful representation, having regard to its nature and structure, on the board and any board or advisory committee;

    (b) appropriate representation on the board and any board committees of persons that are independent directors; and

    (c) appropriate qualification, remuneration and conflict of interest provisions and limitation of liability and indemnification

protections for its directors, officers and employees generally.

19. At least 25% of the directors of TSX Venture Exchange will, at all times, be persons that have expertise in or are associated with the Canadian public venture capital market.

20. TSX Venture Exchange will ensure, on an annual basis and each time that an individual joins the board of directors, that at least fifty per cent (50%) of its directors are independent. If at any time TSX Venture Exchange fails to meet this threshold, it will promptly remedy the situation. For purposes of this recognition order, a director is independent if he or she is independent within the meaning of Section 1.4 of Multilateral Instrument 52-110 Audit Committees, as amended from time to time. The board of directors will adopt standards which may be amended from time to time with the prior approval of the Commission, setting out criteria to determine whether individuals are independent, including criteria to determine whether an individual has a material relationship with TSX Venture Exchange and is therefore considered not to be independent. The standards will be made available on TSX Venture Exchange's website.

21. TSX Venture Exchange will not, without prior Commission approval, implement any significant changes to the governance structure and practices of its board, including significant changes to the composition and terms of reference of its board committees and advisory committees.

Fitness

22. TSX Venture Exchange will take reasonable steps to ensure that each officer and director of TSX Venture Exchange is a fit and proper person and the past conduct of each officer or director affords reasonable grounds for belief that the officer or director will perform his or her duties with integrity.

Access

23. TSX Venture Exchange requirements will not unreasonably prohibit or limit access to its trading facilities by properly registered dealers that are members of a self-regulatory organization or exchange recognized in Canada and that satisfy the requirements of TSX Venture Exchange.

24. TSX Venture Exchange will not unreasonably prohibit or limit access to its services.

25. TSX Venture Exchange will maintain written standards separate from TSX for granting access to trading on its facilities.

26. TSX Venture Exchange will keep separate records of

(a) each grant of access and, for each entity granted access to its facilities, the reasons for granting access; and

(b) each denial or limitation of access and the reasons for denying or limiting access to any applicant.

Due process

27. TSX Venture Exchange shall ensure that

(a) its requirements, the limitations or conditions it imposes on access to its trading and listing facilities, and the decisions it makes to deny access are fair and reasonable;

(b) the parties are given notice and an opportunity to be heard or make representations; and

(c) it keeps a record, gives reasons and provides for reviews of its decisions.

Fees

28. TSX Venture Exchange will have a fair and appropriate process for setting fees and will determine the fees it imposes on its listed issuers, applicants for listing, members, participating organizations and other market participants.

29. These fees will

(a) be allocated on an equitable basis as among the parties noted in paragraph 28;

(b) not have the effect of creating barriers to access;

(c) be balanced with its need to have sufficient revenues to satisfy its responsibilities; and

(d) be fair, reasonable and appropriate.

Financial viability

30. TSX Venture Exchange will have sufficient financial and other resources for the performance of its functions in a manner that is consistent with the public interest and the terms and conditions of this order.

31. TSX Venture Exchange will file with the Commission annual audited financial statements prepared in accordance with generally accepted accounting principles in Canada (Canadian GAAP) and accompanied by the report of an independent auditor within 90 days of its financial year end or any shorter period provided in Alberta

securities laws for reporting issuers to file their financial statements.

32. TSX Venture Exchange will file with the Commission quarterly financial statements prepared in accordance with Canadian GAAP within 60 days of the end of each financial quarter or any shorter period provided in Alberta securities laws for reporting issuers to file their financial statements.

Systems security, capacity and sustainability

33. For each of its systems that supports order entry, order routing, execution, data feeds, trade reporting and trade comparison, capacity and integrity requirements, TSX Venture Exchange will

(a) on a reasonably frequent basis and, in any event, at least annually:

(i) make reasonable current and future capacity estimates;

(ii) conduct capacity stress tests of critical systems on a reasonably frequent basis to determine the ability of those systems to process transactions in an accurate, timely and efficient manner;

(iii) develop and implement reasonable procedures to review and keep current the development and testing methodology of those systems;

(iv) review the vulnerability of those systems and data centre computer operations to internal and external threats, including physical hazards and natural disasters; and

(v) establish reasonable contingency and business continuity plans;

(b) on an annual basis, cause to be performed an independent review, in accordance with established audit procedures and standards, of its current systems technology plans and whether there are appropriate processes in place to manage the impact of changes in technology on the exchange and parties interfacing with exchange systems and obtain a written report of the review. This will include an assessment of its controls for ensuring that each of its systems that support order entry, order routing, execution, data feeds, trade reporting and trade comparison, capacity and integrity requirements, complies with paragraph (a) above. Senior management will conduct a review of a report containing the recommendations and conclusions of the independent review; and

(c) promptly notify the Commission of material systems failures and changes.

34. If securities of issuers that are listed on TSX Venture Exchange trade on systems operated by TSX, TSX Venture Exchange will be considered to have met the requirements set out under subparagraphs (a) and (b) of paragraph 33 if TSX meets the equivalent requirements contained in the order continuing the recognition of TSX and recognizing the TSX Group issued by the OSC in conjunction with the reorganization.

Outsourcing

35. In any material outsourcing of any of its business functions with parties other than TSX Group or an affiliate or associate of TSX Group, TSX Venture Exchange will proceed in accordance with industry best practices. Without limiting the generality of the foregoing, TSX Venture Exchange will

(a) establish and maintain policies and procedures that are approved by its board of directors for the evaluation and approval of material outsourcing arrangements;

(b) in entering into any material outsourcing arrangement

(i) assess the risk of the arrangement, the quality of the service to be provided and the degree of control to be maintained by TSX Venture Exchange; and

(ii) execute a contract with the service provider addressing all significant elements of the arrangement, including service levels and performance standards;

(c) ensure that any contract implementing a material outsourcing arrangement that is likely to impact on TSX Venture Exchange's regulation functions gives TSX Venture Exchange, its agents and the Commission access to, and the right to inspect, all data and information maintained by the service provider that TSX Venture Exchange is required to share under paragraph 39 or that the

Commission requires to assess how TSX Venture Exchange is performing its regulation functions and how TSX Venture Exchange complies with these terms and conditions; and

(d) monitor the performance of the service provider under any material outsourcing arrangement.

Related party transactions

36. Any material agreement or transaction entered into between TSX Venture Exchange and

(a) TSX Group or TSX; or

(b) any affiliate or associate of TSX Group or TSX

will be on terms and conditions that are at least as favourable to TSX Venture Exchange as market terms and conditions.

Change in operations or ownership

37. TSX Venture Exchange will not cease to operate or suspend, discontinue or wind-up all or a significant portion of its operations, or dispose of all or substantially all of its assets, without

(a) providing the Commission at least six months' prior notice of its intention; and

(b) complying with any terms and conditions that the Commission may impose in the public interest for the orderly discontinuance of its operations or the orderly disposition of its assets.

38. TSX Venture Exchange will not cease to be wholly owned or directly controlled by TSX or indirectly wholly owned or controlled by TSX Group without TSX Venture Exchange

(a) providing the Commission at least three months' prior notice of its intention; and

(b) complying with any terms and conditions that the Commission may impose in the public interest.

Information sharing

39. TSX Venture Exchange will share information of a regulatory nature and will otherwise co-operate with the Commission and its staff, other exchanges and self-regulatory organizations recognized in Canada, and Canadian regulatory authorities responsible for the supervision or regulation of securities, subject to the applicable privacy or other laws about the sharing of information and the protection of personal information.

Clearing and settlement

40. TSX Venture Exchange will have rules that impose a requirement on its members and participating organizations to have appropriate arrangements in place for clearing and settlement.

Commission approval

41. When seeking the approval of the Commission under these terms and conditions, TSX Venture Exchange will comply with the procedures established from time to time by the Commission for the joint regulatory oversight of TSX Venture Exchange.

SCHEDULE "B"

COR#05/084

Recognition Order

TSX Venture Exchange Inc.

Section 24 of the *Securities Act*, RSBC 1996, c. 418

On November 26, 1999, the Commission recognized the Canadian Venture Exchange Inc. (CDNX) as an exchange in British Columbia under section 24(2) of the Act (COR#99/323).

On July 31, 2001, the Commission ordered the continued recognition of CDNX as an exchange in British Columbia under section 24(2) of the Act under certain terms and conditions effective on the closing of a transaction whereby CDNX became a wholly owned subsidiary of The Toronto Stock Exchange Inc. (TSE) and became a for-profit corporation.

On September 3, 2002, the Commission ordered the continued recognition of TSX Venture Exchange Inc. (TSX Venture Exchange) as an exchange in British Columbia under section 24 of the Act under certain terms and conditions to reflect:

(i) the name changes of The Toronto Stock Exchange Inc. to TSX Inc. (TSX) and CDNX to TSX Venture Exchange Inc./Bourse de croissance TSX Inc.; and

(ii) a reorganization under which: (a) TSX became a wholly-owned subsidiary of TSX Group Inc. (TSX Group), (b) TSX Venture Exchange continued to be a wholly owned subsidiary of TSX, and (c) TSX Group agreed to provide corporate services, such as financial services, accounting, payroll, human resources, administration, legal and corporate information technology services, to TSX and TSX Venture Exchange

(COR#02/096), and revoked COR#01/086.

TSX Venture Exchange has applied to the Commission to amend its recognition order to reflect changes to the definition of an independent director.

The Commission received representations, acknowledgments and undertakings from TSX Venture Exchange, TSX and TSX Group in connection with TSX Venture Exchange's application for COR#02/096 for continued recognition as an exchange.

TSX Venture Exchange, TSX and TSX Group have agreed to the terms and conditions set out in this order.

TSX Venture Exchange will be subject to the joint regulatory oversight of the Commission and the Alberta Securities Commission (ASC).

Based on the application of TSX Venture Exchange, including the representations, undertakings and acknowledgements made by TSX and TSX Group to the Commission in connection with the application for COR#02/096, the Commission is satisfied that the continued recognition of TSX Venture Exchange following the changes to the definition of an independent director will not be prejudicial to the public interest.

The Commission orders the continued recognition of TSX Venture Exchange as an exchange in British Columbia under section 24 of the Act provided TSX Venture Exchange meets and continues to meet the revised terms and conditions set out in Schedule A. Recognition will continue until the Commission, after giving TSX Venture Exchange an opportunity to be heard, revokes it.

This order revokes and replaces COR#02/096.

August 12, 2005

Douglas M. Hyndman
Chair

Ref: COR#02/096

Schedule A

National junior exchange

1. TSX Venture Exchange will operate a national exchange for junior issuers under a separate brand identity and separately from the national exchange for senior issuers operated by TSX and TSX Group.

Local presence

2. TSX Venture Exchange will maintain an office in Vancouver through which it will

   (a) provide corporate finance services to, and perform corporate finance functions for, its listed issuers and applicants for listing; and

   (b) perform issuer regulation functions.

3. TSX Venture Exchange will obtain, solicit and provide regional input on the development of listing and other corporate finance requirements for its listed issuers and applicants for listing.

Public interest

4. TSX Venture Exchange will operate in the public interest.

5. TSX Venture Exchange will maintain rules, policies, and other similar instruments (rules) that

   (a) are not contrary to the public interest;

   (b) regulate all aspects of its business and affairs; and

   (c) are appropriate to foster a vibrant and effective market for junior issuers.

6. More specifically, TSX Venture Exchange will ensure that

   (a) the rules are designed to

      (i) ensure compliance with applicable securities legislation;

      (ii) prevent fraudulent and manipulative acts and practices;

      (iii) promote just and equitable principles of trade;

      (iv) foster co-operation and co-ordination with entities engaged in regulating, clearing, settling, processing information about, and facilitating transactions in, securities; and

      (v) provide for appropriate sanction or discipline for violation of its rules for all persons under the jurisdiction of TSX Venture Exchange and for its listed issuers;

   (b) the rules do not

      (i) permit unreasonable discrimination between those seeking and granted access to the listing, trading and other services of TSX Venture Exchange; or

      (ii) impose any burden on competition that is not reasonably necessary or appropriate; and

   (c) the rules are designed to ensure that the business of TSX Venture Exchange is conducted in a manner that affords protection to investors.

Regulation functions

7. TSX Venture Exchange will continue to perform its corporate finance and issuer regulation functions, including

   (a) setting listing and other corporate finance requirements for its listed issuers and applicants for listing;

   (b) monitoring the conduct and activities of its listed issuers for compliance with its rules; and

   (c) making decisions under its rules about its listed issuers, persons associated with its listed issuers and applicants for listing and providing for a review or appeal process for these decisions.

8. TSX Venture Exchange is and remains responsible for performing market regulation functions, including setting requirements governing the conduct of its members and participating organizations, monitoring their conduct and enforcing the requirements of TSX Venture Exchange governing their conduct.

9. TSX Venture Exchange has retained and, except with prior Commission approval, will continue to retain Market Regulation Services Inc. (RS) as a regulation services provider to provide, as its agent, certain regulation services that have been approved by the Commission. TSX Venture Exchange will provide to the Commission, on an annual basis, a list outlining the regulation services provided by RS and by TSX Venture

Exchange. Any amendment to this list will be subject to prior Commission approval.

10. TSX Venture Exchange will continue to perform all other regulation functions not performed by RS, including its corporate finance and issuer regulation functions. TSX Venture Exchange will not perform these functions through any other party, including any of its affiliates or associates, without prior Commission approval. For greater certainty, any outsourcing of a business function that is done in accordance with paragraph 35 does not contravene this paragraph.

11. Management of TSX Venture Exchange will at least annually assess the performance by RS of its regulation services and submit a report to the board of TSX Venture Exchange with any recommendations for improvements. TSX Venture Exchange will give the Commission a copy of each report and advise the Commission of any actions it proposes to take as a result.

12. TSX Venture Exchange

    (a) will provide the Commission with an annual report in the form and with the information specified by the Commission from time to time; and

    (b) will not, without prior Commission approval, make any significant changes to the manner in which it provides and performs corporate finance services and functions and performs issuer regulation functions.

13. TSX Venture Exchange, through RS or otherwise, will ensure that its members, participating organizations and listed issuers are appropriately sanctioned or disciplined for violations of its rules. In addition, TSX Venture Exchange will provide notice to the Commission of any violation of securities legislation of which it becomes aware in the ordinary course operation of its business.

14. TSX Venture Exchange will advise the Commission on at least a quarterly basis (or any other basis as the Commission may agree to in writing) of all significant issues arising from issuer non-compliance with TSX Venture Exchange rules, and provide information in a form acceptable to the Commission on the issuers or other persons involved, the nature of the issues and the action taken or being taken by it to deal with the situation.

15. TSX Venture Exchange will advise the Commission in writing on at least a quarterly basis (or any other basis as the Commission may agree to in writing) of all significant exemptions or waivers of corporate finance policies and provide information on the issuers involved, the nature of the waivers or exemptions and the reasons for granting the waivers or exemptions.

Regulatory oversight

16. TSX Venture Exchange will comply with the rule review and approval procedures established from time to time by the Commission and the ASC. TSX Venture Exchange will file with the Commission all rules adopted by its board.

Corporate governance

17. To ensure diversity of representation, TSX Venture Exchange will ensure that

    (a) its board is composed of individuals that provide a proper balance between the interests of the different entities using its services and facilities; and

    (b) a reasonable number and proportion of its directors are independent directors, as provided in paragraph 20.

18. TSX Venture Exchange's governance structure will provide for

    (a) fair and meaningful representation, having regard to its nature and structure, on the board and any board or advisory committee;

    (b) appropriate representation on the board and any board committees of persons that are independent directors; and

    (c) appropriate qualification, remuneration and conflict of interest provisions and limitation of liability and indemnification protections for its directors, officers and employees generally.

19. At least 25% of the directors of TSX Venture Exchange will, at all times, be persons that have expertise in or are associated with the Canadian public venture capital market.

20. TSX Venture Exchange will ensure, on an annual basis and each time that an individual joins the board of directors, that at least fifty per cent (50%) of its directors are independent. If at any time TSX Venture Exchange fails to meet this threshold, it will promptly remedy the situation. For purposes of this recognition order, a director is independent if he or she is independent within the meaning of Section 1.4 of Multilateral Instrument 52-110 Audit Committees, as amended from time to time, and as enacted or adopted by Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Québec, Saskatchewan and Yukon, and adopted by informal policy in Prince Edward

Island. The board of directors will adopt standards which may be amended from time to time with the prior approval of the Commission, setting out criteria to determine whether individuals are independent, including criteria to determine whether an individual has a material relationship with TSX Venture Exchange and is therefore considered not to be independent. The standards will be made available on TSX Venture Exchange's website.

21. TSX Venture Exchange will not, without prior Commission approval, implement any significant changes to the governance structure and practices of its board, including significant changes to the composition and terms of reference of its board committees and advisory committees.

Fitness

22. TSX Venture Exchange will take reasonable steps to ensure that each officer and director of TSX Venture Exchange is a fit and proper person and the past conduct of each officer or director affords reasonable grounds for belief that the officer or director will perform his or her duties with integrity.

Access

23. TSX Venture Exchange requirements will not unreasonably prohibit or limit access to its trading facilities by properly registered dealers that are members of a self-regulatory organization or exchange recognized in Canada and that satisfy the requirements of TSX Venture Exchange.

24. TSX Venture Exchange will not unreasonably prohibit or limit access to its services.

25. TSX Venture Exchange will maintain written standards separate from TSX for granting access to trading on its facilities.

26. TSX Venture Exchange will keep separate records of

    (a) each grant of access and, for each entity granted access to its facilities, the reasons for granting access; and

    (b) each denial or limitation of access and the reasons for denying or limiting access to any applicant.

Due process

27. TSX Venture Exchange will ensure that

    (a) its requirements, the limitations or conditions it imposes on access to its trading and listing facilities, and the decisions it makes to deny access are fair and reasonable;

    (b) the parties are given notice and an opportunity to be heard or make representations; and

    (c) it keeps a record, gives reasons and provides for reviews of its decisions.

Fees

28. TSX Venture Exchange will have a fair and appropriate process for setting fees and will determine the fees it imposes on its listed issuers, applicants for listing, members, participating organizations and other market participants.

29. These fees will

    (a) be allocated on an equitable basis as among the parties noted in paragraph 28;

    (b) not have the effect of creating barriers to access;

    (c) be balanced with its need to have sufficient revenues to satisfy its responsibilities; and

    (d) be fair, reasonable and appropriate.

Financial viability

30. TSX Venture Exchange will have sufficient financial and other resources for the performance of its functions in a manner that is consistent with the public interest and the terms and conditions of this order.

31. TSX Venture Exchange will file with the Commission annual audited financial statements prepared in accordance with generally accepted accounting principles in Canada (Canadian GAAP) and accompanied by the report of an independent auditor within 90 days of its financial year end or any shorter period provided in British Columbia securities legislation for reporting issuers to file their financial statements.

32. TSX Venture Exchange will file with the Commission quarterly financial statements prepared in accordance with Canadian GAAP within 60 days of the end of each financial quarter or any shorter period provided in British Columbia securities legislation for reporting issuers to file their financial statements.

System security, capacity and sustainability

33. For each of its systems that supports order entry, order routing, execution, data feeds, trade

reporting and trade comparison, capacity and integrity requirements, TSX Venture Exchange will

(a) on a reasonably frequent basis and, in any event, at least annually:

(i) make reasonable current and future capacity estimates;

(ii) conduct capacity stress tests of critical systems on a reasonably frequent basis to determine the ability of those systems to process transactions in an accurate, timely and efficient manner;

(iii) develop and implement reasonable procedures to review and keep current the development and testing methodology of those systems;

(iv) review the vulnerability of those systems and data centre computer operations to internal and external threats, including physical hazards and natural disasters; and

(v) establish reasonable contingency and business continuity plans;

(b) on an annual basis, cause to be performed an independent review, in accordance with established audit procedures and standards, of its current systems technology plans and whether there are appropriate processes in place to manage the impact of changes in technology on the exchange and parties interfacing with exchange systems and obtain a written report of the review. This will include an assessment of its controls for ensuring that each of its systems that support order entry, order routing, execution, data feeds, trade reporting and trade comparison, capacity and integrity requirements, complies with paragraph (a) above. Senior management will conduct a review of a report containing the recommendations and conclusions of the independent review; and

(c) promptly notify the Commission of material systems failures and changes.

34. If securities of issuers that are listed on TSX Venture Exchange trade on systems operated by TSX, TSX Venture Exchange will be considered to have met the requirements set out under sub-paragraphs (a) and (b) of paragraph 33 if TSX meets the equivalent requirements contained in the order continuing the recognition of TSX and recognizing TSX Group issued by the OSC in conjunction with the reorganization.

Outsourcing

35. In any material outsourcing of any of its business functions, with parties other than TSX Group or an affiliate or associate of TSX Group, TSX Venture Exchange will proceed in accordance with industry best practices. Without limiting the generality of the foregoing, TSX Venture Exchange will

(a) establish and maintain policies and procedures that are approved by its board of directors for the evaluation and approval of material outsourcing arrangements;

(b) in entering into any material outsourcing arrangement

(i) assess the risk of the arrangement, the quality of the service to be provided and the degree of control to be maintained by TSX Venture Exchange; and

(ii) execute a contract with the service provider addressing all significant elements of the arrangement, including service levels and performance standards;

(c) ensure that any contract implementing a material outsourcing arrangement that is likely to impact on TSX Venture Exchange's regulation functions gives TSX Venture Exchange, its agents and the Commission access to, and the right to inspect, all data and information maintained by the service provider that TSX Venture Exchange is required to share under paragraph 39 or that the Commission requires to assess how TSX Venture Exchange is performing its regulation functions and how TSX Venture Exchange complies with these terms and conditions; and

(d) monitor the performance of the service provider under any material outsourcing arrangement.

Related party transactions

36. Any material agreement or transaction entered into between TSX Venture Exchange and

(a) TSX Group or TSX, or

(b) any affiliate or associate of TSX Group or TSX

will be on terms and conditions that are at least as favourable to TSX Venture Exchange as market terms and conditions.

Change in operations or ownership

37. TSX Venture Exchange will not cease to operate or suspend, discontinue or wind-up all or a significant portion of its operations, or dispose of all or substantially all of its assets, without

(a) providing the Commission at least six months' prior notice of its intention; and

(b) complying with any terms and conditions that the Commission may impose in the public interest for the orderly discontinuance of its operations or the orderly disposition of its assets.

38. TSX Venture Exchange will not cease to be wholly owned or directly controlled by TSX or indirectly wholly owned or controlled by TSX Group without TSX Venture Exchange

(a) providing the Commission at least three months' prior notice of its intention; and

(b) complying with any terms and conditions that the Commission may impose in the public interest.

Information sharing

39. TSX Venture Exchange will share information of a regulatory nature and will otherwise co-operate with the Commission and its staff, other exchanges and self-regulatory organizations recognized in Canada, and Canadian regulatory authorities responsible for the supervision or regulation of securities, subject to the applicable privacy or other laws about the sharing of information and the protection of personal information.

Clearing and settlement

40. TSX Venture Exchange will have rules that impose a requirement on its members and participating organizations to have appropriate arrangements in place for clearing and settlement.

Commission approval

41. When seeking the approval of the Commission under these terms and conditions, TSX Venture Exchange will comply with the procedures established from time to time by the Commission for the joint regulatory oversight of TSX Venture Exchange.

SCHEDULE "C"

Memorandum of Understanding about the Oversight of Exchanges and Quotation and Trade Reporting Systems

among:

Alberta Securities Commission (ASC)
British Columbia Securities Commission (BCSC)
Commission des valeurs mobilières du Québec (CVMQ)
Ontario Securities Commission (OSC)
and
Manitoba Securities Commission (MSC)

The parties agree as follows:

1. Underlying Principles

(a) Each recognized exchange (Exchange) and recognized quotation and trade reporting system (QTRS) has a lead regulator (Lead Regulator) responsible for its oversight and may have one or more exempting regulators (Exempting Regulator). In certain circumstances, an Exchange or QTRS may have a regulator that is neither a Lead Regulator nor an Exempting Regulator (Participating Regulator). A Participating Regulator has the same rights as an Exempting Regulator under this Memorandum of Understanding (MOU). The current list of Exchanges and QTRSs and their Lead Regulators, Exempting Regulators and Participating Regulators is attached as Appendix A, which may be amended from time to time.

(b) The Exempting Regulator of an Exchange or QTRS has exempted or will exempt it from recognition as an Exchange or QTRS on the basis that:

(i) the Exchange or QTRS is and will continue to be recognized by the Lead Regulator as an Exchange, QTRS or, in Québec, as a self-regulatory organization;

(ii) the Lead Regulator is responsible for conducting the regulatory oversight of the Exchange or QTRS; and

(iii) the Lead Regulator will inform the Exempting Regulator of its oversight activities and the Exempting Regulator will have the opportunity to raise issues concerning the oversight of the Exchange or QTRS with the Lead Regulator in accordance with this MOU.

(c) The Lead Regulator is responsible for conducting an oversight program (the Oversight Program)[1] of the Exchange or QTRS that will include the matters described in Part 2.

(d) The purpose of the Oversight Program is to ensure that each Exchange and QTRS meets appropriate standards for market operation and regulation. Those standards include:

(i) fair access for issuers and market participants;

(ii) fair representation in corporate governance and rule-making;

(iii) systems and financial capacity to carry out its regulatory functions;

(iv) orderly markets through appropriate review of traded products and trading rules;

(v) appropriate listed or quoted company regulation;

(vi) transparency through timely access to relevant information on traded products and market prices;

(vii) market integrity through the adoption of rules that prohibit unfair trading practices and monitoring and enforcing these rules;

(viii) proper identification and management of risks, including credit risks related to market participants; and

(ix) integration with effective clearing and settlement systems.

(e) The parties will act in good faith to resolve issues raised by any Exempting Regulator in connection with the Oversight Program carried out by the Lead Regulator.

(f) The parties acknowledge that, with the consent of the relevant Lead Regulator and Exempting Regulators, the securities commissions of any other jurisdiction where an Exchange or QTRS is recognized or exempted from recognition may become a party to this MOU.

[1] The matters outlined in the Oversight Program are intended to prescribe the minimum level of oversight of an Exchange or QTRS. The Lead Regulator may conduct additional review procedures. The purpose of specifying the Oversight Program is to ensure that each participant in the MOU is comfortable that there is acceptable oversight of the Exchange or QTRS. This in turn justifies reliance on the Lead Regulator.

(g) This MOU is the successor to any prior MOU regarding the oversight of an Exchange or QTRS[2] entered into between any of the parties to this agreement.

2. Oversight Program

(a) The Lead Regulator will establish and conduct the Oversight Program. At a minimum, the Oversight Program will include the following:

(i) Review of information filed by the Exchange or QTRS on critical financial and operational matters and significant changes to operations, including information related to:

(A) affiliated entities;

(B) operation of systems and technological capacity;

(C) financial statements;

(D) access requirements and forms;

(E) corporate finance policies, including listing, quoting and filing requirements; and

(F) corporate governance, including board and committee composition, structure, mandate and function.

(ii) Review and approval of changes to Exchange or QTRS by-laws, rules, policies, and other similar instruments (Regulatory Instruments) under the procedures established by the Lead Regulator from time to time. The current procedures are identified in Appendix B, which may be amended from time to time.

(iii) Periodic examination of Exchange or QTRS functions, including:

(A) corporate finance policies: policies relating to minimum listing or quoting requirements, continuing listing or quoting requirements or tier maintenance requirements, sponsorship and continuous disclosure;

(B) trading halts, suspensions and de-listing procedures;

(C) surveillance and enforcement: procedures for detection of non-compliance and resolution of outstanding issues;

(D) access: requirements for access to trade through the facilities of the Exchange or QTRS;

(E) information transparency: procedures for the dissemination of market information;

(F) corporate governance: corporate governance procedures, including policy and rule making process; and

(G) risk management and computer systems.

(b) The Lead Regulator will retain sole discretion regarding the manner in which the Oversight Program is carried out, including determining the order and timing of its examinations of the functions under section 2(a)(iii). However, the Lead Regulator will perform the examinations of these functions at least once every three years. The Lead Regulator will provide to each Exempting Regulator a copy of the report of the examination performed under section 2(a)(iii) and any responses of the Exchange or QTRS to the report.

3. Involvement of an Exempting Regulator

(a) The Lead Regulator acknowledges that an Exempting Regulator may require that the Exchange or QTRS provide to the Exempting Regulator:

(i) copies of all Regulatory Instruments that the Exchange or QTRS files for review and approval with the Lead Regulator under the Lead Regulator's procedures referred to in section 2(a)(ii) at the same time that the Exchange or QTRS files the Regulatory Instruments with the Lead Regulator;

(ii) copies of all final Regulatory Instruments once approved by the Lead Regulator under the procedures outlined in section 2(a)(ii); and

(iii) if requested by the Exempting Regulator, copies of information filed by the Exchange or QTRS pursuant to section 2(a)(i) as identified in the request.

(b) If an Exempting Regulator advises the Lead Regulator that it has specific concerns regarding

[2] As of September 3, 2002, no prior MOU exists for the oversight of a QTRS.

the operations of the Exchange or QTRS in the jurisdiction of the Exempting Regulator and requests that the Lead Regulator perform an examination of the Exchange or QTRS in that jurisdiction, the Lead Regulator may determine to conduct an examination of

(i) the office of the Exchange or QTRS in the jurisdiction of the Exempting Regulator; or

(ii) a function performed by an Exchange or QTRS office in that jurisdiction.

The Exempting Regulator may, as part of its request, ask that the Lead Regulator include staff of the Exempting Regulator in the Lead Regulator's examination. The Lead Regulator may, as a condition of performing the examination, request the assistance of staff of the Exempting Regulator in which case the Exempting Regulator will use its best efforts to provide this assistance.

(c) If the Lead Regulator advises the Exempting Regulator that it cannot or will not conduct the examination referred to in section 3(b), the Exempting Regulator may conduct the examination without the participation of the Lead Regulator. In that case, the Exempting Regulator will provide copies of the results of the examination to the Lead Regulator.

(d) If issuers or parties that are directly affected by a decision of the Exchange or QTRS in the jurisdiction of an Exempting Regulator appeal that decision to the Lead Regulator or request a hearing and review of that decision by the Lead Regulator, the Lead Regulator will provide videoconferencing facilities or other electronic equipment as necessary and appropriate to permit and facilitate the participation of the parties in the proceedings from, at or near the office of the Exchange or QTRS in the jurisdiction of the Exempting Regulator. The Lead Regulator will also provide simultaneous translation facilities or other facilities necessary and appropriate to permit the participation of the parties in the proceedings in French or English, at their request.

(e) The Lead Regulator will inform each Exempting Regulator in writing of any material changes in how it performs its obligations under this MOU.

4. Information Sharing

(a) The Lead Regulator will, upon written request from an Exempting Regulator, provide or request the Exchange or QTRS to provide to the Exempting Regulator any information about the marketplace participants, the shareholders and the market operations of the Exchange or QTRS. This would include shareholder and participating organization lists, product and trading information and disciplinary decisions.

(b) In specific circumstances, the Lead Regulator may agree to provide additional information to parties to the MOU. The current circumstances in which the Lead Regulator would provide additional information and the information the Lead Regulator would provide are set out in Appendix C, which may be amended from time to time.

5. Oversight Committee

(a) The parties to the MOU will continue to participate in a committee that will act as a forum and venue for the discussion of issues, concerns and proposals related to the oversight of marketplaces by the parties (Oversight Committee).

(b) The Oversight Committee will include staff representatives from each of the Lead Regulators and the Exempting Regulators who have responsibility and/or expertise in the areas of marketplace oversight and market regulation.

(c) The Oversight Committee will meet at least once annually in person and will conduct conference calls at least quarterly.

(d) At least quarterly, the parties will provide to the Oversight Committee a summary report on their oversight activities that will include a summary description of any material changes made to their oversight program during the period.

(e) At least annually, the Oversight Committee will provide to the Canadian Securities Administrators a written report of the oversight activities of the committee members during the previous period.

6. Issues Forum

(a) The parties acknowledge that:

(i) more than one Exchange or QTRS may submit the same Regulatory Instruments to different Lead Regulators for review and approval at the same time; or

(ii) one Exchange or QTRS may submit a Regulatory Instrument to its Lead Regulator for review and approval that is the same as an existing Regulatory Instrument adopted by a different Exchange or QTRS with a different Lead Regulator.

(b) In the event the circumstances set out in section 6(a) arise, the Lead Regulators will act in good faith to resolve the issues raised by any of the parties in order to achieve consistent results among the Lead Regulators.

(c) The parties to this MOU will establish a committee of Commissioners (the "Issues Forum") that will attempt to establish a consensus between Lead Regulators on any issue in dispute under section 6(a). The Issues Forum will make recommendations to the various commissions. Staff of any of the Lead Regulators involved in a dispute or disagreement may submit the issue in dispute or the matter causing the disagreement to the Issues Forum.

(d) The Issues Forum will include one Commissioner from each jurisdiction that is a party to this MOU. For purposes of this section, the joint Lead Regulators of the TSX Venture Exchange Inc. (formerly the Canadian Venture Exchange Inc.) (TSXV) will be considered to be separate parties.

7. Waiver and Termination

(a) The terms, conditions and procedures of this MOU may be varied or waived by mutual agreement of the parties. A waiver or variation may be specific or general and may be for a time or for all time, as mutually agreed by the parties.

(b) If the Lead Regulator or an Exempting Regulator of an Exchange or QTRS believes that another party is not satisfactorily performing its obligations under this MOU, it may give written notice to the other party stating that belief and providing particulars in reasonable detail of the alleged failure to perform. If the party receiving the notice has not satisfied the notifying party within two months of the delivery of the notice either that its performance is satisfactory or that it has taken or will take acceptable steps to rectify its performance, the notifying party may by written notice to the other party terminate this MOU as it relates to that Exchange or QTRS on a date not less than six months following delivery of the notice. In that case, the notifying party will send to the Exchange or QTRS a copy of its notice of termination at the same time it sends the notice to the other party or parties.

(c) In the event any significant change to the ownership, structure or operations of an Exchange or QTRS affects the oversight of the Exchange or QTRS, a Lead Regulator or any Exempting Regulator may give written notice to the other parties stating its concerns. If a resolution cannot be reached within two months of the delivery of the notice, the notifying party may by written notice to the other parties terminate this MOU as it relates to the Exchange or QTRS on a date not less than six months following delivery of the notice. In that case, the notifying party will send to the Exchange or QTRS a copy of its notice of termination at the same time it sends the notice to the other parties.

(d) For purposes of this Part, the joint Lead Regulators of the TSXV will be considered one party.

8. Amendments to Appendices

The parties agree that the appendices to this MOU may be amended from time to time.

9. Effective Date

In order to have a coordinated effective date, in Alberta, British Columbia, Ontario and Manitoba, this MOU comes into effect on the date it is approved by the Minister of Finance in Ontario. In Québec, the MOU comes into effect on the date the CVMQ executes the MOU.

Alberta Securities Commission
Per: _____
Title: _____

Commission des valeurs mobilières du Québec
Per: _____
Title: _____

British Columbia Securities Commission
Per: _____
Title: _____

Ontario Securities Commission
Per: _____
Title: _____

Manitoba Securities Commission
Per: _____
Title: _____

Appendix A

List of Lead Regulators and Exempting Regulators
(Information as of September 3, 2002)

1. **TSX Venture Exchange Inc.** (formerly Canadian Venture Exchange Inc.)

   a. *Lead Regulator* - The ASC and BCSC act jointly as the Lead Regulator for TSX Venture Exchange Inc.

   b. *Exempting Regulators* **-** CVMQ, OSC, and MSC

2. **TSX Inc.** (formerly The Toronto Stock Exchange Inc.)

   a. *Lead Regulator* - OSC

   b. *Exempting Regulator* - BCSC, CVMQ and ASC

3. **Bourse de Montréal Inc.**

   a. *Lead Regulator* - CVMQ

   b. *Exempting Regulator* - OSC

4. **Winnipeg Commodity Exchange Inc.**

   a. Lead Regulator - MSC

   b. *Participating Regulator*[3] - OSC

Appendix B

Procedures for Review and Approval of Changes to Regulatory Instruments
(information as of September 3, 2002)

1. **TSX Venture Exchange Inc.** - The current procedures are set out in letters dated November 26, 1999 and February 24, 2000.

2. **TSX Inc.** - The current procedures are set out by protocol dated October 23, 1997 published at (1997) 20 OSCB 5684.

3. **Bourse de Montréal Inc.** - Section 177 of the *Securities Act* (Québec)

4. **Winnipeg Commodity Exchange Inc.** - Section 17 of *The Commodity Futures Act* (Manitoba)

[3] A Participating Regulator has the rights of an Exempting Regulator under this MOU.

Appendix C

Additional Information Provided by the Lead Regulator
(information as of September 3, 2002)

1. As part of the reorganization of TSX Inc. (TSX), under which TSX will become a wholly owned subsidiary of TSX Group Inc. (TSX Group) and TSX Venture Exchange Inc. (TSXV) will continue to be a wholly owned subsidiary of TSX, the OSC agreed to provide the following information to the ASC and BCSC:

   For as long as the OSC recognizes and acts as the Lead Regulator for TSX and recognizes TSX Group, the OSC will promptly advise the Lead Regulators of TSXV in writing, if the OSC

   a) becomes concerned about the financial viability of TSX Group or TSX;

   b) is advised by TSX Group that TSX Group will not allocate sufficient financial and other resources to TSX to ensure that TSX can carry out its functions in a manner that is consistent with the public interest and the terms and conditions of the OSC's recognition order for TSX Group and TSX;

   c) is advised by TSX that TSX has failed to satisfy any of the financial tests set out in the OSC's recognition order for TSX Group and TSX;

   d) is considering revoking or revokes its recognition of TSX Group or TSX; or

   e) becomes aware of any impending change of control of TSX Group or TSX or of an intention by TSX Group or TSX to cease operations or dispose of all or substantially all of its assets.

   For as long as the OSC recognizes and acts as the Lead Regulator for TSX, the OSC will, immediately upon receipt of same, provide to the Lead Regulators of TSXV any reports provided to the OSC by TSX regarding the results of any tests, reviews or monitoring performed by TSX in connection with its systems.

SCHEDULE "D"
OTC AGREEMENT

(the "Agreement")

THIS AGREEMENT made as of the 6th day of October, 2000,

AMONG:

CANADIAN UNLISTED BOARD INC.
("CUB")

AND

CANADIAN VENTURE EXCHANGE INC.
("CDNX")

AND

THE ONTARIO SECURITIES COMMISSION
("OSC")

WHEREAS:

A. By an agreement made as of February 28, 1991 among The Toronto Stock Exchange (the "TSE"), the OSC and the Canadian Dealing Network Inc. ("CDN"), CDN (a wholly-owned subsidiary of the TSE) took on assignment from the OSC and has been operating a trade reporting system (the "CDN Reporting System") and a quotation system (the "CDN Quotation System") (collectively, the "CDN System") to provide visibility for over-the-counter ("OTC") trading of equity securities in the Province of Ontario;

B. By an agreement made as of September 29, 2000 among CDNX, the TSE and CDN (the "CDN Agreement"), the TSE and CDN have agreed to cease operating the CDN System;

C. The OSC wishes to ensure that a system continues to exist in the Province of Ontario through which OSC registered dealers can continue their mandatory reporting of all OTC trading in unlisted and unquoted equity securities in the Province of Ontario not specifically excluded from the reporting requirements of the *Securities Act, R.S.O. 1990, Chapter S.5* and the regulations thereto (collectively, the "Act");

D. Subject to the terms and conditions of this Agreement, CUB, a wholly owned subsidiary of CDNX, is prepared to operate an internet web-based reporting system for the reporting by registered dealers of OTC trading in unlisted and unquoted equity securities in the Province of Ontario (the "OTC System") and to provide certain services to the OSC with respect thereto; and

E. Subject to the terms and conditions of this Agreement, CDNX has agreed to ensure that CUB fulfils its obligations hereunder and has adequate

resources (including those made available to it by CDNX) to operate the OTC System and to provide to the OSC those services called for by this Agreement;

NOW THEREFORE in consideration of the premises and the mutual covenants, terms and conditions herein contained, the parties hereto do hereby mutually covenant and agree as follows:

1. THE OTC SYSTEM

1.1 The OTC System to be operated by CUB pursuant to this Agreement shall possess the characteristics and functionality described in Schedule "A" which is attached hereto and forms a part of this Agreement; provided, however, and the parties further agree that for greater certainty the OTC System will not provide for visible trade reporting.

1.2 The OTC System shall commence operation as at 5:00 p.m. EST on October 6, 2000 such that mandatory reporting by OSC registered dealers of all OTC trading in unlisted and unquoted equity securities in the Province of Ontario not specifically excluded from the reporting requirements of the Act (hereinafter referred to as "Ontario OTC trading") via the OTC System will commence on October 10, 2000.

1.3 All right, title and interest in and to the OTC System shall be owned solely by CUB, its successors and permitted assigns. For greater certainty, the right, title and interest in and to all registered and unregistered trademarks, trade names, service marks, copyrights, designs, inventions, patents, patent applications, patent rights, licenses, franchises, processes, technology, trade secrets and other industrial property pertaining to the OTC System developed by CUB (or on behalf of CUB by CDNX) or to any developments or enhancements of the OTC System implemented by CUB shall be owned solely by CUB, its successors and permitted assigns and, subject as herein otherwise provided, the OSC, OSC registered dealers who report trades on the OTC System ("Users") and any other parties shall acquire no rights in or license to use the OTC System except as may be necessary for the due implementation of this Agreement.

2. ADMINISTRATION/OPERATION OF THE OTC SYSTEM

2.1 Subject to the terms and conditions of this Agreement, CUB shall administer and operate the OTC System by providing:

(i) trade reporting services in respect of Ontario OTC trading by Users;

(ii) surveillance services as referred to in Part 4 of this Agreement in respect of Ontario OTC trading by Users; and

(iii) such services as may be required to record and account for the fees referred to in subsection 2.3 below and charged by CUB for use of the OTC System.

2.2 CUB will provide such staff as are necessary to operate the OTC System with the functionality described in Schedule "A".

2.3 CUB may establish and from time to time amend a schedule of fees that it will be entitled to charge for use of the OTC System. Such fees shall be established at a level which, in the aggregate, will permit CUB to be reimbursed for all costs associated with the development and ongoing operation of the OTC System, including all operating, capital and related costs. All fees charged by CUB will be consistent with CUB's status as a not-for- profit entity and, though not subject to prior approval by the OSC, may be reviewed by the OSC.

2.4 All fees and other revenue derived from the operation of the OTC System will be retained by CUB.

2.5 CUB will ensure that each User shall, as a condition of using the OTC System, enter into an agreement with CUB (the "User Agreement") in the form and upon substantially the terms attached hereto as Schedule "B".

3. REGULATION OF THE OTC SYSTEM

3.1 In the event that the OTC System is implemented prior to the implementation of the OSC's rules governing alternative trading systems (the "ATS Rules") and unless otherwise agreed, the parties agree that the OTC System will be regulated in two phases as follows:

(i) for the period commencing on the date of implementation of the OTC System and ending on the date of implementation in Ontario of a local rule relating to Ontario OTC trading which will be implemented concurrently with the ATS Rules or such other rules as the OSC may apply to Ontario OTC trading (the "Ontario Local Rule"), the OTC System will be regulated in accordance with the OTC Terms and Conditions which are attached as Schedule "A" to the User Agreement (the "User Obligations"); and

(ii) commencing on the date of implementation of the Ontario Local Rule and ending on the date of the termination of this Agreement, the OTC System will

be regulated in accordance with the Ontario Local Rule.

3.2 In the event that the OTC System is implemented after implementation of the Ontario Local Rule, the OTC System will be regulated in accordance with the Ontario Local Rule.

3.3 It is recognized and agreed that CUB shall not make any rules or regulations regarding Ontario OTC trading and that until such time as the Ontario Local Rule is implemented the OTC System will be operated and governed in accordance with the User Obligations.

4. SURVEILLANCE SERVICES IN RESPECT OF THE OTC SYSTEM

4.1 CUB will provide surveillance services as described in confidential Schedule “C” which is attached hereto and forms a part of this Agreement in respect of Ontario OTC trading that is reported to the OTC System; provided, however, and it is further understood and agreed, that the responsibility for enforcement regulatory activity pertaining to Ontario OTC trading will rest exclusively with the OSC and CUB will not provide enforcement services in respect of the market participants using the OTC System.

4.2 The surveillance services described in confidential Schedule "C" and provided by CUB in respect of Ontario OTC trading that is reported to the OTC System will be comprised generally of and limited to the following:

(i) exception monitoring for Ontario OTC trading activity in violation of the terms of any User Agreement, applicable trading rules or applicable securities laws; and

(ii) press release monitoring for issuer disclosure in respect of Ontario OTC trading in violation of applicable securities laws.

4.3 All matters requiring enforcement action will be referred to the applicable securities regulatory body which it is anticipated will be the OSC in most cases involving the OTC System.

4.4 CUB will impose no trading halts in respect of any Ontario OTC trading reported to the OTC System.

4.5 CUB will provide to the OSC on request all such Ontario OTC trading and surveillance data respectively reported to the OTC System and collected by CUB as the OSC may require for its investigative and enforcement purposes.

5. MAINTENANCE OF TRADING DATA

5.1 Ontario OTC reporting and surveillance data respectively reported to the OTC System and collected by CUB will be maintained by CUB for its surveillance and the OSC's enforcement purposes only, and will not be published. For greater certainty, CUB shall ensure that such data is retained for a period of at least seven (7) years and accessible to OSC staff for investigative and enforcement purposes.

5.2 CUB recognizes its obligation to provide the OSC access (via the OTC System) to data collected by CUB in respect of Ontario OTC trading reported to the OTC System so as to assist the OSC in carrying out its regulatory responsibilities.

6. ACKNOWLEDGEMENTS OF THE OSC

6.1 Effective as at 5:00 p.m. EST on October 6, 2000, the OSC by separate instrument has appointed CUB as the OSC's agent as contemplated in Part VI of the Regulation, for the purpose of operating the OTC System.

6.2 In order to assist CUB in its operation of the OTC System, the OSC may obtain and provide to CUB such information as the OSC deems appropriate, including information:

(i) on disciplinary or other action the OSC determines to take against a User which, in the OSC's view, will have a material impact on the User's participation in the OTC System; and

(ii) relating to issuers of OTC Securities (being the same as "COATS Securities" as defined in section 152 of Part VI of the Regulation), OSC registered dealers or any other Persons (as such latter term is defined in the Act) that leads the OSC to believe that there has been or will be a breach of the terms and conditions of Part VI of the Regulation.

7. COVENANTS OF CDNX

7.1 CDNX agrees to ensure that CUB fulfils its obligations under this Agreement and has adequate resources (including those made available to it by CDNX) to operate the OTC System and to provide to the OSC those services called for by this Agreement.

8. CUB TO LIMIT THE LIABILITY OF CDNX

8.1 CUB agrees that it will, in connection with the performance by it of its obligations under this Agreement, take reasonable precautions to limit the liability, if any, of CDNX to any third party in connection with the operation of the OTC System, such precautions to include, where possible, the use of disclaimers in connection with the supply of information and the insertion of appropriate

limiting conditions in contracts entered into by CUB.

9. TERM AND TERMINATION

9.1 This Agreement shall come into force and effect as at 5:00 p.m. EST on October 6, 2000 (the "Effective Date") such that the reporting of Ontario OTC trading via the OTC System will commence on October 10, 2000 and (provided that it is not terminated due to termination of the CDN Agreement pursuant to the terms thereof) shall survive from such date until the earlier of the day upon which it is terminated pursuant to subsection 9.2 hereof or the day upon which this Agreement is replaced by a new agreement entered into amongst the parties by reason of implementation by the OSC of the Ontario Local Rule; provided, however, that if this Agreement is so replaced the replacement agreement will not itself be able to be terminated before the earliest date that this Agreement can be terminated pursuant to subsection 9.2 hereof.

9.2 At any time at least three (3) years after the Effective Date, any of the parties may give one (1) year's written notice to the others of its decision to terminate its obligations hereunder, and this Agreement shall thereafter terminate on the expiry of such notice.

10. NON PERFORMANCE

10.1 If a party to this Agreement believes that another party is not performing satisfactorily its obligations under this Agreement, it may give written notice to the other party stating that belief accompanied by particulars in reasonable detail of the alleged failure to perform. If the party receiving such notice has not satisfied the notifying party within one (1) month of the delivery of the notice either that its performance is satisfactory or that it has taken or will take acceptable steps to rectify its performance, the notifying party may by written notice to the other parties terminate this Agreement on a date not less than three (3) months following delivery of such notice.

11. NOTICE

Any notice or other communication required or permitted to be given hereunder shall be sufficiently given if delivered in person or if sent by facsimile transmission:

11.1 in the case of CUB, both for itself and on behalf of CDNX, at the following address:

Canadian Unlisted Board Inc.
c/o Canadian Venture Exchange Inc.
10th Floor, 300 Fifth Avenue S.W.
Calgary, Alberta T2P 3C4

Attention: CDNX Vice President, Regulatory Affairs & Corporate Secretary
Facsimile No: (403) 237-0450

11.2 in the case of the OSC, at the following address:

The Ontario Securities Commission
Suite 1800, P.O. Box 55
20 Queen Street West
Toronto, Ontario M5H 3S8

Attention: Manager, Market Regulation
Facsimile No: (416) 593-8240

or at such other address as the party to which such notice or other communication is to be given has last notified to the other parties in the manner provided in this section, and if so given the same shall be deemed to have been received on the date of such delivery or sending.

12. FURTHER ASSURANCES, AMENDMENTS AND WAIVERS

12.1 Each party hereto covenants and agrees that it shall from time to time and at all times execute and deliver all such further documents and assurances as shall be reasonably required in order to fully perform and carry out the intent of this Agreement. This Agreement can only be amended with the consent in writing of both parties and no party shall be deemed to have waived any provision of this Agreement unless such waiver is in writing.

13. APPLICABLE LAW

13.1 This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

14. COUNTERPARTS AND FACSIMILE SIGNATURE

14.1 This Agreement may be executed in separate counterparts and all such counterparts shall together constitute one and the same instrument.

14.2 The parties agree that executed copies of this Agreement may be delivered by fax or similar device and that the signatures appearing on the copies so delivered will be as binding as if copies bearing original signatures had been delivered; each party undertakes to deliver to the other party a copy of this Agreement bearing original signatures, forthwith upon demand.

15. FORCE MAJEURE

15.1 No party shall be responsible for delays or failures in performance resulting from acts beyond the control of such party. Such acts shall include, but not be limited to, acts of God, the operation of any

law, regulation or order of government or other similar authority, any labour disparity or dispute, strike, lockout, riot, explosion, war, invasion, epidemic, fire, earthquake or other natural disaster, power failure or system failure including network failures.

16. SUCCESSORS AND ASSIGNS

16.1 Neither CUB, CDNX nor the OSC shall assign this Agreement or any of their respective rights or obligations hereunder without the prior written consent of the others. This Agreement shall enure to the benefit of and be binding upon the respective successors and permitted assigns of the parties hereto.

IN WITNESS WHEREOF, the parties have hereunto duly executed this Agreement as of the day and year first above written.

CANADIAN UNLISTED BOARD INC.

Per:
Authorized Signatory

Per:
Authorized Signatory

CANADIAN VENTURE EXCHANGE INC.

Per:
Authorized Signatory

Per:
Authorized Signatory

THE ONTARIO SECURITIES COMMISSION

Per:
Authorized Signatory

Per:
Authorized Signatory

This is Schedule "A" to that certain Agreement made as of the 6th day of October, 2000, among Canadian Unlisted Board Inc., Canadian Venture Exchange Inc. and The Ontario Securities Commission

OTC SYSTEM CHARACTERISTICS AND FUNCTIONALITY

1.1 Characteristics- Included Characteristics

The OTC System will be a CUB-developed internet web-based system solution for the reporting of Ontario OTC trading the general characteristics of which will be a system:

1. providing a secure, reliable environment to enable registered dealers to report trades in securities according to the Securities Act (Ontario).

2. providing a basic reporting, surveillance, and administrative functionality with unexplained trading and disclosure anomalies being forwarded to the OSC for enforcement and further investigation.

3. providing a separation of Ontario OTC trading from CDNX and the CDNX brand.

4. separable from CDNX technology operations and deployable to other technical environments should the OSC choose to change service providers.

5. extendable to other provincial jurisdictions in support of possible national trade reporting.

6. possessing a separate logical billing system within CDNX's Oracle Financials to generate invoices and statements for CUB that are distinct from those of CDNX.

7. possessing a backup OTC System application server (existing disaster recovery hardware at CDNX Business Continuity Planning ("BCP") recovery sites having sufficient capacity to accommodate the OTC System application).

1.2 Functionality

1.2.1 Included Functionality

The OTC System will possess the following functionality:

1.2.1.1. Registered Dealer Functionality:

1. Registered Dealer administrative functions

   1.1. Provide the ability for the registered dealer (who may or may not be TSE or CDNX members) to logon, logoff and change their passwords

2. Report a trade

2.1. Report a trade done today (typically reported by the selling registered dealer)

2.1.1. Data includes: symbol, volume, price, contra-broker, time-stamp, identification of which side reported the trade.

2.2. Limit or restrict the registered dealer from reporting a trade that was executed prior to the current day. 'As of' reporting to be handled by the administrative or market regulation function of CUB (see Administrative Functionality below).

3. Report a trade cancellation

4. Inquire on trading activity for an issue

4.1. The reporting functions proposed with respect to Ontario OTC trading are purposely limited.

4.2. Data attributes to be displayed are:

4.2.1. For today: high price, low price, last price, net change, volume, value, # trades and list of all trades

4.2.2. For historical periods: high price, low price, last price, net change, volume, value, # trades

5. View Administrative Notice Board

5.1. Contains textual information posted by CUB administrative and market regulation staff

6. Online Help

6.1. Display of "How To" information explaining the operation of the OTC System

6.2. Inquiries to list:

6.2.1. Securities on the system that have reported activity (stock list) that would include the issue name, symbol, and Cusip number (if applicable)

6.2.2. Yesterday's and today's add's, delete's and changes to the stock list

6.2.3. A directory of registered dealer users Ids and names

1.2.1.2. Administrative Functionality:

Administrative functionality will be used by CUB staff to administer the OTC System.

1. UserID administration

1.1. Setup new UserID

1.2. Maintain UserID (change, delete, force password changes)

2. Security Master maintenance

2.1. Add, change, delete issues that can be reported. This functionality can be done in real-time.

2.2. Update Trading status to restrict the reporting of trades

3. Report trade (on behalf of a registered dealer)

3.1. Similar to the registered dealer function to report a trade.

3.2. This functionality can also serve as a short-term backup service should operational problems arise with accessing the system.

4. Report a trade done up to 364 days ago ("as of")

4.1. 'As of' reporting is done by CUB staff on behalf of the registered dealer. The registered dealer would send (via fax) to CUB the particulars of the delayed trade report.

4.2. Historical information to be updated to reflect the reported trade.

5. Report trade cancellation (on behalf of a registered dealer)

5.1. Similar to the registered dealer function to report a trade cancellation.

5.2. This functionality can also serve as a short-term backup service should operational problems arise with accessing the system.

5.3. Historical information would be updated to reflect the cancelled trade.

6. Post and clear notices and other textual information to Administrative Notice Board

6.1. The transaction is logged to an audit trail file

7. Online Help maintenance

7.1. Update static “How To” information

1.2.1.3. Regulatory Functionality:

Regulatory functionality will be that employed by CUB staff to provide regulatory oversight or surveillance of Ontario OTC trading (it being understood that all enforcement action arising from CUB's surveillance activities in respect of Ontario OTC trading that is reported to the OTC System will be undertaken by the OSC). Due to the nature of Ontario OTC trading, all such regulatory functionality will be of a post-trade nature.

1. Alerts of reported trades that cause exceptions to price change and volume tolerance parameters.

2. OSC access to the OTC System to perform specified inquiry functions:

   2.1. Today and historical trading inquiries (see Registered Dealer Functionality above)

   2.2. Generate reports on trading activity per Registered Dealer firm, per security, and for all securities per specified (flexible) date range.

   2.3. Access to Online Help inquiries (see Registered Dealer Functionality above)

3. Ad hoc reports for investigations forwarded to the OSC.

4. Data extracts for investigations forwarded to the OSC.

1.2.1.4. Operational Functionality:

Operational functionality will be global in nature and apply to the entire OTC System.

- Implement a standalone OTC System application server (NT operating system), separate from CDNX systems.

- Establish recovery procedures to transfer the application to an existing CDNX NT server on an interim basis in the event of a CUB/OTC System server failure.

- Store trade summaries for surveillance purposes (history)

- Store detail trade records for investigative purposes (history)

- Conduct daily backup of files and databases

- Include OTC System in CDNX BCP and provide 48 hour recovery time for the CUB OTC System at the CDNX BCP recovery site(s)

- Generate billing reports

- Generate monthly reports of trading activity for invoice preparation.

1.3 Excluded Functionality

The OTC System will NOT possess the following functionality:

- Capability regarding investigation and enforcement of trading and disclosure anomalies generated by the system.

- Capability to prioritize price/volume exceptions.

- Capability to generate real time data feeds or press reports.

- Capability to transfer historical trade information from the TSE/CATS system.

This is Schedule "B" to that certain Agreement made as of the 6th day of October, 2000, among Canadian Unlisted Board Inc., Canadian Venture Exchange Inc. and The Ontario Securities Commission

CANADIAN UNLISTED BOARD INC. USER AGREEMENT (THE "AGREEMENT")

WHEREAS the Canadian Venture Exchange Inc. ("CDNX" or the "Exchange") has entered into an agreement with the Toronto Stock Exchange Inc. ("TSE") and the Canadian Dealing Network Inc. ("CDN") whereby:

(i) as at 5:00 p.m. EST on September 29, 2000, the TSE and CDN shall cease operating the CDN Quotation System such that eligible CDN quoted issuers that have filed complete applications as determined by CDNX shall commence trading on CDNX Tier 3 as at the start of business on October 2, 2000; and

(ii) as at 5:00 p.m. EST on October 6, 2000, the TSE and CDN shall cease operating the CDN Reporting System such that as of the start of business on October 10, 2000, OSC registered dealers can continue their mandatory reporting of all OTC trading in unlisted and unquoted equity securities in the province of Ontario not specifically excluded from the reporting requirements of the Act and the regulations thereto via the OTC System;

WHEREAS the Canadian Unlisted Board Inc., a wholly owned subsidiary of CDNX ("CUB"), CDNX and the Ontario Securities Commission (the "Commission") have entered into an agreement pursuant to which CUB will operate an internet web-based reporting system for the reporting by dealers of trading in unlisted and unquoted equity securities in Ontario (the "OTC System") for the purposes of Part VI of Regulation 1015 ("Part VI");

WHEREAS CUB has been appointed as an agent of the Commission for the purposes of developing computer software and providing and operating computer facilities for the reporting of trading in unlisted and unquoted equity securities in Ontario pursuant to section 153 of Part VI;

WHEREAS for the purposes of this agreement the following definitions shall apply:

"Act" means the Securities Act, R.S.O. 1990, c.s. 5 as amended;

"CDN Policy" means that policy which has been adopted by CDN board of directors respecting trading in unlisted and unquoted equity securities in Ontario;

"OTC security" shall have the same meaning as "COATS security" as defined in section 152 of Part VI;

"Person" means a "person" as that term is defined in the Act;

"User" means a registrant under the Act and who reports trades on the OTC System;

WHEREAS in order to assist CUB in its operation of the OTC System, the Commission may obtain and provide to CUB such information as the Commission deems appropriate, including information:

(i) on disciplinary or other action the Commission determines to take against a User which, in the Commission's view, will have a material impact on the User's participation in the OTC System; and

(ii) relating to issuers of OTC Securities, registrants under the Act or any other Persons that leads the Commission to believe that there has been or will be a breach of the terms and conditions of Part VI.

WHEREAS the Commission and CUB have agreed that in the event that the OTC system is implemented prior to the implementation of the OSC's rules governing alternative trading systems (the "ATS Rules") the OTC System shall be regulated in the following two phases:

(i) for the period commencing on the date of implementation of the OTC System and ending on the date of the implementation of a local Ontario rule relating to Ontario OTC trading which will be implemented concurrently with the ATS Rules or such other rules as the OSC may apply to Ontario OTC trading (the "Ontario Local Rule"), the OTC System will be regulated in accordance with Part VI and those portions of the CDN Policy pertaining to trade reporting of unlisted and unquoted equity securities in Ontario as in effect at 5:00 p.m. EST October 6, 2000; and

(ii) commencing on the date of the implementation of the Ontario Local Rule and ending on the date of the termination of the Agreement, the OTC System will be regulated in accordance with the Ontario Local Rule.

WHEREAS CUB will provide monitoring and surveillance services to the OSC in respect of trading in securities reported through the OTC System. CUB will not provide enforcement services in respect of the market participants using the OTC System.

WHEREAS CUB will refer any matters relating to a suspected violation of applicable trading rules or securities laws to the OSC or other applicable securities regulatory body.

WHEREAS CUB has agreed to provide to the OSC on request all such trading and surveillance data collected by CUB in respect of the OTC System as the OSC may require.

WHEREAS the OSC requires registered dealers to act in accordance with applicable securities legislation including but not limited to the obligation to deal fairly, honestly and in good faith with its customers.

WHEREAS the OSC expects registered dealers, as part of their general obligations, to have policies and procedures which enable them to operate in a manner which is consistent with the requirements set out in the OTC Terms and Conditions (as defined below);

NOW, THEREFORE, in consideration of CUB permitting the undersigned User to utilize the OTC System, the User agrees with CUB as follows:

1. The User is a registered dealer within the meaning of the Act and shall at all times act in accordance with applicable securities legislation including but not limited to the obligation to deal fairly, honestly and in good faith with its customers and shall have policies and procedures which enable them to operate in a manner which is consistent with the requirements set out in the OTC Terms and Conditions (as defined below);

2. Until such time as the Ontario Local Rule is implemented, the User agrees that the OTC System will be operated and governed in accordance with:

   (i) Part VI and those portions of the CDN Policy pertaining to trade reporting of unlisted and unquoted equity securities in Ontario as in effect at 5:00 p.m. EST on October 6, 2000; and

   (ii) such directives as may be issued by authority of the Board of Directors of CUB in respect of the use of the OTC System;

(collectively, the “OTC Terms and Conditions” which are attached as Schedule “A” to this Agreement) and the User shall comply with the OTC Terms and Conditions.

3. The User shall promptly communicate to CUB transaction reports with respect to OTC securities in accordance with the OTC Terms and Conditions;

4. The User shall comply with all requirements of the OTC Terms and Conditions and without limiting the generality of the foregoing, all Users acknowledge and agree:

   (i) that they will provide to CUB any and all records, reports, and information required or requested by CUB in order for CUB to satisfy its regulatory obligations, in such manner and form, including electronically, as may be required by CUB from time to time;

   (ii) that they will permit CUB or its designate to inspect their records at any time;

   (iii) that CUB may suspend the User’s access to the OTC System pending a determination of the OSC in respect of any referral by CUB to the OSC of any suspected violation of the User’s obligation to comply with section 1 above; and

   (iv) that CUB may terminate the User’s access to the OTC System upon notification to CUB by the OSC that the User has violated the OTC Terms and Conditions.

5. The User shall pay, when due, any applicable fees or charges established by CUB from time to time and which current fees and charges are attached as Schedule “B” to this Agreement.

6. The User acknowledges that it is possible that from time to time the OTC System may be disrupted, contain inaccurate information, omit required information or may otherwise operate in an unsatisfactory manner (such events being hereinafter referred to as "Errors") whether through malfunction of equipment, power failure, human error or other reason. The causes of such Errors may be attributable to CUB, the Exchange, negligent or wilful acts or omissions of current or former directors, governors, officers, employees or committee members of CUB or the Exchange (hereinafter collectively referred to as "Personnel") or persons or companies who have supplied goods or services to either CUB or the Exchange in connection with the OTC System (hereinafter referred to as “Contractors”).

7. It is acknowledged that neither CUB nor the Exchange assumes any responsibility with respect to the use to which the User, its employees or agents puts the facilities, services or the information obtained therefrom or with respect to the results of such use. It is further acknowledged that the information, services and facilities provided hereunder are provided on the express condition that Users making use of them assent that no liability whatsoever in relation thereto shall be incurred by CUB, the Exchange or Personnel.

8. The User agrees that none of CUB, the Exchange

or Personnel shall have any liability whatsoever to the User with respect to any loss, damage, cost, expense or other liability or claim suffered or incurred by or made against the User, directly or indirectly, by reason of Errors, or arising from any negligent, reckless or wilful act or omission or out of the use, operation or regulation of the OTC System by CUB, the Exchange, Personnel or Contractors, or otherwise as a result of the use by the User of the facilities, services or information provided by CUB or the Exchange. By making use of the facilities, services or information provided by CUB or the Exchange the User expressly agrees to accept all liability arising from such use.

9. It is acknowledged by the User that the sole remedy for any wilful or negligent act or omission of any Personnel or Contractors shall be appropriate action, of a disciplinary nature or otherwise, instituted solely at the discretion of CUB or the Exchange.

10. CUB may terminate or amend this Agreement, subject to the approval of its Board of Directors and upon notice to the User, and any subsequent participation of the User in the OTC System shall constitute acceptance by the User of any such amendment.

11. It is acknowledged that neither CUB nor the Exchange shall incur any liability to the User with respect to any loss or damage whatsoever that the User may suffer, directly or indirectly, by reason of any termination of this Agreement.

12. In the event that any legal proceeding is brought or threatened against CUB, the Exchange, Personnel or Contractors to impose liability which arises directly or indirectly from the use by the User of the OTC System or from the use by the User of the facilities, services or information provided by CUB or the Exchange, the User agrees to indemnify and save CUB and the Exchange harmless from and against:

    (i) all liabilities, damages, losses, costs, charges and expenses of every nature and kind (including, without limitation, legal and professional fees) incurred by CUB or the Exchange in connection with the proceeding, including costs incurred to indemnify Personnel;

    (ii) any recovery adjudged against CUB, the Exchange or Personnel in the event that any of them is found to be liable; and

    (iii) any payment by CUB or the Exchange, made with the consent of the User, in settlement of such proceeding.

13. Except as otherwise expressly provided herein, all of the terms used in this Agreement which are defined in OTC Terms and Conditions are used herein as so defined.

14. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario.

15. The Agreement shall not be binding until accepted in writing by CUB.

16. The Agreement shall be effective as of the date accepted in writing by CUB.

[Insert Name of User]

By:
Authorized Signatory

Name and Title of Authorized Signatory

(Please Print Name and Title)

By:
Authorized Signatory

Name and Title of Authorized Signatory

(Please Print Name and Title)

Accepted this ___ day of _____, 200__

CANADIAN UNLISTED BOARD INC.

By:

Schedule "A" to User Agreement

OTC Terms and Conditions

A. Transaction Reporting

1. Operation and Administration of OTC System

1.1. All Users shall comply with the Terms and Conditions governing the operation and administration of the OTC System, which Terms and Conditions shall include:

1.2. those matters set forth in Part VI applicable to trade reporting in respect of over-the-counter equity securities in Ontario;

1.3. those portions of the former CDN Policy pertaining to trade reporting of unlisted and unquoted equity securities in Ontario as in effect at 5:00 p.m. EST on October 6, 2000 and incorporated herein; and

1.4. such directives as may be issued by authority of the Board of Directors of CUB in respect of the use of the OTC System.

2. Trades to be Reported

2.1. Pursuant to Part VI, every purchase or sale in Ontario of an OTC security made by a registered dealer, as principal or agent, must be reported through the OTC System, with the following exceptions (which shall not be reported through the OTC System):

2.1.1. a trade made through the facilities of a stock exchange or other organized market recognized and identified in this section A-2;

2.1.2. a distribution effected in accordance with the Act by or on behalf of an issuer; or

2.1.3. a secondary trade made in reliance on the exemptions in clauses 72(1)(a), (c) or (d) of the Act.

2.2. Where a security that is listed on one or more of the Canadian stock exchanges becomes suspended (i.e., it is no longer posted for trading) on all such exchanges, then any trade in that security by a registered dealer shall become reportable through the OTC System if that security and trade is otherwise required to be reported through the OTC System.

2.3. The obligation to report a trade in an OTC security applies only with respect to purchases and sales in Ontario of such security. A purchase or sale in Ontario for the purpose of these OTC Terms and Conditions is one in which either:

2.3.1. the person to whom the trade is confirmed (other than a User) is a resident of Ontario; or

2.3.2. the User's trader or sales representative handling the trade is acting from an Ontario office (irrespective of whether the User is acting as principal or agent).

2.4. Transactions that are merely booked through a User's inventory for purposes of adding a usual mark-up or commission in respect of trades which, for all intents and purposes, are agency trades on NASDAQ or a foreign stock exchange, need not be reported through the OTC System. Such transactions are considered to be trades made through the facilities of a foreign stock exchange or NASDAQ.

2.5. With respect to clause 2.1.1 above, CUB recognizes NASDAQ, The International Stock Exchange of the United Kingdom and the Republic of Ireland Limited, and all stock exchanges outside of Canada that require participants to report details of transactions and publish such details.

2.6. Trades may not be aggregated for reporting purposes except that trades from orders received prior to the opening of the OTC System and simultaneously reported at the opening may be aggregated into a single transaction report.

3. Who Reports Trades

3.1. Every purchase or sale in an OTC security that is required to be reported under subsection A-2 above shall be reported on the OTC System in accordance with the following provisions:

3.1.1. Where the transaction involves only one User, that User shall report the trade.

3.1.2. Where the transaction involves two Users, the User by or through whom the sale is made shall report the trade.

3.1.3. Where the transaction is not a trade in Ontario for the seller, the User by or through whom the purchase is made must report the trade.

4. Method, Timing and Content of Trade Reports

4.1. For reporting purposes, a trade is a transaction between a User and a given client, or another User, in a specific OTC security, at a given price, and executed at a certain time.

4.2. For the purposes of this section A-4, "Reportable Trades" shall mean every purchase or sale in an OTC security that is required to be reported under subsection A-3.

4.3. All trade tickets for Reportable Trades shall be time stamped at the time of execution.

4.4. All Reportable Trades taking place at or between 9:30 A.M. and 5:00 P.M. on a business day shall be reported through the OTC System within three minutes after execution.

4.5. All Reportable Trades taking place after 5:00 P.M. on a business day and prior to 9:30 A.M. the next business day shall be reported through the OTC System between 8:30 A.M. and 9:30 A.M. the next business day and shall form part of the trading statistics for the next business day.

4.6. All reports of Reportable Trades shall contain the following information:

4.6.1. symbol of the OTC security traded;

4.6.2. number of shares traded;

4.6.3. price of the trade as required by section A-5;

4.6.4. the identities of the purchasing and selling Users;

4.6.5. the time of execution of the transaction; and

4.6.6. any trade marker required by these OTC Terms and Conditions.

5. Price to be Reported

5.1. The price to be reported is the price at which the User actually traded with its customer, adjusted by the amount that would be customary as a commission or spread in such transaction.

5.2. A trade with another User is to be reported at the actual price agreed upon. This applies to a trade in which the reporting User is acting as agent for a customer, as well as to a trade in which the User acts as principal vis-a-vis the other User.

B. Dealers' Obligations

1. Prices to Customers

1.1. Spread or Mark-Up: Where a trade is substantially an agency transaction, the size of any spread or "mark-up" should reflect the riskless nature of the transaction.

1.2. *Interpositioning*: Users shall not arrange or otherwise participate in any transaction which interpositions an intermediary or other third party in a way that will result in an unfavourable price for a customer of any User.

1.3. Users shall not enter into any transaction with a customer for any OTC security at any price that is not reasonably related to the then current market price of that security or charge a customer a commission or service charge that is not fair and reasonable in all the circumstances.

2. Fair Dealings

2.1. Users shall transact business openly and fairly and in accordance with just and equitable principles of trade. No fictitious sale or contract shall be made in an OTC security.

3. Customer Priority

3.1. No User Shall:

3.1.1. buy or initiate the purchase of a OTC security for its own account or for any account in which it or any person associated with it is directly or indirectly interested, while such User holds or has knowledge that any person associated with it holds an unexecuted market order or limit price order to buy such security for a customer;

3.1.2. sell or initiate the sale of any OTC security for its own account or for any account in which it or any person associated with it is directly or indirectly interested, while it holds or has knowledge that any person associated with it holds an unexecuted market order or limit price order to sell such security for a customer.

3.2. The provisions of this section shall not apply:

3.2.1. to any purchase or sale of any OTC security in an amount less than the customary unit of trading made by a User to offset odd-lot orders for customers;

3.2.2. to any purchase or sale of any OTC security upon terms for delivery other than those specified in such unexecuted market or limit price order; or

3.2.3. to any unexecuted order that is subject to a condition that has not been satisfied.

3.3. For purposes of this section a User may include a reasonable commission charge in determining whether its customer's order is at the same price as a principal order.

4. Best Market Price

4.1. Where a User executes a trade with or for its client for an OTC security that is posted for trading on a foreign market recognized under this subsection, the User shall execute the trade on behalf of the

client at a price equal to or better than the market price in the foreign market (taking exchange rates into account), plus or minus (as the case may be) a reasonable commission and any added cost of executing the order in the foreign market.

4.2. For the purpose of this subsection, CUB presently recognizes any foreign stock exchange or organized market that provides real time public dissemination of information, including firm market quotations and trading statistics.

5. Manipulative or Deceptive Trading

5.1. A User shall not use or knowingly participate in the use of any manipulative or deceptive method of trading in connection with the purchase or sale of an OTC security that creates or may create a false or misleading appearance of trading activity or an artificial price for the said security. Without in any way limiting the generality of the foregoing, the following shall be deemed manipulative or deceptive methods of trading:

5.1.1. making a fictitious trade or giving or accepting an order which involves no change in the beneficial ownership of an OTC security;

5.1.2. entering an order or orders for the purchase of an OTC security with the knowledge that an order or orders of substantially the same size, at substantially the same time and at substantially the same price for the sale of any such security, has been or will be entered by or for the same or different persons and with the intention of creating a false or misleading appearance of active public trading in a security or with respect to the market price of an OTC security;

5.1.3. entering an order or orders for the sale of an OTC security with the knowledge that an order or orders of substantially the same size, at substantially the same time and at substantially the same price for the purchase of such security, has been or will be entered by or for the same or different person and with the intention of creating a false or misleading appearance of active public trading in a security or with respect to the market price of an OTC security;

5.1.4. making purchases of, or offers to purchase an OTC security at successively higher prices, or sales of or offers to sell any such security at successively lower prices for the purpose of creating or inducing a false or misleading appearance of trading in such security or for the purpose of unduly or improperly influencing the market price of such security; or

5.1.5. effecting, alone or with one or more persons, a series of trades in an OTC security, for the purpose of inducing the purchase or sale of such security, which creates actual or apparent trading in such security or raises or depresses the price of such security.

6. Restrictions on Trading During Distributions

Restricted Users

6.1. The restrictions on trading during a distribution set out in this part 6.1 entitled “Restricted Users” apply to a User (a “restricted User”) involved in a distribution by prospectus of an OTC security or a distribution by prospectus, Exchange Offering Prospectus, Statement of Material Facts or "wide distribution" of a security that is related to an OTC security. The restrictions do not apply to a User involved in a distribution only as a selling group member that is not obligated to purchase any unsold securities.

6.1.1. Two securities are “related” if they have substantially the same characteristics, or

(a) one is immediately convertible, exercisable or exchangeable into the other; and

(b) the conversion, exercise or exchange price at the beginning of the restricted period (as defined below) is less than 110% of the offer price of the underlying security on the principal market where the underlying security is traded.

6.1.2. A “wide distribution” means a series of distribution principal trades to not less than 25 separate and unrelated client accounts, no one of which participate to the extent of more than 50% of the total value of the distribution

Restrictions

6.1.3. During the restricted period, a restricted User shall not bid for or purchase an OTC security that is being distributed or that is related to a security being distributed except as follows:

Distributed Securities

6.1.4. Restricted User Not Short. A restricted User that is not short the OTC security

being distributed may bid for or purchase it at or below the lower of the highest independent bid price at the time of the bid or purchase and the distribution price.

(a) A restricted User may bid for or purchase the OTC security being distributed at or below the distribution price.

(b) A restricted User that makes an initial bid below the distribution price shall not raise that bid price during the restricted period.

6.1.5. Restricted User Short. A restricted User that is short the OTC security being distributed may bid for or purchase it at or below the distribution price.

Related Securities

6.1.6. A restricted User may bid for or purchase a related OTC security at or below the highest independent bid price.

6.1.7. If there is no independent bid price for a related OTC security, a restricted User shall not bid for or purchase that security without the prior consent of CUB.

(a) A bid price is "independent" if it is for the account of a User that is not involved in the distribution or is involved only as a member of a selling group.

(b) A restricted User shall not solicit purchase orders for the OTC security being distributed or any related OTC security during the restricted period except orders to purchase OTC securities being sold pursuant to the distribution.

(c) The above restrictions do not affect sales by restricted Users to unsolicited client buy orders. In the case of an OTC security that will be listed on the Toronto Stock Exchange ("TSE") or the Canadian Venture Exchange Inc. ("CDNX") and until such time as the OTC security is actually listed and posted for trading on the TSE or CDNX and the TSE's or CDNX's market stabilization rules apply, Users must comply with the above market stabilization restrictions.

All Users

6.2. The restrictions on trading during a distribution set out in this part 6.2 entitled "All Users" apply to all Users

Restrictions

6.2.1. During the restricted period, no User shall participate in a trade of an OTC security that is being distributed or that is related to an OTC security being distributed involving a purchase by or on behalf of:

(a) the issuer of the OTC security;

(b) a selling OTC security holder whose securities are being distributed;

(c) an affiliate of the issuer or selling OTC security holder; or

(d) a person acting jointly or in concert with any of the foregoing.

6.3. The "restricted period" begins on the later of:

6.3.1. the ninth trading day (or, in the case of a OTC security that is related to a TSE or CDNX-listed security, the second trading day) prior to the date on which the offering price of the OTC securities to be distributed is determined; and

6.3.2. the date on which the restricted User agrees to participate in a distribution, whether or not the terms and conditions of such participation have been agreed upon.

6.3.3. The restricted period ends on the earlier of:

(a) the ninth trading day (or, in the case of a OTC security that is related to a TSE or CDNX listed security, the second trading day) prior to the date on which the offering price of the OTC securities to be distributed is determined; and

(b) the date on which the restricted User has sold all of the OTC securities allotted to it (including all securities acquired by it in connection with the distribution) and any stabilization arrangements to which it is a party have been terminated; and

(c) the date on which the distribution has been terminated pursuant to applicable securities legislation,

provided that, if purchasers of 5% or more of the OTC securities allotted to or acquired by a restricted User in connection with a distribution give notice that they intend to exercise their statutory rights of withdrawal, the restricted period shall again apply to that User until the OTC securities are resold or the distribution ends, as provided above. Securities are not considered "sold" before the receipt for the final prospectus has been issued.

7. Disclosure of Interest or Control

7.1. Any User that is an insider (as that term is defined in the Act) or is controlled by, directly or indirectly, controls, or is under common control of any issuer must disclose to its customers prior to, and confirm, in writing, at the time of buying or selling any OTC security of such an issuer, the nature and existence of any such relationship.

8. System Failures

8.1. Trades made during an OTC system power failure or any other event that would fully or partially disable the system or cause it to malfunction must be reported on the system immediately upon the system being available to accept such data.

9. Settlement Rules

9.1. The settlement of transactions shall conform to the rules and practices of the TSE, CDNX and The Canadian Depository for Securities Limited.

C. Fees And Charges

1. Every User shall pay the applicable OTC System fees.

2. All fees and charges of CUB, including, but not limited to, the fees charged for transaction reports shall be determined by CUB's board of directors.

D. Access

1. Where the Commission has provided CUB with information relating to:

1.1. disciplinary or other action the Commission determines to take against a User which, in the Commission's view will have a material impact on the User's participation in the OTC System; or

1.2. the issuers of OTC Securities, registrants under the Act or any other persons that leads the Commission to believe that there has been or will be a breach of the terms and conditions of Part VI.

2. CUB may suspend the Users access to the OTC System pending a determination by the Commission in respect of such matters.

3. Where CUB has referred any matter relating to a suspected violation by a User of the OTC Terms and Conditions, CUB may suspend the Users access to the OTC System pending a determination by the Commission in respect of such matters.

4. Where the Commission has notified CUB that a User has violated the OTC Terms and Conditions, CUB may terminate the User's access to the OTC System

E. Miscellaneous

1. All references to a "business day" in this Schedule "A" shall mean any day from Monday to Friday inclusive.

2. All references to a time of day in the Schedule "A" shall mean Eastern Standard Time.

Schedule "B" to User Agreement

Canadian Unlisted Board Inc. User and Transaction Fees

1. USER TRANSACTION FEE

   $1.95/trade (each side)

2. USER FEE:

   Monthly Fee of $150.00
   per Employee CUB access ID granted,
   up to a maximum of $500.00/month per User

SCHEDULE "E"

REVISIONS TO CORPORATE FINANCE MANUAL

RE: REPORTING ISSUER STATUS OF EXCHANGE LISTED ISSUERS

Policy 1.1 – Interpretation

The following definitions will be added to Policy 1.1:

"BHs" means those beneficial shareholders of an Issuer that are included in either:

(a) a DSR for the Issuer and whose shares were disclosed in the Issuer's books and records or list of registered shareholders as being held by an intermediary; or

(b) after the implementation of National Instrument 54-101 – Communication with Beneficial Owners of Securities of a Reporting Issuer, a NOBO list for the Issuer.

"DSR" means the Demographic Summary Report available from the International Investors Communications Corporation ("IICC").

"NOBO list" refers to a 'non-objecting beneficial owner list' as currently defined in Proposed National Instrument 54-101 or as defined in the final form of the instrument.

"NOBOs" refers to non objecting beneficial owners as currently defined in Proposed National Instrument 54-101 or as defined in the final form of the instrument.

"RHs" means the registered shareholders of the Issuer that are beneficial owners of the equity securities of the Issuer. For the purposes of this definition, where the beneficial owner controls or is an affiliate of the registered shareholder, the registered shareholder shall be deemed to be the beneficial owner.

"Significant Connection to Ontario" exists where an Issuer has:

(a) RHs and BHs resident in Ontario who beneficially own more than 20% of the total number of equity securities beneficially owned by the RHs and the BHs of the Issuer; or

(b) its mind and management principally located in Ontario and has RHs and BHs resident in Ontario who beneficially own more than 10% of the number of equity securities beneficially owned by the RHs and the BHs of the Issuer.

The residence of the majority of the board of directors in Ontario or the residence of the President or the Chief Executive Officer in Ontario may be considered

determinative in assessing whether the mind and management of the Issuer is principally located in Ontario.

Policy 2.3 – Listing Procedures

The following section 3 will be added to Policy 2.3:

3. Significant Connection to Ontario

Where it appears to the Exchange that an Issuer undertaking an Initial Listing on the Exchange has a Significant Connection to Ontario, the Exchange will, as a condition of its acceptance of the Initial Listing, require the Issuer to provide the Exchange with evidence that it has made a bona fide application to become a reporting issuer in Ontario. See *Policy 3.1 - Directors, Officers and Corporate Governance* for details on becoming a reporting issuer in Ontario.

Policy 2.4 – Capital Pool Companies

The following subsection 12.6 will be added to Section 12, Qualifying Transaction, of Policy 2.4:

12.6 Assessment of a Significant Connection to Ontario

Where a Resulting Issuer, upon Completion of a Qualifying Transaction, is aware that it has a Significant Connection to Ontario, it must immediately notify the Exchange and make application to the Ontario Securities Commission to be deemed a reporting issuer pursuant to section 19.2 of *Policy 3.1 – Directors, Officers and Corporate Governance*.

Policy 2.9 – Trading Halts, Suspensions and Delisting

The following clause (h) will be added to section 3.1, *Reasons for Suspension*, of Policy 2.9:

3.1 The Exchange may impose a suspension in a variety of circumstances including where:

(h) an Issuer fails to comply with a direction or requirement of the Exchange to make application for and obtain reporting issuer status in Ontario when it has a Significant Connection to Ontario.

Policy 3.1 – Directors Officers and Corporate Governance

The following sections will be added to Policy 3.1:

Subsection 2.9 will be added to section 2, *Directors and Management Qualifications*:

2.9 Refusal or Revocation of Exchange Acceptance

2.9 Where an Issuer has a Significant Connection to Ontario, the Exchange may refuse to grant Exchange Acceptance of any application relating to the acceptability of any director, officer or Insider, or revoke, amend or impose conditions in connection with a previous Exchange Acceptance of any such application, until such time as the Issuer has complied with a direction or requirement of the Exchange to make application or to become a reporting issuer in Ontario (See section 19, *Assessment of a Significant Connection to Ontario* of this Policy).

Subsection 11.4 will be added to section 12, *Management Compensation and Compensation Committee*:

11.4 The Exchange may refuse to accept any application that would provide remuneration, compensation or incentive to the directors, officers or Insiders of the Issuer until such time as the Issuer has complied with a direction or requirement of the Exchange to make application or to become a reporting issuer in Ontario where the Issuer has a Significant Connection to Ontario. (See section 19, *Assessment of a Significant Connection to Ontario* of this Policy).

Section 19 will be added to Policy 3.1

19. Assessment of a Significant Connection to Ontario

19.1 All Issuers, that are not otherwise reporting issuers in Ontario, are required to assess whether they have a Significant Connection to Ontario.

19.2 Where an Issuer, that is not otherwise a reporting issuer in Ontario, becomes aware that it has a Significant Connection to Ontario as a result of complying with subsection 19.1 above or otherwise, the Issuer is required to immediately notify the Exchange, and promptly make a bona fide application to the Ontario Securities Commission to be deemed a reporting issuer in Ontario. The Issuer must become a reporting issuer in Ontario within six months of becoming aware that it has a Significant Connection to Ontario.

19.3 All Issuers, that are not otherwise reporting issuers in Ontario, are required to assess on an annual basis, in connection with the preparation for mailing of their annual financial statements, whether they have a Significant Connection to Ontario. All Issuers must obtain and maintain for a period of three years after each annual review, evidence of the residency of the RHs and BHs of the Issuer.

19.4 If requested, Issuers must provide the Exchange with evidence of the residency of their NOBOs.

SCHEDULE "F"

POLICY 5.9

INSIDER BIDS, ISSUER BIDS, BUSINESS COMBINATIONS

AND RELATED PARTY TRANSACTIONS

Scope of Policy

This Policy incorporates Ontario Securities Commission ("OSC") Rule 61-501 *Insider Bids, Issuer Bids, Business Combinations and Related Party Transactions*, together with the Companion Policy 61-501CP (collectively the "OSC Rule"). A complete copy of the OSC Rule can be found on the OSC's website at www.osc.gov.on.ca. The text of the OSC Rule has also been incorporated as Appendix 5B and Appendix 5C to the Manual.

The main headings of this Policy are:

1. Definitions

2. Application of the OSC Rule

3. Exemptions

1. Definitions

1.1 Definitions contained in the OSC Rule that are inconsistent with definitions contained within other Policies are applicable only to the interpretation of this Policy.

1.2 For the purposes of this Policy references in the OSC Rule to the "Director", refer to a Vice-President, Listed Issuer Services of the Exchange.

2. Application of the OSC Rule

2.1 This Policy applies to all Issuers listed on the Exchange or Companies seeking listing on the Exchange, regardless of whether the Issuer is a reporting issuer in Ontario. For the purposes of this Policy, references in the OSC Rule to its application to Ontario reporting issuers shall be considered to be references to Issuers listed on the Exchange.

2.2 Subject to the exemptions in section 3 of this Policy, the OSC Rule is adopted, in its entirety, as a Policy of the Exchange.

2.3 In addition to insider bids and issuer bids (including those described in *Policy 5.5 – Stock Exchange Take-Over and Issuer Bids)*; this Policy may be applicable to certain transactions undertaken pursuant to the following Policies:

(a) *Policy 2.4 - Capital Pool Companies*,

(b) *Policy 4.1 - Private Placements*,

(c) *Policy 5.2 - Changes of Business and Reverse Take-Overs*, and

(d) *Policy 5.3 - Acquisitions and Dispositions of Non-Cash Assets*.

3. Exemptions

Applicability of Valuation Exemptions

3.1 Issuers should note that the OSC Rule provides an exemption from the valuation requirements in respect of business combinations and related party transactions for Issuers listed on the Exchange that do not have their securities interlisted on certain specified markets. Despite this exemption, Issuers may be required to produce evidence of value pursuant to Exchange Policies applicable to a particular transaction.

Other Exemptions

3.2 An Issuer that is a reporting issuer in Ontario is subject to the OSC Rule and must apply to the OSC for any discretionary exemption. The Issuer must concurrently make an application to the Exchange and provide a copy of all subsequent correspondence with the OSC to the Exchange. The Exchange will consider such applications on a case by case basis, and may elect not to grant an exemption notwithstanding the decision of the OSC. Issuers should consult the Exchange in advance of their application to the OSC to determine if the Exchange will grant an exemption.

3.3 Where an Issuer seeking an exemption from this Policy is not a reporting issuer in Ontario, and is not directly subject to the OSC Rule, the application for the exemption need only to be made to the Exchange.

2.2.7 Miller Bernstein & Partners LLP - ss. 127 and 127.1

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

AND

IN THE MATTER OF
MILLER BERNSTEIN & PARTNERS LLP

ORDER
(Sections 127 and 127.1)

WHEREAS on the 6th day of July, 2001, the Ontario Securities Commission (the "Commission") ordered, among other things, pursuant to clause 1 of subsection 127(1) of the *Securities Act*, R.S.O. 1990, c.S.5, as amended (the "Act"), that the registration of Buckingham Securities be suspended and that trading in any securities by Buckingham, Lloyd Bruce ("Bruce") and David Bromberg ("Bromberg") cease for a period of fifteen days from the date of the order (the "Temporary Order");

AND WHEREAS on the 20th day of July, 2001 the Commission ordered as described above, pursuant to subsection 127(7) of the Act that the Temporary Order, among other things, be extended against Buckingham, Bruce and Bromberg until the hearing is concluded and that the hearing be adjourned *sine die*;

AND WHEREAS on April 15, 2004, the Commission issued a Notice of Hearing (the "Notice of Hearing") pursuant to sections 127 and 127.1 of the Act in respect of Miller Bernstein & Partners LLP ("Miller Bernstein") and other respondents;

AND WHEREAS Miller Bernstein entered into a settlement agreement dated May 17, 2005 (the "Settlement Agreement"), in which the respondent Miller Bernstein agreed to a proposed settlement of the proceeding commenced by the Notice of Hearing, subject to the approval of the Commission; and wherein Miller Bernstein provided to the Commission a written undertaking that it will not provide auditing or other services to reporting issuers or to registrants under Ontario securities law in their capacity as reporting issuers and registrants, respectively;

AND UPON reviewing the Settlement Agreement and the Statement of Allegations of Staff of the Commission, and upon hearing submissions from the counsel for Miller Bernstein and from Staff of the Commission;

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

IT IS HEREBY ORDERED THAT:

1. the Settlement Agreement dated May 17, 2005, attached to this order as Schedule "1", is hereby approved;
2. pursuant to clause 6 of subsection 127(1) of the Act, Miller Bernstein will be reprimanded by the Commission;
3. Miller Bernstein will make a settlement payment in the amount of $75,000 by certified cheque or bank draft to the Commission, at the time of approval of this settlement, for allocation to or for the benefit of third parties under section 3.4(2) of the Act; and
4. pursuant to subsection 127.1(1)(b) of the Act, Miller Bernstein will make payment to the Commission in the amount of $115,000 by certified cheque or bank draft in respect of a portion of the work of the Commission's investigation in relation to Miller Bernstein at the time of approval of this settlement agreement.

May 20, 2005.

"Robert Shirriff"

"Suresh Thakrar"

2.2.8 Buckingham Securities Corporation - ss. 127 and 127.1

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

AND

IN THE MATTER OF
BUCKINGHAM SECURITIES CORPORATION

ORDER
(Sections 127 and 127.1)

WHEREAS on the 6th day of July, 2001, the Ontario Securities Commission (the "Commission") ordered, among other things, pursuant to clause 1 of subsection 127(1) of the *Securities Act*, R.S.O. 1990, c.S.5, as amended (the "Act"), that the registration of Buckingham Securities Corporation ("Buckingham") be suspended and that trading in any securities by Buckingham, Lloyd Bruce ("Bruce") and David Bromberg ("Bromberg") cease for a period of fifteen days from the date of the order (the "Temporary Order");

AND WHEREAS on the 20th day of July, 2001 the Commission ordered as described above, pursuant to subsection 127(7) of the Act that the Temporary Order, among other things, be extended against Buckingham, Bruce and Bromberg until the hearing is concluded and that the hearing be adjourned *sine die*;

AND WHEREAS BDO Dunwoody Limited was appointed Receiver and Manager (the "Receiver") of the assets and undertaking of Buckingham by Order of the Honourable Madame Justice Swinton dated July 26, 2001 (the "Court Order");

AND WHEREAS on the 30th day of March 2004, the Commission ordered pursuant to section 144(1) of the Act that the Temporary Order made by the Commission on July 6, 2001, as varied and extended by Order dated July 20, 2001, cease to apply only as against certain brokerage firms and the Receiver to the extent necessary to permit trading to be conducted by, on behalf of or with the consent of the Receiver, in any securities held in an account or accounts in the name of Buckingham;

AND WHEREAS on April 15, 2004, the Commission issued a Notice of Hearing (the "Notice of Hearing") pursuant to sections 127 and 127.1 of the Act in respect of Buckingham and other respondents;

AND WHEREAS Buckingham entered into a settlement agreement dated June 1, 2005, in which the respondent Buckingham agreed to a proposed settlement of the proceeding commenced by the Notice of Hearing, subject to the approval of the Commission; and whereas, pursuant to the Court Order referred to herein, the Receiver is authorized to enter into any settlement of any proceeding, including administrative hearings;

AND UPON reviewing the Settlement Agreement and the Statement of Allegations of Staff of the Commission, and upon hearing submissions from the respondent and from Staff of the Commission;

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

IT IS HEREBY ORDERED THAT:

1. the Settlement Agreement dated June 2, 2005, attached to this order as Schedule "1", is hereby approved; and

2. pursuant to clause 1 of subsection 127(1) of the Act, the registration of Buckingham is terminated.

June 7, 2005

"Paul Moore"

"Robert Davis"

"David Knight"

2.2.9 John Illidge et al - ss. 127 and 127.1

IN THE MATTER OF
THE *SECURITIES ACT*,
R.S.O. 1990, C.S-5, AS AM. ("THE ACT")

AND

IN THE MATTER OF
JOHN ILLIDGE,
PATRICIA MCLEAN,
DAVID CATHCART,
STAFFORD KELLEY, AND
DEVENDRANAUTH MISIR
(COLLECTIVELY, THE "RESPONDENTS")

ORDER
(Sections 127 and 127.1)

WHEREAS, by Notice of Hearing dated July 11, 2005 the Ontario Securities Commission (the "Commission") announced that it would hold a hearing in this matter pursuant to sections 127 and 127.1 of the Act on August 5, 2005;

AND UPON the consent of counsel for Staff of the Commission and the consent of the Respondents;

THE COMMISSION MAKES THE FOLLOWING ORDER:

1. **THAT** this matter be adjourned for the purposes of a pre-hearing conference; and

2. **THAT** the date for the pre-hearing conference be fixed by the Secretary of the Commission after hearing from the Respondents and Counsel for Staff.

August 5, 2005.

"Carol S. Perry"

"Paul K. Bates"

2.2.10 Genuity Capital Markets and Genuity Capital Markets USA Corp. - s. 74(1)

Headnote

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

Statutes Cited

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

August 5, 2005

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

AND

IN THE MATTER OF
GENUITY CAPITAL MARKETS
AND
GENUITY CAPITAL MARKETS USA CORP.

ORDER
(Subsection 74(1) of the Act)

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

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

AND UPON representation to the Commission that:

1. Genuity Canada, a general partnership formed under the laws of Ontario, is registered under the

Act as a dealer in the categories of "broker" and "investment dealer";

2. the head office (the **Ontario Office**) of Genuity Canada is in Ontario;

3. Genuity Canada is not registered under applicable U.S. securities laws to carry on the business of a securities dealer in the U.S.A;

4. Genuity Canada does not trade in securities with or on behalf of U.S. Clients;

5. Genuity U.S., a corporation incorporated under the laws of Ontario, is not registered under the Act;

6. Genuity U.S. is a wholly-owned subsidiary of Genuity Canada;

7. Genuity U.S. will operate out of the Ontario Office;

8. Genuity U.S. is registered as a "broker-dealer" by the Securities and Exchange Commission of the U.S.A. to carry on the business of a broker-dealer in the U.S.A. pursuant to section 15(b) of the *U.S. Securities Exchange Act of 1934* (the **1934 Act**) and has applied to be a member of the National Association of Securities Dealers, Inc;

9. Genuity U.S. was established as a vehicle for trading in Canadian securities with or on behalf of U.S. Clients, the majority of whom will be institutional investors;

10. Genuity U.S. will not trade in securities with or on behalf of persons or companies that are resident in Canada (**Canadian Clients**);

11. although dual representatives will primarily act on behalf of Genuity Canada, they may also act in Ontario on behalf of Genuity U.S. in respect of trades with or on behalf of U.S. Clients;

12. where Genuity U.S. trades with or on behalf of U.S. Clients, Genuity U.S., and any dual representative who acts on behalf of Genuity U.S. in respect of such trade, will comply with all registration and other requirements of applicable securities legislation in the U.S.A; and

13. Genuity U.S. will file with the Commission such reports as to its trading activities as the Commission may require from time to time;

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

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

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

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

"Carol Perry"

"Paul K. Bates"

2.2.11 Francis George Lee Simpson - s. 127

August 17, 2005

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, CHAPTER S. 5, as amended

AND

IN THE MATTER OF
FRANCIS GEORGE LEE SIMPSON

ORDER
(Section 127)

WHEREAS on August 15, 2005 the Ontario Securities Commission (the "Commission") issued a Notice of Hearing (the "Notice of Hearing") and Statement of Allegations (the "Statement of Allegations") pursuant to section 127 of the Securities Act in respect of Francis George Lee Simpson ("Simpson");

AND WHEREAS Simpson has entered into a settlement agreement with Staff of the Commission dated August 15, 2005 in relation to the matters set out in the Statement of Allegations (the "Settlement Agreement");

AND WHEREAS, in addition to the terms of the order below, Simpson has undertaken as follows:

(a) to never re-apply for registration or recognition of any kind under Ontario securities law or any other Canadian securities legislation; and

(b) to never seek membership in, or approval in any capacity from, the Investment Dealers' Association of Canada;

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

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

IT IS HEREBY ORDERED that:

1. The Settlement Agreement, a copy of which is attached to this Order, is hereby approved.

2. Simpson's registration under Ontario securities law is hereby terminated.

3. Simpson shall resign all positions that he holds as director or officer of a registrant or a reporting issuer.

4. Simpson is permanently prohibited from becoming or acting as a director or officer of any registrant.

5. Simpson is prohibited from becoming a Director or Chief Financial Officer of a reporting issuer for a period of 5 years from the date of this order.

6. Simpson shall pay the sum of $50,000.00 towards the costs of Staff's investigation into the matters set out in the Statement of Allegations.

"Robert Davis"

"Suresh Thakrar"

"David Knight"

Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 OSC Decisions, Orders and Rulings

3.1.1 Norman Frydrych

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

- AND -

IN THE MATTER OF
NORMAN FRYDRYCH

SETTLEMENT AGREEMENT

I. INTRODUCTION

1. On the 6th day of July, 2001, the Ontario Securities Commission (the "Commission") ordered, among other things, pursuant to clause 1 of subsection 127(1) of the *Securities Act*, R.S.O. 1990, c.S.5, as amended (the "Act"), that the registration of Buckingham Securities Corporation ("Buckingham") be suspended and that trading in any securities by Buckingham, Lloyd Bruce ("Bruce") and David Bromberg ("Bromberg") cease for a period of fifteen days from the date of the order (the "Temporary Order").

2. On the 20th day of July, 2001 the Commission ordered pursuant to subsection 127(7) of the Act, that the Temporary Order, among other things, be extended against Buckingham, Bruce and Bromberg until the hearing is concluded and that the hearing be adjourned *sine die.*

3. By Notice of Hearing dated April 15, 2004, the Ontario Securities Commission announced that it proposed to hold a hearing to consider whether, pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended, it is in the public interest for the Commission to make certain orders as specified therein.

II. JOINT SETTLEMENT RECOMMENDATION

4. Staff recommend settlement of the allegations against the respondent Norman Frydrych ("Frydrych") in accordance with the terms and conditions set out below. Frydrych agrees to the settlement on the basis of the facts and conclusions agreed to as provided in Part IV and consents to the making of an order against him in the form attached as Schedule "A" on the basis of the facts set out in Part IV.

5. This settlement agreement, including the attached Schedules "A" and "B" (collectively, the "Settlement Agreement") will be released to the public only if and when the Settlement Agreement is approved by the Commission.

III. ACKNOWLEDGEMENT

6. Staff and the respondent Frydrych agree with the facts and conclusions set out in Part IV for the purpose of this settlement proceeding only and further agree that this agreement of facts and conclusions is without prejudice to Frydrych in any other proceedings of any kind including, but without limiting the generality of the foregoing, any proceedings brought by the Commission under the Act or any civil or other proceedings which may be brought by any other person or agency.

IV. AGREED FACTS AND CONCLUSIONS

Background

7. Buckingham is incorporated pursuant to the laws of Ontario. Buckingham was registered under Ontario securities law as a securities dealer during the period from March 17, 1997 to July 6, 2001 (the "Material Time"). Buckingham commenced trading for clients in or about April 1997.

8. The registration of Buckingham was suspended on July 6, 2001 by Temporary Order made by the Commission, and extended by Order of the Commission dated July 20, 2001. BDO Dunwoody Limited was appointed Receiver and Manager of the assets and undertaking of Buckingham by Order of the Honourable Madame Justice Swinton dated July 26, 2001.

9. Bromberg was one of the principals of Buckingham since its incorporation in August in 1996. Bromberg was registered pursuant to section 26 of the Act as a salesperson of Buckingham from March 17, 1997 to November 3, 1997, and thereafter as a salesperson and director from November 3, 1997 to July 6, 2001. During the Material Time, Bromberg acted as president, although he was not registered as an officer of Buckingham under Ontario securities law. Bromberg's registration as a salesperson has been suspended since July 6, 2001. By the terms of the Commission's Temporary Order and Order referred to above, Bromberg has been prohibited from trading in securities since July 6, 2001.

10. Frydrych was registered pursuant to section 26 of the Act as a salesperson of Buckingham commencing on August 6, 1997. Frydrych's registration was subject to terms and conditions for a period of two years. During the Material Time, Frydrych acted as an officer of Buckingham. Frydrych's registration as a salesperson has been suspended since July 6, 2001.

11. Bruce was registered with Buckingham pursuant to section 26 as the sole officer of Buckingham from January 26, 1998 to July 6, 2001. Bruce was the president,

trading officer and compliance officer of Buckingham. As the compliance officer, Bruce was responsible for discharging the obligations of Buckingham under Ontario securities law. Bruce's registration as an officer of Buckingham has been suspended since July 6, 2001. By the terms of the Commission's Temporary Order and Order referred to above, Bruce has been prohibited from trading in securities since July 6, 2001.

12. Miller Bernstein & Partners LLP ("Miller Bernstein") is a firm of chartered accountants with an office at Toronto. In December 1996, Buckingham appointed Miller Bernstein as the firm's auditor. As the auditor appointed by Buckingham, Miller Bernstein was required under section 21.10(2) of the Act to make an examination of the annual financial statements and other regulatory filings of Buckingham, in accordance with generally accepted auditing standards, and to prepare a report on the financial affairs of Buckingham in accordance with professional reporting standards.

Buckingham's Trading Activities - Accounts held with Executing Brokers

13. Buckingham was not a member of the Investment Dealers Association of Canada ("IDA") or any other self-regulatory organization ("SRO"). During the Material Time, Buckingham engaged in trading on an agency basis for clients. Buckingham had approximately 2400 client cash, margin or RRSP accounts (1000 of which were active accounts at the time of the suspension of Buckingham's operations in July 2001). Buckingham's clients purchased securities through Buckingham salespeople for cash or on margin. Client orders were executed through various IDA member firms.

14. During the Material Time, Buckingham entered into executing broker arrangements with various firms including Canaccord Capital Corporation ("Canaccord") and W.D. Latimer Co. Ltd. ("Latimer") to process Buckingham's client orders.

15. From approximately May 1997 to July 2000, Buckingham conducted the majority of its trading for its clients using cash or margin accounts at Canaccord (the "Canaccord Accounts"). The Canaccord Accounts were held in the name of Buckingham and were operated as omnibus accounts. These accounts held clients' securities in aggregate, and did not identify individual Buckingham client names and the corresponding security positions of individual clients.

16. In April 2000, Canaccord notified Buckingham that it intended to close the Canaccord Accounts because of its concerns with the form and operation of the Canaccord Accounts.

17. On or about July 28, 2000, Buckingham transferred the securities it held at Canaccord to cash and margin accounts at Latimer. The accounts held in the name of Buckingham at Latimer operated as omnibus accounts, in the same manner as described in paragraph 15 above.

18. During the Material Time, Latimer and Buckingham entered into an agreement in respect of the Latimer Accounts, which provided, in part:

> [T]hat all securities and credit balances held by LATIMER for the Customer's account shall be subject to a general lien for any and all indebtedness to LATIMER howsoever arising and in whatever account appearing, including any liability arising by reason of any guarantee by the Customer of the account or of any other person; that LATIMER is authorized hereby to sell, purchase, pledge, or repledge any or all such securities without notice of advertisement to satisfy this lien, and that LATIMER may at any time without notice whenever LATIMER carries more than one account for the Customer enter credit or debit balances, whether in respect of securities or money, to any of such accounts and make such adjustments between such accounts as LATIMER may in its sole discretion deem fit; and that any reference to the Customer's account in this clause shall include any account in which the Customer has an interest whether jointly or otherwise.

19. The trades processed by Buckingham through the Canaccord, Latimer and other brokerage accounts involved both securities that had been fully paid and securities purchased on margin by Buckingham's clients. As described below, it was Buckingham's responsibility to ensure that the securities owned by clients, including excess margin securities, were properly segregated, and that such securities were not available for pledging as collateral security for any indebtedness owing by Buckingham to Latimer, or other brokers who had similar executing broker arrangements with Buckingham.

Buckingham's Failure to Segregate Clients' Securities

20. Section 117 of the Regulation to the Act requires that "securities held by a registrant for a client that are unencumbered and that are either fully paid for or are excess margin securities…shall be (a) segregated and identified as being held in trust for the client; and (b) described as being held in segregation on the registrant's security position record, client ledger and statement of account."

21. During the Material Time, Buckingham failed to segregate fully paid or excess margin securities owned by its clients and held in Buckingham's omnibus accounts with other brokerage firms, as outlined above, contrary to the requirements contained in section 117 of Regulation to the Act.

22. Buckingham, in failing to comply with the segregation requirements contained in section 117 of the

Regulation to the Act, put client assets at risk (ie. client assets were available to be used as collateral in support of Buckingham's indebtedness to brokerage firms.) In the ongoing receivership proceeding, two firms have asserted a security interest or lien over securities held in the Buckingham accounts. As a consequence of Buckingham's failure to segregate, many of Buckingham's clients may suffer financial losses should it be determined in the receivership proceeding that the secured claims of the two brokers include fully-paid-for client securities improperly pledged by Buckingham. Bromberg, Bruce and Frydrych authorized, permitted or acquiesced in Buckingham's breach of the requirements contained in section 117 of the Regulation to the Act.

Buckingham's Failure to Maintain Adequate Capital

23. All registrants must maintain adequate capital at all times in accordance with section 107 of the Regulation to the Act. Buckingham had a deficiency of net free capital in excess of $9,000,000 for its financial year ending March 31, 1999, and a deficiency of net free capital in excess of $27,500,000 for its financial year ending March 31, 2000. Buckingham failed to report such information in the audited financial Form 9 reports it was required to file under Ontario securities law, and instead reported excess net free capital which was misleading or untrue.

24. In June 2001, during a compliance review conducted by Commission Staff in respect of the operations of Buckingham, Staff identified several areas of concern, including Buckingham's significant capital deficiency. As set out in paragraph 8 above, Buckingham's registration was suspended on July 6, 2001 and BDO Dunwoody was appointed receiver and manager of Buckingham shortly thereafter.

25. During the Material Time, Buckingham contravened the requirement contained in section 107 of the Regulation to the Act to maintain adequate capital at all times. Bromberg, Bruce and Frydrych authorized, permitted or acquiesced in Buckingham's contravention of section 107 of the Regulation to the Act.

Failure to Maintain Books and Records

26. During the Material Time, Buckingham failed to keep necessary records required under Ontario securities law, contrary to section 113 of the Regulation to the Act. In particular, during the Material Time, Buckingham failed to prepare documents on a monthly basis to record reasonable calculations of minimum free capital, adjusted liabilities and capital required by the firm in order to ensure that Buckingham complied with its capital requirements pursuant to section 107 of the Regulation to the Act. Bromberg, Bruce and Frydrych authorized, permitted or acquiesced in Buckingham's breach of the requirement contained in section 113 of the Regulation to the Act.

1999 and 2000 Form 9 Reports

27. Buckingham prepared Form 9 reports for the financial years ending March 31, 1999 and March 31, 2000 (hereafter, referred to as the "1999 Form 9 Report" and the "2000 Form 9 Report"). Section 141 of the Regulation to the Act requires a securities dealer, who is not a member of an SRO, to deliver to the Commission within 90 days after the end of each financial year a report prepared in accordance with Form 9. The Form 9 reports, among other things, record the capital position and requirements of the securities dealer, and confirm the segregation of clients' fully paid and excess margin securities. Section 144 of the Regulation to the Act requires that the Form 9 Reports be audited by an auditor appointed by the securities dealer, in accordance with generally accepted auditing standards and the audit requirements published by the Commission.

28. The 1999 and 2000 Form 9 Reports were submitted to the Commission. Bruce and Bromberg each signed the Certificate of Partners or Directors on behalf of Buckingham for the 1999 and 2000 Form 9 Reports, certifying, among other things, that:

(a) the financial statements and other information presented fairly the financial position of Buckingham; and

(b) information stated in the Certificate was true and correct, including the statement that Buckingham promptly segregated all clients' free securities.

29. Buckingham, for the fiscal years ending March 31, 1999 and March 31, 2000, made statements in the 1999 and 2000 Form 9 Reports required to be filed or furnished under Ontario securities law that, in a material respect and at the time and in the light of the circumstances under which they were made, were misleading or untrue or did not state a fact that was required to be stated or that was necessary to make the statements not misleading.

30. For the fiscal 1999 and 2000 periods, Frydrych provided certain information and documentation to Buckingham and to its auditors, Miller Bernstein, with respect to Buckingham's financial position.

Conduct Contrary to the Public Interest

31. Frydrych's conduct was contrary to the public interest in that:

(a) During the Material Time, Buckingham failed to segregate fully paid or excess margin securities owned by its clients contrary to the requirements contained in section 117 of the Regulation to the Act;

(b) During the Material Time, Buckingham failed to maintain adequate capital at all times contrary to the requirements of section 107 of the Regulation to the Act;

(c) During the Material Time, Buckingham failed to keep such books and records required under section 113 of the Regulation to the Act, and in particular,

failed to maintain on a monthly basis a record of a reasonable calculation of minimum free capital, adjusted liabilities, and capital required by the firm to meet its capital requirements; and

(d) During the Material Time, Frydrych authorized, permitted or acquiesced in Buckingham's violations of the requirements of Ontario securities law, described in subparagraphs (a), (b) and (c) above.

V. TERMS OF SETTLEMENT

32. Frydrych agrees to the following terms of settlement:

a. pursuant to clause 1 of subsection 127(1) of the Act, the registration of Frydrych is terminated;

b. pursuant to clause 2 of subsection 127(1) of the Act, Frydrych will cease trading in securities for a period of fifteen years from the date of the order of the Commission approving the Settlement Agreement, with the exception that Frydrych be permitted to trade in securities:

(i) in personal accounts in which he has sole beneficial interest; and

(ii) in registered retirement savings plans in which he, either alone or with his spouse, has sole beneficial interest.

c. pursuant to clause 7 of subsection 127(1) of the Act, Frydrych will forthwith resign any positions he holds as an officer or director of any reporting issuer or any issuer which is a registrant or any issuer which has an interest directly or indirectly in a registrant;

d. pursuant to clause 8 of subsection 127(1) of the Act, Frydrych is permanently prohibited from becoming or acting as an officer or director of any reporting issuer or an officer or director of any registrant or any issuer that has any interest directly or indirectly in any registrant, from the date of the Order of the Commission approving the Settlement Agreement;

e. Frydrych undertakes to the Commission never to apply for registration in any capacity under Ontario securities law, and further undertakes never to own directly or indirectly, any interest in a registrant. Frydrych agrees to execute an undertaking to the Commission in the form attached as Schedule "B" to this Settlement Agreement;

f. pursuant to clause 6 of subsection 127(1) of the Act, Frydrych will be reprimanded by the Commission;

g. Frydrych agrees to attend, in person, the hearing before the Commission on a date to be determined by the Secretary to the Commission to consider the Settlement Agreement, or such other date as may be agreed to by the parties for the scheduling of the hearing to consider the Settlement Agreement.

VI. STAFF COMMITMENT

33. If this settlement is approved by the Commission, Staff will not initiate any other proceeding under the Act against Frydrych in relation to the facts set out in Part IV of this Settlement Agreement, subject to the provisions contained in paragraphs 34 and 38 below.

34. If this Settlement Agreement is approved by the Commission, and at any subsequent time Frydrych fails to honour the terms and undertakings contained in Part V herein, Staff reserve the right to bring proceedings under Ontario securities law against Frydrych based on the facts set out in Part IV of the Settlement Agreement, as well as the breach of the terms and undertakings.

VII. PROCEDURE FOR APPROVAL OF SETTLEMENT

35. Approval of the settlement set out in the Settlement Agreement shall be sought at a public hearing of the Commission scheduled on a date to be determined by the Secretary to the Commission or such other date as may be agreed to by the parties for the scheduling of the hearing to consider the Settlement Agreement.

36. Staff and the respondent may refer to any part, or all, of the Settlement Agreement at the Settlement Hearing. Staff and Frydrych agree that the Settlement Agreement will constitute the entirety of the evidence to be submitted at the Settlement Hearing, unless the parties later agree that further evidence should be submitted at the Settlement Hearing.

37. If the Settlement Agreement is approved by the Commission, Frydrych agrees to waive his right to a full hearing, judicial review or appeal of the matter under the Act.

38. Staff and Frydrych agree and undertake that if the Settlement Agreement is approved by the Commission, they will not make any statement inconsistent with the Settlement Agreement.

39. Whether or not the Settlement Agreement is approved by the Commission, Frydrych agrees that he will not, in any proceeding, refer to or rely upon the Settlement Agreement or the settlement negotiations as the basis of any attack on the Commission's jurisdiction, alleged bias or appearance of bias, alleged unfairness or any other remedies or challenges that may otherwise be available.

40. If, for any reason whatsoever, the Settlement Agreement is not approved by the Commission, or an order in the form attached as Schedule "A" is not made by the Commission;

a. the Settlement Agreement and its terms, including all settlement negotiations between Staff and Frydrych leading up to its presentation at the Settlement Hearing, shall be without prejudice to Staff and Frydrych;

b. Staff and Frydrych shall be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing on the merits of the allegations in the Notice of Hearing and Statement of Allegations of Staff, unaffected by the Settlement Agreement or the settlement negotiations; and

c. the terms of the Settlement Agreement will not be referred to in any subsequent proceeding, or disclosed to any person except with the written consent of Staff and Frydrych or as may be required by law.

VIII. DISCLOSURE OF SETTLEMENT AGREEMENT

41. The Settlement Agreement and its terms will be treated as confidential by Staff and Frydrych, until approved by the Commission, and forever if, for any reason whatsoever, the Settlement Agreement is not approved by the Commission, except with the written consent of Staff and Frydrych or as may be required by law.

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

IX. EXECUTION OF SETTLEMENT AGREEMENT

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

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

May 16, 2005.

Signed in the presence of:

"JS"

"Norman Frydrych"

"Michael Watson"
Director, Enforcement Branch

SCHEDULE "A"

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

AND

IN THE MATTER OF
NORMAN FRYDRYCH

ORDER
(Sections 127 and 127.1)

WHEREAS on the 6th day of July, 2001, the Ontario Securities Commission (the "Commission") ordered, among other things, pursuant to clause 1 of subsection 127(1) of the *Securities Act*, R.S.O. 1990, c.S.5, as amended (the "Act"), that the registration of Buckingham Securities be suspended and that trading in any securities by Buckingham, Lloyd Bruce ("Bruce") and David Bromberg ("Bromberg") cease for a period of fifteen days from the date of the order (the "Temporary Order");

AND WHEREAS on the 20th day of July, 2001 the Commission ordered as described above, pursuant to subsection 127(7) of the Act that the Temporary Order, among other things, be extended against Buckingham, Bruce and Bromberg until the hearing is concluded and that the hearing be adjourned *sine die*;

AND WHEREAS on April 15, 2004, the Commission issued a Notice of Hearing (the "Notice of Hearing") pursuant to sections 127 and 127.1 of the Act in respect of Norman Frydrych;

AND WHEREAS the respondent Norman Frydrych entered into a settlement agreement dated May 16, 2005 (the "Settlement Agreement"), in which the respondent agreed to a proposed settlement of the proceeding commenced by the Notice of Hearing, subject to the approval of the Commission; and wherein Frydrych provided to the Commission a written undertaking never to apply for registration in any capacity under Ontario securities law and never to own directly or indirectly any interest in a registrant;

AND UPON reviewing the Settlement Agreement and the Statement of Allegations of Staff of the Commission, and upon hearing submissions from the respondent and from Staff of the Commission;

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

IT IS HEREBY ORDERED THAT:

1. the Settlement Agreement dated May 16, 2005, attached to this order as Schedule "1", is hereby approved;

2. pursuant to clause 1 of subsection 127(1) of the Act, the registration granted to Frydrych under Ontario securities law be terminated;

3. pursuant to clause 2 of subsection 127(1) of the Act, trading in any securities by Frydrych cease for a period of fifteen years from the date of the order of the Commission approving the Settlement Agreement, with the exceptions that Frydrych be permitted to trade in securities:

   a. in personal accounts in his name in which he has sole beneficial interest; and

   b. in registered retirement savings plans in which he, either alone or with his spouse, has sole beneficial interest;

4. pursuant to clause 7 of subsection 127(1) of the Act, Frydrych resign forthwith any position he holds as an officer or director of any reporting issuer or any issuer which is a registrant or any issuer which has an interest directly or indirectly in a registrant;

5. pursuant to clause 8 of subsection 127(1) of the Act, Frydrych is prohibited permanently from becoming or acting as an officer or director of any reporting issuer or an officer or director of any registrant, or any issuer that directly or indirectly has any interest in any registrant, from the date of this order;

6. pursuant to clause 6 of subsection 127(1) of the Act, Frydrych is reprimanded by the Commission.

DATED at Toronto this day of May, 2005

SCHEDULE "B"

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

AND

**IN THE MATTER OF
NORMAN FRYDRYCH**

**UNDERTAKING TO THE
ONTARIO SECURITIES COMMISSION**

I, Norman Frydrych, am a Respondent to a Notice of Hearing dated April 15, 2004 issued by the Ontario Securities Commission. I undertake to the Ontario Securities Commission that I will never apply for registration in any capacity under Ontario securities law. I further undertake that I will never have any ownership interest, directly or indirectly, in any registrant. I have agreed to such terms as set out in the settlement agreement between Staff of the Commission and me dated May 16, 2005

"JF"
Witness
Date: May 16, 2005

"Norman Frydrych"
Date: May 16, 2005
Acknowledgement as Received by,

John Stevenson
the Secretary to the
Ontario Securities Commission
Date: May , 2005

3.1.2 Miller Bernstein & Partners LLP

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

AND

**IN THE MATTER OF
MILLER BERNSTEIN & PARTNERS LLP**

SETTLEMENT AGREEMENT

I. INTRODUCTION

1. By Notice of Hearing dated April 15, 2004 in respect of Miller Bernstein & Partners LLP ("Miller Bernstein"), the Ontario Securities Commission (the "Commission") announced that it proposed to hold a hearing to consider whether, pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act"), it is in the public interest for the Commission to make orders as specified therein.

II. JOINT SETTLEMENT RECOMMENDATION

2. Staff recommend settlement of the allegations against the respondent Miller Bernstein in accordance with the terms and conditions set out below. Miller Bernstein agrees to the settlement on the basis of the facts and conclusions agreed to as provided in Part IV and consent to the making of an order against it in the form attached as Schedule "A" on the basis of the facts set out in Part IV.

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

III. ACKNOWLEDGEMENT

4. Staff and Miller Bernstein agree with the facts and conclusions set out in Part IV for the purpose of this settlement proceeding only, and further agree that this agreement of facts and conclusions is without prejudice to Miller Bernstein in any other proceedings of any kind including, but without limiting the generality of the foregoing, any proceedings brought by the Commission under the Act or any civil or other proceedings which may be brought by any other person, corporation, regulatory body or agency. For the purpose of this settlement agreement, reference to Miller Bernstein also includes the partnership's successors and assigns and includes any new partnership which is formed by or includes two or more of the Individual Partners (as defined on paragraph 7 below).

IV. AGREED FACTS

Background

5. Buckingham Securities Corporation ("Buckingham") is incorporated pursuant to the laws of Ontario. Buckingham was registered under Ontario securities law as a securities dealer during the period from March 17, 1997 to July 6, 2001 (the "Material Time"). Buckingham commenced trading for clients in or about April 1997.

6. Miller Bernstein is a partnership of chartered accountants with an office in Toronto. In December 1996, Buckingham appointed Miller Bernstein as the firm's auditor. As the auditor appointed by Buckingham, Miller Bernstein was required under section 21.10(2) of the Act to make an examination of the annual financial statements and other regulatory filings of Buckingham, in accordance with generally accepted auditing standards, and to prepare a report on the financial affairs of Buckingham in accordance with professional reporting standards.

7. During the Material Time, the Miller Bernstein partnership consisted of six partners. Following the death of one of the partners in late December 1999, the Miller Bernstein partnership has consisted of five partners (the "Individual Partner(s)"). During the Material Time, Howard Kornblum ("Kornblum") was the audit partner in respect of the audit work carried out by Miller Bernstein. Kornblum signed the audit opinions contained in the 1999 and 2000 Form 9 Reports (described below) on behalf of Miller Bernstein.

8. Miller Bernstein has represented to Staff of the Commission that, at the Material Time, Buckingham was the only securities dealer audited by Miller Bernstein. When it was appointed to audit Buckingham, Miller Bernstein had not previously audited a securities dealer.

The 1999 and 2000 Form 9 Reports

9. Buckingham prepared Form 9 reports for the financial years ending March 31, 1999 and March 31, 2000 (hereafter, referred to as the "1999 Form 9 Report" and the "2000 Form 9 Report"). Section 142 of the Regulation to the Act requires a securities dealer, who is not a member of a self-regulatory organization to deliver to the Commission within 90 days after the end of each financial year a report prepared in accordance with Form 9. The Form 9 reports, among other things, record the capital position and requirements of the securities dealer, and confirm the segregation of clients' fully paid and excess margin securities. Section 144 of the Regulation to the Act requires that the Form 9 Reports be audited by an auditor appointed by the securities dealer, in accordance with generally accepted auditing standards and the audit requirements published by the Commission.

10. The 1999 and 2000 Form 9 Reports were submitted by Buckingham to the Commission. The Certificate of Partners or Directors on behalf of Buckingham for the 1999 and 2000 Form 9 Reports, certified, among other things, that:

    (a) the financial statements and other information presented fairly the financial position of Buckingham; and

    (b) information stated in the Certificate of partners or directors was true and correct, including the statement that Buckingham promptly segregated all clients' free securities.

11. Buckingham, for the fiscal years ending March 31, 1999 and March 31, 2000, made statements in the 1999 and 2000 Form 9 Reports required to be filed or furnished under Ontario securities law that, in a material respect and at the time and in the light of the circumstances under which they were made, were misleading or untrue or did not state a fact that was required to be stated or that was necessary to make the statements not misleading, specifically:

    (i) a. the 1999 Statement of Assets and Liabilities and Capital stated that the amount of Buckingham's total liabilities (excluding subordinated loans) was $4,402,608 when such amount was in excess of $12,000,000;

    b. the 1999 Statement of Net Free Capital stated that Buckingham had excess net free capital, before taking account of capital requirements, in the amount of $521,766, when Buckingham had a deficiency of net free capital in excess of $8,000,000;

    c. the 1999 Statement of Adjusted Liabilities stated that the amount of Buckingham's adjusted liabilities was $3,527,784, when the amount was in excess of $11,500,000;

    d. the 1999 Statement of Minimum Free Capital stated that Buckingham had excess net free capital, after deducting capital requirements, in the amount of $179,544, when Buckingham had a deficiency of net free capital in excess of $9,000,000;

    e. the 1999 Certificate of Partners or Directors stated that Buckingham properly segregated all clients' free securities, when Buckingham was not segregating clients' free securities.

    (ii) a. the 2000 Statements of Assets and Liabilities and Capital stated that the amount of Buckingham's total liabilities (excluding subordinated loans) was $11,085,049, when such amount was in excess of $36,000,000;

b. the 2000 Statement of Net Free Capital stated that Buckingham had excess net free capital, before taking account of capital requirements, in the amount of $738,675, when Buckingham had a deficiency of net free capital in excess of $25,500,000;

c. the 2000 Statement of Adjusted Liabilities stated that the amount of Buckingham's adjusted liabilities was $6,914,102, when such amount was in excess of $31,000,000;

d. the 2000 Statement of Minimum Free Capital stated that Buckingham had excess net free capital, after deducting capital requirements, in the amount of $144,778, when Buckingham had a deficiency of net free capital in excess of $27,500,000;

e. the 2000 Certificate of Partners or Directors stated that Buckingham had properly segregated all clients' free securities, when Buckingham was not segregating clients' free securities.

Misleading or Untrue Statements in Audit Reports

12. Miller Bernstein did not obtain sufficient audit evidence to determine the segregation of client assets and did not formulate appropriate procedures to review margin accounts held by clients of Buckingham to support the opinions expressed by it in the audit opinions contained in the 1999 and 2000 Form 9 Reports.

13. Miller Bernstein, in its audit report addressed to the Ontario Securities Commission in each of the 1999 and 2000 Form 9 Reports, stated that it had examined the financial statements and other financial information prepared by Buckingham contained within the Reports. In relation to its examination of such financial statements and information for each of the financial years ending March 31, 1999 and March 31, 2000, Miller Bernstein expressed its opinion as follows:

> Our examination was made in accordance with generally accepted auditing standards and accordingly included such tests and other procedures as we considered necessary in the circumstances, including the audit procedures prescribed by the Ontario Securities Commission.
>
> In our opinion,
>
> (i) the statement of assets and liabilities presents fairly the financial position of the firm as at [March 31, 1999/March 31, 2000] in the form required under the Regulation to The Securities Act, 1978 in accordance with the basis of accounting disclosed in Note 1 applied on a basis consistent with that of the preceding year; and
>
> (ii) the statements of net free capital, adjusted liabilities, minimum free capital and statement of segregation requirements and funds on deposit in segregation as at [March 31, 1999/March 31, 2000] are presented in accordance with applicable instructions in the Regulation under The Securities Act, 1978.
>
> …
>
> The additional information set out in Part II, schedules 1 to 18 and the answers contained in questions 5 and 6 on the certificate of partners or directors have been subjected to the tests and other auditing procedures applied in the examination of the financial statements A to E in Part I and schedule 19 in Part II, and in our opinion, are fairly stated in all respects material in relation to these financial statements taken as a whole.

Conduct Contrary to the Public Interest

14. Having regard to the misleading or untrue statements contained in the Form 9 Reports, described in paragraph 11 above, Miller Bernstein's conduct was contrary to the public interest in that, for the fiscal years ending March 31, 1999 and March 31, 2000, Miller Bernstein stated, in its opinions contained in Buckingham's 1999 and 2000 Form 9 Reports, that its examination of Buckingham's financial statements and other financial information was made in accordance with generally accepted auditing standards. Such statements made by Miller Bernstein were in a material respect and at the time and in the light of the circumstances under which they were made, misleading or untrue, or did not state a fact that was required to be stated or that was necessary to make the statements not misleading.

V. TERMS OF SETTLEMENT

15. Miller Bernstein agrees to the following terms of settlement:

> A. At the time of approval of this settlement, Miller Bernstein will make a settlement payment in the amount of $75,000 by certified cheque or bank draft to the Commission for allocation to or for the benefit of third parties under section 3.4(2) of the Act;

B. Miller Bernstein undertakes to the Commission that it will not provide auditing or other services to reporting issuers or to registrants under Ontario securities law in their capacity as reporting issuers and registrants, respectively. Miller Bernstein agrees to execute an undertaking to the Commission in the form attached as Schedule "B" to this Settlement Agreement. Staff and Miller Bernstein agree that this undertaking applies to the Miller Bernstein partnership and is not intended to apply to any individual partner or employee of Miller Bernstein to the extent that he or she leaves Miller Bernstein to join another accounting firm or other entity. Miller Bernstein agrees that it will forthwith notify the Institute of Chartered Accountants of Ontario (the "ICAO") and the Canadian Public Accountability Board (the "CPAB") in the event that any Individual Partner (as defined in paragraph 7 above) of Miller Bernstein leaves the partnership, and further, Miller Bernstein will identify the accounting firm or other entity that the departing Individual Partner intends to join;

C. No earlier than one year after the date of approval of this settlement, Miller Bernstein will be at liberty to apply to the Commission for an Order pursuant to section 144 of the Act for relief from the undertaking not to provide auditing or other services to reporting issuers or to registrants described above in paragraph 15(B). In respect of such application made by Miller Bernstein, Miller Bernstein agrees to the following:

i. Miller Bernstein will not make such application under section 144 of the Act until it has complied with the following:

   a) Miller Bernstein at its own expense shall prepare a quality control report ("Quality Control Report") that complies with the guidelines or requirements of the Canadian Public Accountability Board (the "CPAB") for participating audit firms (as such term is defined in National Instrument 52-108 – "Auditor Oversight", and hereafter referred to as a "Participating Audit Firm"). Miller Bernstein will provide the Quality Control Report to the CPAB, and to Staff and the Commission concurrently. The Quality Control Report shall be filed with the Secretary to the Commission and be made publicly available;

   b) the CPAB, or alternatively, a public accounting firm acceptable to Staff and Miller Bernstein, has performed an inspection (the "Inspection") of Miller Bernstein, including the partnership's practices and procedures, and in particular, the design and implementation of the quality controls in place at Miller Bernstein as set out in the Quality Control Report. Such Inspection is to be carried out at the expense of Miller Bernstein. The report setting out the results of such Inspection shall be submitted to Staff and the Commission and Miller Bernstein concurrently;

   c) Miller Bernstein will implement such changes as may be recommended by the CPAB (or alternatively, the public accounting firm) in relation to the Inspection, within reasonable time frames set out by the CPAB (or alternatively, the public accounting firm) in consultation with Miller Bernstein and Staff. Miller Bernstein will provide a report or reports concerning the implementation of the recommendations concurrently to Staff and the Commission, and to the CPAB (or alternatively, the public accounting firm) within the aforementioned time frames. The report(s) prepared by Miller Bernstein shall be filed with the Secretary to the Commission and be made publicly available.

   d) Miller Bernstein is a Participating Audit Firm (as defined in National Instrument 52-108 – "Auditor Oversight"); and

   e) Miller Bernstein is in compliance with any restrictions or sanctions imposed by the CPAB;

ii. Miller Bernstein further undertakes to the Commission that if it seeks to become registered with the CPAB as a Participating Audit Firm, it will give Staff reasonable prior notice of its application to the CPAB for registration; and

iii. Staff of the Commission will be at liberty to oppose any application made by Miller Bernstein pursuant to section 144 of the Act or to seek the imposition by the Commission of sanctions on any order made by the Commission granting relief from the undertaking.

D. Miller Bernstein will provide forthwith a copy of the Order of the Commission and this Settlement Agreement to the ICAO and to the CPAB;

E. pursuant to clause 6 of subsection 127(1) of the Act, Miller Bernstein will be reprimanded by the Commission;

F. pursuant to subsection 127.1(1)(b) of the Act, Miller Bernstein will make payment to the Commission in the amount of $115,000 by certified cheque or bank draft in respect of a portion of the costs of the Commission's investigation in relation to Miller Bernstein, such payment to be made at the time of approval of this settlement; and

G. Howard Kornblum, in his capacity as a representative partner of Miller Bernstein, will attend the hearing before the Commission on a date to be determined by the Secretary to the Commission to consider the Settlement Agreement, or such other date as may be agreed to by the parties for the scheduling of the hearing to consider the Settlement Agreement.

VI. STAFF COMMITMENT

16. If this settlement is approved by the Commission, Staff will not initiate any other proceeding under the Act against Miller Bernstein in relation to the facts set out in Part IV of this Settlement Agreement, subject to the provisions contained in paragraphs 17 and 21 below.

17. If this Settlement Agreement is approved by the Commission, and at any subsequent time Miller Bernstein fails to honour the terms and undertakings contained in Part V herein, Staff reserve the right to bring proceedings under Ontario securities law against Miller Bernstein based on the facts set out in Part IV of the Settlement Agreement, as well as the breach of the terms and undertakings.

VII. PROCEDURE FOR APPROVAL OF SETTLEMENT

18. Approval of the settlement set out in the Settlement Agreement shall be sought at a public hearing of the Commission scheduled for such date as is agreed to by Staff and Miller Bernstein.

19. Counsel for Staff or Miller Bernstein may refer to any part, or all, of the Settlement Agreement at the Settlement Hearing. Staff and Miller Bernstein agree that the Settlement Agreement will constitute the entirety of the evidence to be submitted at the Settlement Hearing, unless the parties later agree that further evidence should be submitted at the Settlement Hearing.

20. If the Settlement Agreement is approved by the Commission, Miller Bernstein agrees to waive its right to a full hearing, judicial review or appeal of the matter under the Act.

21. Staff and Miller Bernstein agree that if the Settlement Agreement is approved by the Commission, they will not make any statement inconsistent with the Settlement Agreement. Notwithstanding this paragraph, nothing in this Settlement Agreement shall prevent Miller Bernstein from raising any defence that may be available to Miller Bernstein in any civil or administrative proceeding commenced against Miller Bernstein or its predecessors.

22. Whether or not the Settlement Agreement is approved by the Commission, Miller Bernstein agrees that it will not, in any proceeding, refer to or rely upon the Settlement Agreement or the settlement negotiations as the basis of any attack on the Commission's jurisdiction, alleged bias or appearance of bias, alleged unfairness or any other remedies or challenges that may otherwise be available.

23. If, for any reason whatsoever, the Settlement Agreement is not approved by the Commission, or an order in the form attached as Schedule "A" is not made by the Commission;

    a. the Settlement Agreement and its terms, including all settlement negotiations between Staff and Miller Bernstein leading up to its presentation at the Settlement Hearing, shall be without prejudice to Staff and Miller Bernstein;

    b. Staff and Miller Bernstein shall be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing on the merits of the allegations in the Notice of Hearing and Statement of Allegations of Staff, unaffected by the Settlement Agreement or the settlement negotiations; and

    c. the terms of the Settlement Agreement will not be referred to in any subsequent proceeding, or disclosed to any person except with the written consent of Staff and Miller Bernstein or as may be required by law.

VIII. DISCLOSURE OF SETTLEMENT AGREEMENT

24. The Settlement Agreement and its terms will be treated as confidential by Staff and Miller Bernstein, until approved by the Commission, and forever if, for any reason whatsoever, the Settlement Agreement is not approved by the Commission, except with the written consent of Staff and Miller Bernstein or as may be required by law.

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

IX. EXECUTION OF SETTLEMENT AGREEMENT

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

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

May 17, 2005.

Signed in the presence of:

Miller Bernstein & Partners LLP by [entity]
Per:

"Howard Kornblum"
Authorized Signing Officer

"Ron Kobric"

"Michael Watson"
Director, Enforcement Branch

SCHEDULE "A"

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

AND

IN THE MATTER OF
MILLER BERNSTEIN & PARTNERS LLP

ORDER
(Sections 127 and 127.1)

WHEREAS on the 6th day of July, 2001, the Ontario Securities Commission (the "Commission") ordered, among other things, pursuant to clause 1 of subsection 127(1) of the *Securities Act*, R.S.O. 1990, c.S.5, as amended (the "Act"), that the registration of Buckingham Securities be suspended and that trading in any securities by Buckingham, Lloyd Bruce ("Bruce") and David Bromberg ("Bromberg") cease for a period of fifteen days from the date of the order (the "Temporary Order");

AND WHEREAS on the 20th day of July, 2001 the Commission ordered as described above, pursuant to subsection 127(7) of the Act that the Temporary Order, among other things, be extended against Buckingham, Bruce and Bromberg until the hearing is concluded and that the hearing be adjourned *sine die*;

AND WHEREAS on April 15, 2004, the Commission issued a Notice of Hearing (the "Notice of Hearing") pursuant to sections 127 and 127.1 of the Act in respect of Miller Bernstein & Partners LLP ("Miller Bernstein") and other respondents;

AND WHEREAS Miller Bernstein entered into a settlement agreement dated May , 2005 (the "Settlement Agreement"), in which the respondent Miller Bernstein agreed to a proposed settlement of the proceeding commenced by the Notice of Hearing, subject to the approval of the Commission; and wherein Miller Bernstein provided to the Commission a written undertaking that it will not provide auditing or other services to reporting issuers or to registrants under Ontario securities law in their capacity as reporting issuers and registrants, respectively;

AND UPON reviewing the Settlement Agreement and the Statement of Allegations of Staff of the Commission, and upon hearing submissions from the counsel for Miller Bernstein and from Staff of the Commission;

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

IT IS HEREBY ORDERED THAT:

1. the Settlement Agreement dated May , 2005, attached to this order as Schedule "1", is hereby approved;

2. pursuant to clause 6 of subsection 127(1) of the Act, Miller Bernstein will be reprimanded by the Commission;

3. Miller Bernstein will make a settlement payment in the amount of $75,000 by certified cheque or bank draft to the Commission, at the time of approval of this settlement, for allocation to or for the benefit of third parties under section 3.4(2) of the Act; and

4. pursuant to subsection 127.1(1)(b) of the Act, Miller Bernstein will make payment to the Commission in the amount of $115,000 by certified cheque or bank draft in respect of a portion of the work of the Commission's investigation in relation to Miller Bernstein at the time of approval of this settlement agreement.

DATED at Toronto this day of May, 2005.

SCHEDULE "B"

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

AND

IN THE MATTER OF
MILLER BERNSTEIN & PARTNERS LLP

UNDERTAKING TO THE
ONTARIO SECURITIES COMMISSION

Miller Bernstein & Partners LLP, a respondent to a Notice of Hearing dated April 15, 2004 issued by the Ontario Securities Commission, undertakes to the Ontario Securities Commission that it will not provide auditing or other services to reporting issuers or to registrants under Ontario securities law in their capacity as reporting issuers and registrants, respectively. This undertaking is provided pursuant to terms agreed to in the settlement agreement between Staff of the Commission and Miller Bernstein dated May 17, 2005.

Miller Bernstein & Partners LLP
by [entity]
Per:

"Ron Kobric"
Witness: Ron Kobric
Date: May 17, 2005

"Howard Kornblum"
Authorized Signing Officer
Date: May 17, 2005

Acknowledgement as Received by,

John Stevenson
the Secretary to the
Ontario Securities Commission
Date: May , 2005

3.1.3 Buckingham Securities Corporation

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

AND

**IN THE MATTER OF
BUCKINGHAM SECURITIES CORPORATION**

SETTLEMENT AGREEMENT

I. INTRODUCTION

1. On the 6th day of July, 2001, the Ontario Securities Commission (the "Commission") ordered, among other things, pursuant to clause 1 of subsection 127(1) of the *Securities Act*, R.S.O. 1990, c.S.5, as amended (the "Act"), that the registration of Buckingham Securities Corporation ("Buckingham") be suspended for a period of fifteen days from the date of the order (the "Temporary Order").

2. On the 20th day of July, 2001 the Commission ordered pursuant to subsection 127(7) of the Act, that the Temporary Order, among other things, be extended against Buckingham until the hearing is concluded and that the hearing be adjourned *sine die.*

3. By Notice of Hearing dated April 15, 2004, the Ontario Securities Commission announced that it proposed to hold a hearing to consider whether, pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended, it is in the public interest for the Commission to make certain orders as specified therein.

4. BDO Dunwoody Limited was appointed Receiver and Manager (the "Receiver") of the assets and undertaking of Buckingham by Order of the Honourable Madame Justice Swinton dated July 26, 2001 (the "Court Order").

5. On the 30th day of March 2004, the Commission ordered pursuant to section 144(1) of the Act that the Temporary Order made by the Commission on July 6, 2001, as varied and extended by Order dated July 20, 2001, cease to apply as against certain brokerage firms (as described therein) and the Receiver, to the extent necessary to permit trading to be conducted by, on behalf of or with the consent of the Receiver, in any securities held in an account or accounts in the name of Buckingham.

II. JOINT SETTLEMENT RECOMMENDATION

6. Staff recommend settlement of the allegations against the respondent Buckingham in accordance with the terms and conditions set out below. Buckingham agrees to the settlement on the basis of the facts and conclusions agreed to as provided in Part IV and consents to the making of an order against it in the form attached as Schedule "A" on the basis of the facts set out in Part IV. Pursuant to the Court Order referred to in paragraph 4 above, the Receiver is authorized to enter into any settlement of any proceedings, including administrative hearings.

7. This settlement agreement, including the attached Schedule "A" (collectively, the "Settlement Agreement") will be released to the public only if and when the Settlement Agreement is approved by the Commission.

III. ACKNOWLEDGEMENT

8. Staff and Buckingham agree with the facts and conclusions set out in Part IV for the purpose of this settlement proceeding.

IV. AGREED FACTS AND CONCLUSIONS

Background

9. Buckingham is incorporated pursuant to the laws of Ontario. Buckingham was registered under Ontario securities law as a securities dealer during the period from March 17, 1997 to July 6, 2001 (the "Material Time"). Buckingham commenced trading for clients in or about April 1997.

10. The registration of Buckingham was suspended on July 6, 2001 by Temporary Order made by the Commission, and extended by Order of the Commission dated July 20, 2001. As noted above, BDO Dunwoody Limited was appointed Receiver of the assets and undertaking of Buckingham by Order of the Honourable Madame Justice Swinton dated July 26, 2001.

Buckingham's Trading Activities - Accounts held with Executing Brokers

11. Buckingham was not a member of the Investment Dealers Association of Canada ("IDA") or any other self-regulatory organization ("SRO"). During the Material Time, Buckingham engaged in trading on an agency basis for clients. Buckingham had approximately 2400 client cash, margin or RRSP accounts (1000 of which were active accounts at the time of the suspension of Buckingham's operations in July 2001). Buckingham's clients purchased securities through Buckingham salespeople for cash or on margin. Client orders were executed through various IDA member firms.

12. During the Material Time, Buckingham entered into executing broker arrangements with various firms including Canaccord Capital Corporation ("Canaccord") and W.D. Latimer Co. Ltd. ("Latimer") to process Buckingham's client orders.

13. From approximately May 1997 to July 2000, Buckingham conducted the majority of its trading for its clients using cash or margin accounts at Canaccord (the "Canaccord Accounts"). The Canaccord Accounts were held in the name of Buckingham and were operated as omnibus accounts. These accounts held clients' securities in aggregate, and did not identify individual Buckingham

client names and the corresponding security positions of individual clients.

14. In April 2000, Canaccord notified Buckingham that it intended to close the Canaccord Accounts because of its concerns with the form and operation of the Canaccord Accounts.

15. On or about July 28, 2000, Buckingham transferred the securities it held at Canaccord to cash and margin accounts at Latimer. The accounts held in the name of Buckingham at Latimer operated as omnibus accounts, in the same manner as described in paragraph 13 above.

16. During the Material Time, Latimer and Buckingham entered into an agreement in respect of the Latimer Accounts, which provided, in part:

> [T]hat all securities and credit balances held by LATIMER for the Customer's account shall be subject to a general lien for any and all indebtedness to LATIMER howsoever arising and in whatever account appearing, including any liability arising by reason of any guarantee by the Customer of the account or of any other person; that LATIMER is authorized hereby to sell, purchase, pledge, or repledge any or all such securities without notice of advertisement to satisfy this lien, and that LATIMER may at any time without notice whenever LATIMER carries more than one account for the Customer enter credit or debit balances, whether in respect of securities or money, to any of such accounts and make such adjustments between such accounts as LATIMER may in its sole discretion deem fit; and that any reference to the Customer's account in this clause shall include any account in which the Customer has an interest whether jointly or otherwise.

17. The trades processed by Buckingham through the Canaccord, Latimer and other brokerage accounts involved both securities that had been fully paid and securities purchased on margin by Buckingham's clients. As described below, it was Buckingham's responsibility to ensure that the securities owned by clients, including excess margin securities, were properly segregated, and that such securities were not available for pledging as collateral security for any indebtedness owing by Buckingham to Latimer, or other brokers who had similar executing broker arrangements with Buckingham.

Buckingham's Failure to Segregate Clients' Securities

18. Section 117 of the Regulation to the Act requires that "securities held by a registrant for a client that are unencumbered and that are either fully paid for or are excess margin securities…shall be (a) segregated and identified as being held in trust for the client; and (b) described as being held in segregation on the registrant's security position record, client ledger and statement of account."

19. During the Material Time, Buckingham failed to segregate fully paid or excess margin securities owned by its clients and held in Buckingham's omnibus accounts with other brokerage firms, as outlined above, contrary to the requirements contained in section 117 of Regulation to the Act.

20. Buckingham, in failing to comply with the segregation requirements contained in section 117 of the Regulation to the Act, put client assets at risk (ie. client assets were available to be used as collateral in support of Buckingham's indebtedness to brokerage firms.) In the ongoing receivership proceeding, two firms have asserted a security interest or lien over securities held in the Buckingham accounts. The Receiver has advised Commission Staff that as a consequence of Buckingham's failure to segregate, many of Buckingham's clients have suffered financial losses as it has been determined in the receivership proceeding that one of the secured claims of the two brokers include fully-paid-for client securities improperly pledged by Buckingham.

Buckingham's Failure to Maintain Adequate Capital

21. All registrants must maintain adequate capital at all times in accordance with section 107 of the Regulation to the Act. As set out in paragraph 26 below, Buckingham had a deficiency of net free capital in excess of $9,000,000 for its financial year ending March 31, 1999, and a deficiency of net free capital in excess of $27,500,000 for its financial year ending March 31, 2000. Buckingham failed to report such information in the audited financial Form 9 reports it was required to file under Ontario securities law, and instead reported excess net free capital which was misleading or untrue.

22. During the Material Time, Buckingham contravened the requirement contained in section 107 of the Regulation to the Act to maintain adequate capital at all times.

Failure to Maintain Books and Records

23. During the Material Time, Buckingham failed to keep necessary records required under Ontario securities law, contrary to section 113 of the Regulation to the Act. In particular, during the Material Time, Buckingham failed to prepare documents on a monthly basis to record reasonable calculations of minimum free capital, adjusted liabilities and capital required by the firm in order to ensure that Buckingham complied with its capital requirements pursuant to section 107 of the Regulation to the Act.

Misleading or Untrue Statements in 1999 and 2000 Form 9 Reports

24. Buckingham prepared Form 9 reports for the financial years ending March 31, 1999 and March 31, 2000

(hereafter, referred to as the "1999 Form 9 Report" and the "2000 Form 9 Report"). Section 142 of the Regulation to the Act requires a securities dealer, who is not a member of an SRO, to deliver to the Commission within 90 days after the end of each financial year a report prepared in accordance with Form 9. The Form 9 reports, among other things, record the capital position and requirements of the securities dealer, and confirm the segregation of clients' fully paid and excess margin securities. Section 144 of the Regulation to the Act requires that the Form 9 Reports be audited by an auditor appointed by the securities dealer, in accordance with generally accepted auditing standards and the audit requirements published by the Commission.

25. The 1999 and 2000 Form 9 Reports were submitted to the Commission. The Form 9 Reports each contained a Certificate of Partners or Directors certifying, among other things, that:

(a) the financial statements and other information presented fairly the financial position of Buckingham; and

(b) information stated in the Certificate was true and correct, including the statement that Buckingham promptly segregated all clients' free securities.

26. Buckingham, for the fiscal years ending March 31, 1999 and March 31, 2000, made statements in the 1999 and 2000 Form 9 Reports required to be filed or furnished under Ontario securities law that, in a material respect and at the time and in the light of the circumstances under which they were made, were misleading or untrue or did not state a fact that was required to be stated or that was necessary to make the statements not misleading, specifically;

(i) a. the 1999 Statement of Assets and Liabilities and Capital stated that the amount of Buckingham's total liabilities (excluding subordinated loans) was $4,402,608 when such amount was in excess of $12,000,000;

b. the 1999 Statement of Net Free Capital stated that Buckingham had excess net free capital, before taking account of capital requirements, in the amount of $521,766, when Buckingham had a deficiency of net free capital in excess of $8,000,000;

c. the 1999 Statement of Adjusted Liabilities stated that the amount of Buckingham's adjusted liabilities was $3,527,784, when the amount was in excess of $11,500,000;

d. the 1999 Statement of Minimum Free Capital stated that Buckingham had excess net free capital, after deducting capital requirements in the amount of $179,544, when Buckingham had a deficiency of net free capital in excess of $9,000,000;

e. the 1999 Certificate of Partners or Directors stated that Buckingham properly segregated all clients' free securities, when Buckingham was not segregating clients' free securities.

(ii) a. the 2000 Statements of Assets and Liabilities and Capital stated that the amount of Buckingham's total liabilities (excluding subordinated loans) was $11,085,049, when such amount was in excess of $36,000,000;

b. the 2000 Statement of Net Free Capital stated that Buckingham had excess net free capital, before taking account of capital requirements, in the amount of $738,675, when Buckingham had a deficiency of net free capital in excess of $25,500,000;

c. the 2000 Statement of Adjusted Liabilities stated that the amount of Buckingham's adjusted liabilities was $6,914,102, when such amount was in excess of $31,000,000;

d. the 2000 Statement of Minimum Free Capital stated that Buckingham had excess net free capital, after deducting capital requirements, in the amount of $144,778, when Buckingham had a deficiency of net free capital in excess of $27,500,000;

e. the 2000 Certificate of Partners or Directors stated that Buckingham had properly segregated all clients' free securities, when Buckingham was not segregating clients' free securities.

Breach of Requirement to File Form 9 (Financial Questionnaire and Report)

27. Section 142 of the Regulation to the Act provides that every securities dealer, that is not a member of an SRO, must deliver to the Commission within ninety days after the end of its financial year a report prepared in accordance with Form 9 (Financial Questionnaire and Report).

28. Buckingham's Form 9 report for the fiscal year ending March 31, 2001 was due on June 30, 2001. Staff received a request for an extension to file the 2001 Form 9 on the basis that Buckingham's auditor was not prepared to certify the Form 9.

29. Buckingham failed to comply with the requirement contained in section 142 of the Regulation to the Act to file

the required audited form 9 for the fiscal year ending March 31, 2001.

Conduct Contrary to the Public Interest

30. Buckingham's conduct was contrary to the public interest in that:

(a) During the Material Time, Buckingham failed to segregate fully paid or excess margin securities owned by its clients contrary to the requirements contained in section 117 of the Regulation to the Act.

(b) During the Material Time, Buckingham failed to maintain adequate capital at all times contrary to the requirements of section 107 of the Regulation to the Act.

(c) During the Material Time, Buckingham failed to keep such books and records required under section 113 of the Regulation to the Act, and in particular, failed to maintain on a monthly basis a record of a reasonable calculation of minimum free capital, adjusted liabilities, and capital required by the firm to meet its capital requirements.

(d) Buckingham failed to comply with the requirement contained in section 142 of the Regulation to the Act to deliver the required audited Form 9 Report for the fiscal year ending March 31, 2001; and

(e) Buckingham, for the fiscal years ending March 31, 1999 and March 31, 2000, made statements in the 1999 and 2000 Form 9 Reports required to be filed or furnished under Ontario securities law that, in a material respect and at the time and in the light of the circumstances under which they were made, were misleading or untrue or did not state a fact that was required to be stated or that was necessary to make the statements not misleading.

V. TERMS OF SETTLEMENT

31. Buckingham agrees to the following settlement term:

(i) pursuant to clause 1 of subsection 127(1) of the Act, the registration of Buckingham is terminated.

VI. STAFF COMMITMENT

32. If this settlement is approved by the Commission, Staff will not initiate any other proceeding under the Act against Buckingham in relation to the facts set out in Part IV of this Settlement Agreement, subject to the provisions contained in paragraphs 33 and 37 below.

33. If this Settlement Agreement is approved by the Commission, and at any subsequent time Buckingham fails to honour the settlement term contained in Part V herein, Staff reserve the right to bring proceedings under Ontario securities law against Buckingham based on the facts set out in Part IV of the Settlement Agreement, as well as the breach of the settlement term.

VII. PROCEDURE FOR APPROVAL OF SETTLEMENT

34. Approval of the settlement set out in the Settlement Agreement shall be sought at a public hearing of the Commission scheduled on a date to be determined by the Secretary to the Commission, or such other date as may be agreed to by the parties for the scheduling of the hearing to consider the Settlement Agreement.

35. Staff and Buckingham may refer to any part, or all, of the Settlement Agreement at the Settlement Hearing. Staff and Buckingham agree that the Settlement Agreement will constitute the entirety of the evidence to be submitted at the Settlement Hearing, unless the parties later agree that further evidence should be submitted at the Settlement Hearing.

36. If the Settlement Agreement is approved by the Commission, Buckingham agrees to waive its right to a full hearing, judicial review or appeal of the matter under the Act.

37. Staff and Buckingham agree and undertake that if the Settlement Agreement is approved by the Commission, they will not make any statement inconsistent with the Settlement Agreement. Notwithstanding this paragraph, nothing in this Settlement Agreement shall prevent Buckingham or the Receiver from raising any defence that may be available to Buckingham or the Receiver in any civil or administrative proceeding commenced by or against Buckingham or the Receiver.

38. Whether or not the Settlement Agreement is approved by the Commission, Buckingham agrees that it will not, in any proceeding, refer to or rely upon the Settlement Agreement or the settlement negotiations as the basis of any attack on the Commission's jurisdiction, alleged bias or appearance of bias, alleged unfairness or any other remedies or challenges that may otherwise be available.

39. If, for any reason whatsoever, the Settlement Agreement is not approved by the Commission, or an order in the form attached as Schedule "A" is not made by the Commission;

a. the Settlement Agreement and its terms, including all settlement negotiations between Staff and Buckingham leading up to its presentation at the Settlement

Hearing, shall be without prejudice to Staff and Buckingham;

b. Staff and Buckingham shall be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing on the merits of the allegations in the Notice of Hearing and Statement of Allegations of Staff, unaffected by the Settlement Agreement or the settlement negotiations; and

c. the terms of the Settlement Agreement will not be referred to in any subsequent proceeding, or disclosed to any person except with the written consent of Staff and Buckingham or as may be required by law.

VIII. DISCLOSURE OF SETTLEMENT AGREEMENT

40. The Settlement Agreement and its terms will be treated as confidential by Staff and Buckingham, until approved by the Commission, and forever if, for any reason whatsoever, the Settlement Agreement is not approved by the Commission, except with the written consent of Staff and Buckingham or as may be required by law.

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

IX. EXECUTION OF SETTLEMENT AGREEMENT

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

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

June 2, 2005.

Signed in the presence of:

Buckingham Securities Corporation
by BDO Dunwoody Limited,
Receiver and Manager of
Buckingham Securities Corporation

"Apolonia D'Sa"

"Uwe Manski"

"Michael Watson"
Director, Enforcement Branch

SCHEDULE "A"

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

AND

IN THE MATTER OF
BUCKINGHAM SECURITIES CORPORATION

ORDER
(Sections 127 and 127.1)

WHEREAS on the 6th day of July, 2001, the Ontario Securities Commission (the "Commission") ordered, among other things, pursuant to clause 1 of subsection 127(1) of the *Securities Act*, R.S.O. 1990, c.S.5, as amended (the "Act"), that the registration of Buckingham Securities Corporation ("Buckingham") be suspended and that trading in any securities by Buckingham, Lloyd Bruce ("Bruce") and David Bromberg ("Bromberg") cease for a period of fifteen days from the date of the order (the "Temporary Order");

AND WHEREAS on the 20th day of July, 2001 the Commission ordered as described above, pursuant to subsection 127(7) of the Act that the Temporary Order, among other things, be extended against Buckingham, Bruce and Bromberg until the hearing is concluded and that the hearing be adjourned *sine die*;

AND WHEREAS BDO Dunwoody Limited was appointed Receiver and Manager (the "Receiver") of the assets and undertaking of Buckingham by Order of the Honourable Madame Justice Swinton dated July 26, 2001 (the "Court Order");

AND WHEREAS on the 30th day of March 2004, the Commission ordered pursuant to section 144(1) of the Act that the Temporary Order made by the Commission on July 6, 2001, as varied and extended by Order dated July 20, 2001, cease to apply only as against certain brokerage firms and the Receiver to the extent necessary to permit trading to be conducted by, on behalf of or with the consent of the Receiver, in any securities held in an account or accounts in the name of Buckingham;

AND WHEREAS on April 15, 2004, the Commission issued a Notice of Hearing (the "Notice of Hearing") pursuant to sections 127 and 127.1 of the Act in respect of Buckingham and other respondents;

AND WHEREAS Buckingham entered into a settlement agreement dated June 1, 2005, in which the respondent Buckingham agreed to a proposed settlement of the proceeding commenced by the Notice of Hearing, subject to the approval of the Commission; and whereas, pursuant to the Court Order referred to herein, the Receiver is authorized to enter into any settlement of any proceeding, including administrative hearings;

AND UPON reviewing the Settlement Agreement and the Statement of Allegations of Staff of the Commission, and upon hearing submissions from the respondent and from Staff of the Commission;

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

IT IS HEREBY ORDERED THAT:

1. the Settlement Agreement dated June 2, 2005, attached to this order as Schedule "1", is hereby approved; and

2. pursuant to clause 1 of subsection 127(1) of the Act, the registration of Buckingham is terminated.

DATED at Toronto this day of June, 2005.

3.1.4 Brian Peter Verbeek - Decision and Reasons

IN THE MATTER OF
THE SECURITIES ACT
R.S.O. 1990, c. S.5, as amended

AND

IN THE MATTER OF
BRIAN PETER VERBEEK

Hearing:

December 6,7,8,9 and 10, 2004; February 14 and 15, 2005; and March 2, 2005, with written argument including that from Verbeek, received on April 26, 2005.

Panel:

Wendell S. Wigle, Q.C.	-	Chair of the Panel
Suresh Thakrar	-	Commissioner

Counsel:

Brian P. Verbeek	-	On his own behalf
Karen Manarin	-	For Staff of the Ontario Securities Commission

DECISION AND REASONS

INTRODUCTION

[1] This is a hearing under sections 127 and 127.1 of the *Securities Act* (the "Act"), pursuant to a Notice of Hearing issued on October 8, 2003 and amended on July 27, 2004, regarding Brian Peter Verbeek ("Verbeek"). The Commission previously approved settlements with Lloyd Hutchinson Ebenezer Bruce and Dundee Securities Corporation ("Dundee") dealing with the same circumstances as this matter.

[2] At the request of Staff and Verbeek, the panel ordered a bifurcated hearing with the issues of whether Verbeek breached the Act or acted contrary to the public interest being heard first, followed by submissions on sanctions, if necessary.

[3] During the presentation of Staff's evidence on December 9, 2004, the then Chair of the panel, Commissioner Robert L. Shirriff, became aware that one of his partners had previously represented Verbeek, and he recused himself and withdrew from the panel.

[4] Verbeek was granted an adjournment and the opportunity to obtain independent legal advice, at the Commission's expense, on whether the hearing should continue with a panel of the two remaining commissioners pursuant to section 4.4(1) of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22 (the "SPPA"). On January 14, 2005, after obtaining independent legal advice, Verbeek advised that he had no objection to continuing the hearing with a panel of the remaining two Commissioners.

BACKGROUND AND STAFF'S ALLEGATIONS

[5] At the heart of this matter are arrangements, which Staff refers to as "schemes", that involved advertisements offering "fast financial assistance" or low interest loans to persons wishing access to funds in their locked-in registered retirement savings plans ("locked-in RRSPs"). Normally, holders of locked-in RRSPs ("holders") cannot access the money in locked accounts until they retire, with the exception of a government administered hardship program. Any funds accessed are immediately taxable. Funds or assets held in retirement savings plans cannot be used as collateral nor can they be used for loans.

[6] The arrangements involved the following sequential steps:

(a) Members of the public responded by phone to newspaper advertisements that offered loans to persons holding either RRSP or locked-in RRSP accounts. Holders were provided with information over the phone and

meetings were arranged. Salespeople working for the promoters met with the holders and the required documents were signed, often in blank.

(b) At a meeting, a holder signed documents to create a new self directed locked-in RRSP account at the brokerage through which Verbeek was registered or, while he was not registered, at a third party trustee. A New Client Application Form ("NCAF") was generated for each holder at the brokerage where Verbeek was employed. The holder signed a letter of direction to his or her current trustee directing it to transfer the locked-in RRSP to the new trustee, often including a direction to liquidate the holdings into cash prior to transferring the proceeds.

(c) Holders were advised by the promoters' salespeople that the majority of funds in their locked-in RRSP, once transferred, would be used to purchase shares of various private companies ("Canadian Controlled Private Corporations" or "CCPCs") that were purported to be qualified investments for locked-in RRSPs. The CCPCs were selected for the holders, with many holders unaware of even the name of the CCPC where the investment was to be made.

(d) The final step was a loan to the holder by the owner or promoter of the CCPC. The amount of the loan was typically 60% to 80% of the purchase price of the CCPC shares, the remainder being retained or distributed by the CCPC owner/promoter as fees and commissions. The CCPC shares were held as collateral for the loan. In some cases, holders made interest payments and principal repayments to the CCPC owners/promoters with the understanding that if the loans were fully paid back including interest, the CCPC shares would be redeemed. The CCPC promoters provided valuations of the CCPC shares prior to the purchase, but the CCPC shares have proven to be worthless.

[7] Verbeek participated in at least 670 such arrangements. His role in the arrangements between 1998 and 2000 (the "material time") is the subject of five allegations:

(a) Verbeek participated in illegal distributions of securities, contrary to section 53(1) of the Securities Act, by trading securities for which there was no exemption available;

(b) Verbeek failed to ascertain the general investment needs and objectives of his clients and the suitability of the purchases or sales of the securities for his clients, and thus acted contrary to the public interest and contrary to section 1.5 of Ontario Securities Commission Rule 31-505;

(c) Verbeek acted contrary to the public interest by participating in the scheme that involved the subsequent loans to investors of approximately 65% of the share purchase and by charging an administration fee to the investors of 35% of the loan proceeds;

(d) Verbeek acted contrary to the public interest by processing documents that referenced "Lafferty, Harwood and Partners Ltd." without Lafferty's knowledge and at a time when Verbeek was not registered through Lafferty; and

(e) On or about February 14, 2001 and February 22, 2001, in response to inquiries made by Staff, Verbeek advised Staff that he did not know that advertisements had been placed; that he did not know that the transactions involved loans to the investors; and that he had not received compensation for his involvement in these transactions. At the time Verbeek made these representations to Staff, he knew that they were misleading or untrue and, therefore, acted contrary to the public interest.

DECISION AND OVERVIEW OF THE REASONS

[8] We find that Verbeek violated the above-noted provisions of the Act and Rule 31-505 and that he acted contrary to the public interest.

[9] As discussed, below, we find that Verbeek participated in distributions of CCPC shares for which no prospectus exemptions were available. He participated in the arrangements not merely as an administrative conduit between the CCPC promoters and the trust companies, but on behalf of the CCPC promoters, and as a registered representative on behalf of the holders. He failed in his obligation to ascertain the general investment needs of his clients, the holders. He failed to ascertain the suitability of the purchase of the CCPC shares for the holders, largely low-income earners who were in immediate need of cash. Verbeek participated in the arrangements despite published warnings by the Commission that schemes like the arrangements were considered harmful to investors and contrary to the public interest. His participation was for his own financial benefit at the expense of unsophisticated investors who needed financial assistance. Although he had intimate knowledge of the arrangements, he misled Staff during the investigation of this matter.

THE AGREED STATEMENT OF FACTS

[10] An "Agreed Statement of Facts", signed on September 20, 2004 by Staff and Verbeek, was filed at the commencement of the hearing. Verbeek disagreed with, or claimed he had no knowledge of, facts in paragraphs (n), (s), (v), (w), (gg), and (hh) of the Agreed Statement of Facts. For convenience, the statements that Verbeek claimed he disagreed with or had no knowledge of are marked with an asterisk.

Agreed Statement of Facts

(a) Brian Peter Verbeek resides in the province of Ontario.

(b) During the material period, Verbeek was registered with the Commission as a branch manager and/or salesperson for an office located in Nepean. The only other staff that was present in the office were clerical staff.

(c) Verbeek is currently not registered under the Act. He was previously registered as follows:

i. from January 16, 1996 to March 10, 1997, Verbeek was registered as a salesperson with Manulife Securities International Limited, a dealer in the category of Mutual Fund Dealer;

ii. from April 18, 1997 to August 27, 1999, Verbeek was registered as a salesperson with Fortune Financial Corporation ("Fortune"), a dealer in the category Securities Dealer. From July 3, 1997 to August 27, 1999, Verbeek was registered as a branch manager of 38 Auriga Drive, Suite 225, Nepean, Ontario. On February 2, 1998, this branch office moved to 57 Auriga Drive, Suite 204, in Nepean;

iii. from August 27, 1999 to May 1, 2000, Verbeek was registered as a registered representative with Dundee, a dealer in the category of Broker/Investment Dealer – Equities, Options and Managed Accounts. Dundee is registered as a Dealer in the categories of Broker/Investment Dealer under the Act. From February 18, 2000 to May 1, 2000, Verbeek was registered as a branch manager of 57 Auriga Drive, Suite 204, in Nepean; and

iv. on August 21, 2000, Verbeek was registered as a salesperson with Buckingham Securities Corporation ("Buckingham"), a dealer in the category of Securities Dealer. Verbeek was registered as a branch manager of 57 Auriga Drive, Suite 204, in Nepean. Verbeek's registration was subject to these terms and conditions: Verbeek's activities were to be approved and supervised by Buckingham. For a period of one year, Verbeek's supervisor at Buckingham was required to submit quarterly reports on the prescribed form to the General Manager, Registration, regarding Verbeek's sales and client activities.

(d) By letter dated December 29, 2000, Buckingham suspended Verbeek from conducting business as a registered representative of Buckingham pending completion of an internal investigation and investigation by the Ontario Securities Commission. By letter dated May 23, 2001, Verbeek was reinstated by Buckingham as a registered representative.

(e) On June 21, 2001, Verbeek was terminated for cause by Buckingham due to numerous unresolved client complaints, concerns that he was violating the terms and conditions of his registration, and concerns that he was involved in questionable private placements.

The Distribution

(f) Verbeek's involvement in these transactions can divided into three overlapping periods:

i. The Petrement Group: August 1998 – November 2000;

ii. Lafferty, Harwood, & Partners Inc. ("Lafferty"): May – August 2000; and

iii. The Tremblay Group: December 1999 – June 2001.

(g) The Petrement Group and the Tremblay Group were separate organizations, and Verbeek's involvement in each is different.

(h) From approximately August 1998 to November 2000, Verbeek participated in a scheme whereby advertisements were placed in newspapers throughout Ontario and other provinces to attract investors. The advertisements offered "fast financial assistance" to persons wishing to access funds in their locked-in Registered Retirement Savings Plan ("RRSP").

(i) The investors, with Verbeek's assistance in processing application forms, purchased shares in Canadian Controlled Private Corporations ("CCPCs") using money located in the investor's locked-in RRSPs. Verbeek facilitated the purchase of shares and the processing of the loans, as discussed below. His name appears as the registered representative on all of the documentation.

(j) Through Verbeek, the investors' funds in their locked-in RRSPs were used to purchase the shares. In exchange, these individuals obtained a loan representing approximately 60% to 80% of the value of the share proceeds. The remaining 20% to 40% was charged as an "administrative fee". With respect to the Petrement Group, Verbeek met directly with at least 8 investors and referred them to the Petrement Group. Verbeek processed the purchase of shares for the other investors without meeting with them. Verbeek, or staff under his supervision, explained the loans (regarding the Petrement Group) to the 8 investors, completed the various documents for opening accounts, and referred them to the Petrement Group. In the majority of cases Verbeek simply processed the documentation. Verbeek was not involved in deciding what percentage of the funds was charged as an administrative fee.

(k) Verbeek processed over 670 transactions in excess of $17 million while registered with Fortune, Dundee, and Buckingham. In addition, approximately 100 NCAFs were submitted by Verbeek in which the transactions were never processed.

(l) The majority of investors who participated in this scheme were Quebec and Ontario residents, with a few investors from other provinces. Many of these individuals were low-income earners. Generally, these investors became involved in this scheme because they were in financial difficulty and needed access to the funds located in their locked-in RRSPs.

(m) Verbeek was initially registered with Fortune when he began procession these transactions. Some investors purchased shares on more than one occasion. From about August of 1998 to August of 1999, while Verbeek processed approximately 149 NCAFs and facilitated the purchase of CCPC shares through Fortune for a value of approximately $3.8 million. On August 30, 1999, Dundee acquired selected assets of the Fortune Companies. From approximately September 1999 to May 2000, while Verbeek was registered as a registered representative and, for a period of time, branch manager with Dundee, Verbeek processed approximately 255 NCAFs and facilitated the purchase of approximately $6.8 million in CCPC shares through Dundee. From approximately September of 2000 to June of 2001, while Verbeek was registered as salesperson at Buckingham, Verbeek processed approximately 91 NCAFs through Buckingham for a value of approximately $2.6 million. In addition, while Verbeek was registered with Buckingham, he processed approximately 113 NCAFs, but these transactions were never completed.

The Distributions (i) August 1998 to November 2000 – The Petrement Group

(n) Sometime in 1998, Verbeek became involved in these transactions with Messrs. Petrement and Rolland. Verbeek's role, as a registrant, was to process accounts and process share transactions. [*]

(o) From approximately August 1998 to November 2000, advertisements were placed in a number of Ontario and Quebec newspapers to attract investors. In some advertisements, Verbeek's office phone number was published. Various investors also made contact with Verbeek through referrals (but only in a handful of cases).

(p) Verbeek, or clerical staff under his supervision, met directly with at least 8 investors. They explained that they would assist these individuals in accessing their funds that were held in their locked-in RRSPs. Verbeek, or clerical staff under Verbeek's supervision, advised these investors that the funds in their locked-in RRSPs would be used to purchase shares of various private companies (CCPCs) that were purported to be qualified investments for locked-in RRSP accounts. Under Verbeek's direction, the investors' locked-in RRSPs were collapsed. The cash was transferred to secondary trustees. Verbeek facilitated the purchase of shares of the various companies by setting up client accounts at Fortune, Dundee, and then Buckingham. Under Verbeek's supervision, the majority of the cash was transferred to the dealer to effect the sale of securities. Verbeek's name appears as the "registered representative" on all of the documentation.

(q) Through Fortune, Dundee, and Buckingham, Verbeek facilitated the purchase of the shares from the following companies:

	Company Name	Province of Incorporation	Activity		No. of Investors	Dollar Amount
			From	To		
1	Atlas Mckenzie Inc.	Ontario	Jul-99	Mar-00	14	228,600
2	Data Safenet Inc.	Ontario	Aug-98	Mar-00	49	1,117,000
3	Distribution Perilandaise Inc.	Quebec	Sep-98	Mar-00	47	1,186,027
4	Eau-Necessaire Inc.	Quebec	Dec-99	Sep-00	42	1,663,270
5	Eurontario Inc.	Ontario	Feb-99	Sep-00	48	1,290,600
6	Flash VDO PC Inc.	Quebec	Jul-00	Oct-00	40	914,200
7	Generatrices 2000 Plus Inc.	Quebec	Aug-98	Nov-98	15	473,500
8	LMN Techno-Soft Inc.	Quebec	Oct-99	Sep-00	45	1,752,600
9	Logiciels St. Malo Inc.	Quebec	Aug-98	Nov-99	9	207,900
10	Mainmont Inc.	Quebec	Sep-98	May-99	23	645,900
11	NAV et LOGI-CIEL Inc.	Quebec	Feb-00	Sep-00	41	1,727,100
12	Sylkon Security Inc.	Ontario	Jul-00	Sep-00	1	100,400
13	Vilcorp Inc.	Ontario	Jul-00	Oct-00	7	277,400
	Total				**380**	**11,584,997**

(r) In total, Verbeek facilitated approximately 380 transactions for a total of approximately $11.5 million involving these thirteen private companies. In most cases, the investors did not know the identity of the company because the name of the company that the investors purchased from was only disclosed after the purchase was made.

(s) The investors then obtained a loan from the scheme's promoters, representing a portion of the purchase price of the CCPC shares. Verbeek, or clerical staff under Verbeek's supervision, explained and processed the loans of at least 8 investors who had purchased shares in one of the above-noted thirteen companies. These investors were advised that they would receive a loan that represented approximately 60% to 80% of the total amount of the private company shares that they had purchased. The remaining 20% to 40% of the total was deemed to be an "administrative fee". [*]

(t) Verbeek processed the purchase of shares for the other investors without meeting with them.

(u) Investors who commenced repaying loans may still be repaying these loans. The payments were made to a company owned by Mr. Petrement.

(v) These transactions may be subject to taxation since the CCPC shares were used as collateral for the loans. The Canada Customs and Revenue Agency is now in the process of identifying and notifying the investors whose "investment" has now become subject to taxation. [*]

(w) In November of 1999, the Senior Vice-President of Compliance of Dundee visited Verbeek in his office in Nepean due to a number of concerns Dundee had with Verbeek. During the meeting, the Senior Vice-President of Compliance showed Verbeek a copy of an investor alert (the "Alert") issued by the Ontario Securities Commission. According to the Alert, "clients eager to access money tied up in Registered Plans … [should] be wary of often illegal investment schemes." Verbeek assured the Senior Vice-President of Compliance that he was not involved in any illegal loan arrangements with investors and that he was not receiving any commission for these types of transactions. [*]

The Distributions (ii) May 2000 to August 2000 – Lafferty

(x) Verbeek contacted Lafferty, Harwood and Partners Inc., a Montreal-based brokerage firm. During this period of unemployment and non-registration, Verbeek continued to process transactions involving the purchase of shares and subsequent loans to investors. Verbeek processed documents that referenced Lafferty without Lafferty's knowledge. Verbeek was never employed by Lafferty. During this period, Verbeek was waiting for his registration to be processed.

(y) From approximately August 2000 to December 2000, Verbeek was employed as a registered representative at Buckingham. During Verbeek's employment with Buckingham, Verbeek's investors signed Letters of Indemnity that continued to be addressed to Lafferty.

The Distributions (iii) December 1999 to June 2001 – The Tremblay Group

(z) Sometime in late October of 1999, Verbeek became involved with Jean Tremblay, the President of Financiere Telco Inc. Verbeek, as registrant, facilitated and processed transactions using funds located in locked-in RRSPs to purchase shares in private companies.

(aa) Advertisements were placed in a number of newspapers in Ontario to attract investors. The phone number of Consultant Financement Multiples Inc. ("CFM"), located in Montreal, was listed as a contact. CFM is owned by Tremblay.

(bb) Investors called the office of CFM in Montreal, Quebec. A telephone response form was completed. Subsequently, individuals hired by CFM were sent to meet with investors to complete the necessary documentation to process the transfers of the locked-in RRSPs. The documentation was then sent to Verbeek's office. Throughout this period, Verbeek was registered with Dundee and Buckingham. Verbeek's name appears as the "registered representative" on all documentation. Verbeek did not meet with or advise any investors.

(cc) Through Dundee and Buckingham, Verbeek facilitated the purchase of shares from the following companies:

	Company Name	Province of Incorporation	Activity		No. of Investors	Dollar Amount
			From	To		
1	Edimax Technologie Inc.	Unknown	May-00	Nov-00	48	1,171,275
2	Inter Technologie Inc.	Quebec	Dec-99	Mar-00	33	828,900
3	Intermax Technologie Inc.	Quebec	Oct-99	Feb-00	49	1,294,950
4	Via Net Tech Inc. CL-B	Quebec	Dec-99	Aug-00	49	1,151,900
5	Vox Technologie Inc.	Ontario	Apr-00	Oct-00	47	1,080,510
	Total				**226**	**5,527,535**

(dd) In total, Verbeek facilitated approximately 226 transactions for a total of approximately $5.5 million involving these five private Canadian companies.

(ee) Through CFM, the investors obtained a loan representing approximately 60% to 80% of the value of the share proceeds. The remaining 20% to 40% was charged as an "administrative fee". Late in 2000, when some investors did not receive their loans, they contacted Verbeek.

(ff) These transactions may be subject to taxation since the CCPC shares were used as collateral for the loans. The Canada Customs and Revenue Agency is now in the process of identifying and notifying the investors whose "investment" has now become subject to taxation.

(gg) All of the complaints that were received were from investors who had purchased shares from the Tremblay Group. [*]

Verbeek's Registration – Conditions

(hh) On May 1, 2000, Verbeek resigned from Dundee Securities. [*]

(ii) Subsequent to Verbeek's resignation, Dundee received a number of complaints, causing Dundee to re-submit the Uniform Termination Notice. As a result, the Investment Dealers Association sent Verbeek a warning letter and various conditions were attached to Verbeek's registration.

FACTS IN DISPUTE

[11] Because in oral testimony Verbeek disagreed with, or claimed he had no knowledge of certain facts in the Agreed Statement of Facts he had signed, Staff tendered a significant amount of documentary evidence and called seven witnesses. Verbeek testified on his own behalf and tendered several documents into evidence. This additional evidence is addressed below in the analysis of each allegation.

[12] In general terms, Verbeek disagreed with Staff's characterization of:

(a) his role in the arrangements. He submits that his role was not that of an adviser or registered representative in the arrangements. He was simply an "administrative conduit", moving documents between the Petrement or Tremblay Groups, and the brokerage or trustee involved in the purchase of CCPC shares;

(b) compensation that he allegedly received for participating in the arrangement. He claims that he received no compensation for acting as an administrative conduit in the arrangements;

(c) his knowledge of the loans involved. He submits that he was not involved in the loan transaction between the CCPC and the individual RRSP holder, and he played no role in devising the structure of the loans.

(d) his knowledge of advertisements for loans as they relate to the arrangements operated by the Tremblay Group;

(e) his knowledge of the tax consequences of the arrangements; and

(f) the supervisory role of the brokerage firms that employed him and his reliance on others involved in the arrangements.

SUBMISSIONS AND ANALYSIS

1. Participation in an illegal distribution

[13] Staff's first allegation is that Verbeek participated in illegal distributions of securities, contrary to section 53(1) of the Securities Act, by trading securities for which there was no exemption available.

Staff's Submissions

[14] Staff submits that Verbeek traded in shares sold to the public through advertisements, where no exemptions existed at that time for these individuals to purchase the securities. He opened a NCAF for every client and processed the trades. He was the "registered representative" in the CCPC transactions and his conduct was consistent with the definition of "trade" as defined in section 1(1) of the Act.

[15] Staff submits there is no evidence to the contrary, and that the trades in question were distributions because the securities that Verbeek traded in had not been previously issued.

[16] Verbeek cannot rely on the exemption for private companies contained in section 73(1)(a) and paragraph 10 of section 35(2) of the Act, because such an exemption would only be available in the case of "securities of a private company where they are not offered for sale to the public." Staff submits that Verbeek traded in shares offered to the public, solicited through advertisements, where no exemptions existed at the time for these individuals to purchase the securities.

[17] Staff submits that Verbeek was aware at all times that the public was solicited through advertisements. From approximately August of 1998 to November of 2000, he participated in arrangements whereby advertisements were placed in newspapers throughout Ontario and other provinces which offered "fast financial assistance" to persons wishing access to funds in their locked-in RRSPs. Verbeek admitted that some of the purchasers of shares of the Petrement Group of Companies were originally solicited via the advertisements and also admitted to placing one such ad himself. Staff argues that it is inconceivable Verbeek did not know that advertisements were placed with respect to the arrangements involving the Tremblay Group, because these arrangements were the same as those of the Petrement Group and, during a certain period, he participated in arrangements concurrently with both Groups.

[18] Staff's submits that Verbeek has failed to meet the burden of proof that an exemption existed. Verbeek did not explain why he, as a registered representative, participated in a transaction without a preliminary prospectus or prospectus having been filed.

Verbeek's Submissions

1(a) No "trade" was involved

[19] Verbeek submits that the CCPC share transaction was not a "trade" as defined by the Act. Therefore he could not have participated in an illegal distribution.

[20] All of the CCPC transactions with the Petrement Group and Tremblay Group involved the purchase of shares from a CCPC issuer for the purpose of giving collateral for a loan or debt made in good faith, and the Act specifically excludes such a transaction from the definition of a "trade":

"trade" or "trading" includes,

> (a) any sale or disposition of a security for valuable consideration, whether the terms of payment be on margin, instalment or otherwise, *but does not include a purchase of a security or, except as provided in clause (d), a transfer, pledge or encumbrance of securities for the purpose of giving collateral for a debt made in good faith,* [emphasis added]

[21] Verbeek submits that Staff's allegations are groundless as he could not have acted as a registered sales person or dealer because both of these roles, as they are defined in the Act, involve making trades. Verbeek submits the trade was in the private transaction between the holder and the CCPC. It would be impossible to evaluate the suitability, merits and risk of the investment, because there was no "investment" here: the shares were purchased solely for the purpose of giving collateral for a loan. The only risk for the holder would be that the Petrement or Tremblay Groups would fail to grant the loan.

1(b) Argument in the Alternative – Verbeek's Role in the Arrangements

[22] Verbeek argues that he did not participate in the purchase and sale of the CCPC shares, but acted solely as an administrative conduit between the CCPC and the trustee. He says that the opening of the new self-directed locked-in RRSP and the transfer of assets from the existing locked-in RRSP to the new account do not constitute participation in the CCPC share transaction or in the loan. He argues that until the transfer (and liquidation of any non-cash assets), the holder had many investment options available within the new locked-in RRSP, such as investment in conventional publicly traded stocks or mutual funds. The holder was free to back out of the CCPC share purchase and the loan transactions at this time.

[23] He submits that the CCPC share purchase was a private transaction. The only person who dealt with the holder was a salesperson hired by the Petrement or Tremblay Groups, who provided a Letter of Direction to Purchase the CCPC shares to the holder for signature. This letter indicated the number of CCPC shares, the purchase price per share, and the total purchase price. The letter directed the trustee to issue a cheque for the full price to the CCPC from funds in the holder's new account, and to provide the cheque to Verbeek's office.

[24] The Letter of Direction to Purchase was part of a complete "CCPC package" of documents provided by the salesperson and signed by the holder at the time of their meeting. The CCPC package consisted of: the Letter of Direction to Purchase; letters of indemnity to Verbeek and the dealer/trust company; letters from the CCPC, including declarations from accountants stating the fair market value of the shares and that the CCPC was a qualified investment for RRSP purposes; and a share certificate in the name of the dealer/trust company in trust for the holder.

[25] Verbeek's office took delivery of and forwarded the CCPC package to the trust company. When he was registered, this was done via the compliance department of the dealer. When he was not registered, he sent the CCPC package directly to the independent trust company. The trustee processed the CCPC Package, executed the CCPC share purchase for the holder's account, issued a cheque from the holder's account, and sent it to Verbeek's office. A representative of the Petrement or Tremblay Group picked up the cheque or Verbeek mailed it to the CCPC.

[26] Verbeek maintains that no part of the CCPC package required his signature, nor did any document direct him to perform any action with respect to the trade. The trustee required no further information from or participation by Verbeek in order to process and execute the purchase of the CCPC shares for the holder's self-directed locked-in RRSP account.

[27] Verbeek argues that the trustee was responsible for opening a registered plan account as a locked-in RRSP under the *Income Tax Act*. The holder was solely responsible for determining that each asset acquired by the self-directed locked-in RRSP was a qualified investment, and that they were aware of the tax consequences with respect to non-qualified investments therein.

[28] Verbeek submits that he did not meet or advise clients with respect to the CCPC transaction; they were unsolicited and treated as such.

[29] Verbeek denies he was compensated for his role as an administrative conduit in the arrangements. Any compensation he received related to transactions that he conducted on behalf of the holders outside the CCPC share purchase and the CCPC loan. In cases where the holder's locked-in RRSP was transferred to the brokerage or independent trustee prior to being liquidated (transferred "in kind"), Verbeek acted as the holder's registered representative and sold the shares for cash within the locked-in RRSP. Verbeek submits that he did not direct the holders to transfer or liquidate their locked-in RRSPs; rather the holders directed their existing institutions to transfer the assets of their existing plans to the new self-directed locked-in RRSP at the trustee. In many other cases, a small amount of cash remained in the holder's new locked-in RRSP after the completion of the arrangement. Verbeek would then act as the holder's registered representative for the purchase of investments such as mutual funds or pre-authorized chequing plans. In both types of cases, Verbeek says he was compensated normally.

Analysis

[30] With respect to staff's first allegation, we must determine whether (1) a trade was involved that (2) constituted a distribution for which (3) no preliminary prospectus or prospectus was filed, and there was no available exemption from the prospectus requirement. If all elements are present, we must determine whether Verbeek traded in the securities in question.

[31] The relevant statutory provisions are as follows:

[32] Section 53(1) of the Act provides:

> No person or company shall *trade* in a security on his, her or its own account or on behalf of any other person or company where such trade would be a *distribution* of such security, unless a preliminary *prospectus* and a prospectus have been filed and receipts therefore obtained from the Director. [emphasis added]

[33] The term "trade" is defined in section 1(1) of the Act:

> "trade" or "trading" includes,
>
> (a) any sale or disposition of a security for valuable consideration, whether the terms of payment be on margin, instalment or otherwise, but does not include a purchase of a security or, except as provided in clause (d), a transfer, pledge or encumbrance of securities for the purpose of giving collateral for a debt made in good faith,
>
> (b) any participation as a trader in any transaction in a security through the facilities of any stock exchange or quotation and trade reporting system,
>
> (c) any receipt by a registrant of an order to buy or sell a security,
>
> (d) any transfer, pledge or encumbrancing of securities of an issuer from the holdings of any person or company or combination of persons or companies described in clause (c) of the definition of "distribution" for the purpose of giving collateral for a debt made in good faith, and
>
> (e) any act, advertisement, solicitation, conduct or negotiation directly or indirectly in furtherance of any of the foregoing.

[34] The term "distribution" is defined in section 1(1) of the Act to mean "a trade in securities of an issuer that have not been previously issued".

[35] Section 73(1)(a) together paragraph 10 of section 35(2) of the Act set out an exemption to the prospectus requirement of section 53. Section 73(1) provides:

> 73(1) Sections 53 and 62 do not apply to a distribution of securities,
>
> (a) referred to in subsection 35(2), excepting paragraphs 14 and 15 thereof;

[36] The relevant portion of section 35(2) reads:

> 35(2) Subject to the regulations, registration is not required to trade in the following securities:
>
> …
>
> 10. Securities of a private company where they are not offered for sale to the public.

Trade, distribution, and prospectus requirement

[37] Verbeek argues that the CCPC share transactions were solely purchases and, therefore, under paragraph (a) of the definition of "trade", not a trade. We disagree. Paragraphs (h) and (o) of the Agreed Statement of Facts, among other evidence, establish that Verbeek was acting on behalf of the CCPC promoters, in addition to acting for holders who responded to advertisements.

[38] The exclusions in paragraph (a) of the definition of a trade shield a purchaser or a debtor, but not a seller or person disposing of a security to the purchaser in a transaction. The act of purchasing a security is not, from the perspective of the purchaser, a "trade". Similarly, pledging shares as collateral for a loan is also not a trade from the perspective of a debtor who does have a controlling interest in the issuer. The exclusions in this paragraph do not apply to sellers, dealers, or persons acting on their behalf in a sale or disposition, whose conduct may be caught by paragraphs (a) to (e) of the definition. In conclusion, the same transaction may constitute a "trade" as it relates to the seller, dealer, or other person acting on their behalf, even if it may be not be a "trade" as it relates to the buyer or debtor.

[39] It is because of Verbeek's role on behalf of the sellers/promoters in the arrangements that he was trading in securities in the course of a distributions.

[40] In the circumstances of this case, we find that the CCPC transaction was a "trade" within the meaning of the Act. It was a sale of CCPC shares by the CCPC for cash from the purchaser's self-directed locked-in RRSP account at Fortune, Dundee, Buckingham or an independent trustee, depending on Verbeek's employment situation. We need not consider whether the loan transaction itself constituted a "trade" within the meaning of the Act.

[41] The CCPC share transactions constituted "distributions" of the shares in the respective CCPCs for each arrangement. We heard no evidence or submissions that the shares in the CCPCs had been previously issued.

[42] There was no evidence that a preliminary prospectus or prospectus was filed with respect to any of the arrangements or that any particular exemption was relied upon. Any trade would be contrary to section 53(1) of the Act in the absence of a prospectus exemption.

[43] An exemption is provided in sections 73(1)(a) and 35(2)(10) of the Act. When read together, the sections state that no prospectus is required for a distribution of securities of a private company where those securities are not offered for sale to the public. This prospectus exemption is not applicable to the circumstances of the arrangements, because the shares in the CCPCs were offered for sale to the public.

[44] The holders became involved in the arrangements by responding to newspapers advertisements.

[45] Elizabeth Williams, a holder who participated in an arrangement through the Tremblay Group, testified that she responded to a newspaper advertisement. Following a review of the documentary evidence produced by Staff we note that many holders who corresponded with Staff about their participation in the arrangements stated that they became aware of the arrangement through newspaper advertisements.

[46] Jean-Paul Belanger, an agent for Mr. Petrement, testified that he placed newspaper advertisements for the loan arrangements and that Verbeek's office processed the paperwork for the arrangements. Jennifer Carbino, Verbeek's administrative assistant, testified that she knew that Petrement, Tremblay, and Belanger had placed such ads. She testified that in May 1999, at Verbeek's direction, she placed an order with the Ottawa Sun for an advertisement promoting a similar loan arrangement. The advertisement read:

> **6% LOW RATE LOAN PROGRAM** Need Financial Help? If You Own an RRSP or LIRA, We Can Help. Fast! No Credit Check. **Jennifer**

Verbeek testified that he had ordered the May 1999 advertisement and one other in the Ottawa Sun.

[47] The advertisements offered some variant of the phrase "fast cash" or loan for locked-in RRSP holders but did not directly refer to CCPCs.

[48] Verbeek argues in his written submissions that the holders were ultimately interested in the loan, not the CCPC transaction; however, the CCPC transaction and loan were inextricably linked. The holder was obliged to purchase CCPC shares before being granted a loan, and the loan amount was tied to the purchase price of the CCPC shares.

[49] We find, therefore, that the newspaper advertisements offering loans effectively offered the shares of the CCPCs to the public. Accordingly, the prospectus exemption under sections 73(1)(a) and 35(2)(10) is not available.

[50] Verbeek has not persuaded us that any other prospectus exemptions were available.

Verbeek's Role in the Arrangements

[51] There was no dispute about the mechanics of the arrangements, the contents of the CCPC package, or about how Verbeek's office received or transferred the CCPC package.

[52] While Verbeek was registered with Fortune and Dundee, an NCAF was completed for each holder as part of the package of documents for the arrangement. We reviewed a number of such document packages submitted into evidence and have also reviewed Ms. Carbino's evidence about the process. She identified some of the handwriting of the NCAFs as hers and the investment adviser's signature on them as Verbeek's. While Verbeek was not registered, no NCAFs were completed at the time of the CCPC share purchase transaction.

[53] Verbeek acted in a dual role: on behalf of the CCPC promoters involved in selling the CCPC shares, and on behalf of holders as their representative (registered representative in some cases).

[54] Verbeek's participation in the CCPC share purchase transactions also falls within paragraph (c) of the definition of "trade" of section 1(1) of the Act: "any receipt by a registrant of an order to buy or sell a security". The CCPC package of documents received by Verbeek contained a Letter of Direction to purchase CCPC shares. It was addressed to either Fortune or Dundee while Verbeek was registered with those firms. The letter was from a client, a person who had signed an NCAF that Verbeek also signed as the investment adviser. We find the letter of indemnity irrelevant to Verbeek's role in the trade in these circumstances.

[55] While Verbeek's involvement in the arrangements varied, based on whether he was registered or whether the group he dealt with was the Petrement or Tremblay Group, he was much more than a mere conduit as he suggests. He was a registrant who also provided administrative services in the course of an arrangement that required the holder (who had completed a NCAF) to purchase a security in order to obtain a loan.

[56] Verbeek's submissions treat the sequence of steps in the arrangement as discrete sub-transactions. His submissions compartmentalize his role and responsibility in the steps. We do not accept that view. It is an artificial division that does not reflect the reality of his involvement.

[57] In any case, the Act defines a "trade" broadly and inclusively. It includes, in paragraph (e), "any act, advertisement, solicitation, conduct or negotiation directly or indirectly in furtherance of any of the foregoing." It includes Verbeek's role in the arrangements.

[58] For the reasons discussed, we find that Verbeek participated in an illegal distribution of the CCPC shares, contrary to section 53(1) of the Act.

2: Failure to Ascertain Suitability of the Investments

[59] Staff's second allegation is that Verbeek failed to ascertain the general investment needs and objectives of his clients, the holders, and the suitability of the purchases or sales of the securities for his clients, and thus acted contrary to the public interest and contrary to section 1.5 of Commission Rule 31-505.

Staff's Submissions

[60] Staff submits that Verbeek has admitted all of the facts necessary to establish this breach of Rule 31-505 in the Agreed Statement of Facts. He admitted he processed over 670 transactions but he only met with 8 investors involved with the Petrement Group and did not meet with any investors involved with the Tremblay Group. Although he did not meet with the vast majority of clients that were involved in the arrangement, nonetheless he acted as their registered representative and signed New Client Application Forms without knowing the circumstances of the particular client. Most of the clients did not have good investment knowledge and did not fit the high risk profile ascribed to them by Verbeek in the NCAFs.

[61] Verbeek opened a NCAF for every client and processed the trades. Staff submits he was indeed the "registered representative" in the transactions and he had an obligation to carry out his duties as a registered representative in these transactions.

Verbeek's Submissions

[62] Verbeek argues that no registered representative was required to complete a CCPC transaction as it was an exempt transaction or administrative procedure carried out by the head offices of the registered dealers or by the trustees. He had no input in the transaction as a registered representative, and these parties received the administrative fee for transferring the locked-in RRSP accounts prior to the CCPC transaction.

[63] Verbeek submits that the CCPC package was all that was required for the trustee to process the transaction and effect the purchase of the shares of the CCPC. Verbeek claims that he was able to act as an administrative conduit even while unregistered. The trust companies did not require the participation of a registered representative. They carried out similar CCPC share purchases through Guy Petrement, without Verbeek's involvement, before and after the material time.

[64] Verbeek submits that the NCAF was a mere formality to help open a registered account and to perform "trades" in that account (although, he submits again, the CCPC transaction was not a trade as defined in the Act). In the periods when he was registered, NCAFs were completed as directed by the dealers through which he was registered.

[65] Verbeek argues that his status as a branch manager during the material time is not relevant, because every CCPC transaction he was involved with was directed, supervised, and cleared by responsible parties. The transactions were overseen by the compliance departments of the brokerages through which he was registered, and they dictated the required investor profile and demanded a letter of indemnity addressed to Verbeek and the dealer. The CCPC transaction was also overseen by the compliance departments of the related or independent trust companies. They required certificates from accountants and

lawyers stating the value of the CCPC shares and that these were qualified investments for a locked-in RRSP under the *Income Tax Act*. Such letters were included in CCPC package.

[66] Verbeek submits that the compliance departments of the dealers instructed him on completing a NCAF in the proper manner. Dundee required that holders fit an investment profile before it would allow CCPC transactions to be processed through it.

[67] Between May and September 2000, while he was not registered, Verbeek was involved in about 160 CCPC arrangements of the same structure as those that he participated in while registered at Fortune and Dundee. No NCAFs were completed during this time because none were required by a registrant. When Verbeek became registered through Buckingham, he asked clients to sign NCAFs, and many did do so. He requested them to do so, he claims, because he wanted to perform future transactions for these clients as their registered representative; however, Verbeek emphasized that he was not their registered representative during the CCPC transaction. Verbeek also notes that the clients also signed a letter of indemnity addressed to him even in the period when he was not registered.

Analysis

[68] Verbeek's submissions and claims confirm that he was acting in a dual role, both for the CCPC promoters and for the holders, not that he was a conduit not acting for anyone.

[69] Registration is required to trade in securities. It is an essential element of the regulatory framework established to achieve the purposes of the Act. It serves as a gate-keeping mechanism which ensures that only properly qualified and suitable individuals are permitted to be registrants. The public is entitled to rely on the fact that anyone who acts as an adviser has satisfied the necessary proficiency and character requirements. See *Gregory & Co. v. Quebec (Securities Commission)*, [1961] S.C.R. 584.

[70] We have found that Verbeek's participation in some trading and distributing of CCPC shares was as a registered representative.

[71] The cornerstone of a registrant's obligations is knowledge of the client's investment objectives and the suitability of investments for the client. These are set out in section 1.5 of Ontario Securities Commission Rule 31-505, which states:

> **1.5 Know your Client and Suitability**
>
> 1) A person or company that is registered as a dealer or adviser and an individual that is registered as a salesperson, officer or partner of a registered dealer or as an officer or partner of a registered adviser shall make such enquiries about each client of that registrant as
>
> > (b) subject to section 1.7, are appropriate, in view of the nature of the client's investments and of the type of transaction being effected for the client's account, to ascertain the general investment needs and objectives of the client and the suitability of a proposed purchase or sale of a security for the client.

[72] The NCAFs used by the registered dealers in this matter allow the registrant to ascertain and record the client's investment objectives, risk tolerance, and investment knowledge. The suitability of the proposed purchase or sale of a security can then be considered in relation to these factors.

[73] In a few instances, NCAFs were completed in Verbeek's office. Ms. Carbino testified that she and Verbeek met personally with some holders and that some of them completed forms initially for the share purchase and transfer. Ms. Carbino met with 50 or 60 people and Verbeek himself met directly with 25 to 30 people.

[74] We are satisfied that Verbeek and Ms. Carbino did not meet or speak to the vast majority of the holders in the 670 arrangements in which Verbeek was involved. Ms. Carbino testified that Verbeek's office provided a template or precedent NCAF form to the Petrement and Tremblay Groups for their salespeople to complete in meetings with holders. The precedent NCAF highlighted the information to be filled in by the holder. Verbeek's office provided a hundred blank forms at a time in advance to the Petrement or Tremblay Groups.

[75] Ms. Carbino testified that Verbeek showed her how to fill out the NCAFs so that they could be processed by the dealers' head office. The dealers required a client having investment objectives of 100% short-term capital appreciation/speculative trading, a high risk tolerance, and good investment knowledge.

[76] Mrs. Williams testified she signed the NCAF, but that it was completed by the salesperson who visited her. Her NCAF fits the above profile: Investment Objectives – 100% short-term capital appreciation/speculative trading; Client risk tolerance – 100% high; Investment knowledge – good. She testified she did not have good investment knowledge. She did not know the

meaning of the terms investment objectives or risk tolerance, and these terms were not explained to her. She testified that she needed the loan to because she was not able to make mortgage payments on her home. Clearly Mrs. Williams did not fit the client profile ascribed to her.

[77] We find that Verbeek did not speak to Mrs. Williams about her NCAF. He signed Mrs. Williams' NCAF, after the fact, as "I.A." ["investment adviser"], just as he did for every other NCAF before us. In the case of Mrs. Williams, Verbeek violated section 1.5 of Rule 31-505. He failed to make enquiries about her investment needs and objectives, and the suitability of the CCPC transaction to her needs and risk tolerance.

[78] Verbeek submitted that the dealer's compliance department dictated the client profile that would be acceptable for the CCPC transaction. He went through an NCAF in the evidence as an example. A holder's NCAF with Dundee from February 2000 was completed as follows: Client Investment Objectives – 10% income, 10% long-term capital appreciation, and 80% short-term capital appreciation/speculative trading; Client risk tolerance – 10% medium, 90% high; Investment knowledge – limited. Dundee would not process this application and returned it to Verbeek's office. The NCAF was amended to the following profile: Client Investment Objectives – 100% short-term capital appreciation/speculative trading; Client risk tolerance – 100% high; Investment knowledge – good. All changes were initialled by the holder; the NCAF was accepted and the CCPC transaction was processed through Dundee. Verbeek states that the Petrement and Tremblay Groups and their clients were told that the holders would have to fit that investor profile otherwise their forms would be sent back and the arrangement would be delayed.

[79] Instead of making enquiries to ensure that the high-risk CCPC share purchase suited the client's investment profile, Verbeek altered the client's investment profile to suit the high-risk investment. This was the antithesis of his obligations under Rule 31-505.

[80] Verbeek could not fulfil his obligations as registered representative under Rule 31-505 or as branch manager by directing the Petrement and Tremblay Groups without ensuring that holders had the proper investment profile to participate in the CCPC transaction. We heard no evidence that he made enquiries of any holders. Our review of the NCAFs indicates that most of the holders earned low incomes and had few if any investments outside of their locked-in RRSP or RRSP. Verbeek knew or ought to have known that client profiles listed in the NCAFs did not match the reality of the holders' profiles. He ought to at least have made the enquiries required of him under Rule 31-505.

[81] Verbeek's clients did not come to him asking to participate in the risky transaction. He was an integral part of an arrangement that funnelled clients into the CCPC transaction as a condition of the loan process. As Verbeek has stated, the clients were interested primarily in obtaining loans. Verbeek allowed the Petrement and Tremblay Groups to use his status and legitimize their scheme by passing it through registered dealers.

[82] We do not accept Verbeek's arguments that he relied on the compliance departments of the registered dealers or of the trust companies. His breach of his obligations under Rule 31-505 makes such reliance unreasonable.

[83] In the circumstances of this case, where the client's investment profile was altered or disregarded to effect the transaction, we do not accept that the letter of indemnity discharged Verbeek's obligations under Rule 31-505.

[84] It is significant that he was a branch manager during this time. The branch manager holds a crucial role in compliance in the securities industry. In *Re Mills* (2000), 23 O.S.C.B. 6623, the Investment Dealer's Association considered this point and held as follows:

> Branch managers have an important role under the self-regulatory system in our securities markets. The obligations requiring supervision of retail client accounts are intended to ensure appropriate handling of client accounts for the benefit of both the client and the firm, as recognized in Burns Fry's Manual. The performance of these obligations takes place in a wide variety of circumstances, involving many clients and many accounts, each having its own characteristics and objectives. It is for this reason that the Policy establishes only minimum standards and expressly states that in some situations a higher standard may be required. That standard is reasonableness, which is frequently determined in hindsight and is invariably fact-driven in its application to the specific relationships and circumstances under consideration.

[85] Registration is an essential element of the regulatory framework established to achieve the purposes of the Act. In determining whether a course of conduct is contrary to the public interest, we must look to these same purposes of the Act: (a) to provide protection to investors from unfair, improper or fraudulent practices; and (b) to foster fair and efficient capital markets and confidence in capital markets. Verbeek's conduct as a registrant and a branch manager in these circumstances constitutes not only a breach of section 1.5 of Rule 31-505, but is such that it is also contrary to the public interest.

3. Verbeek's Participation in the Scheme Being Contrary to the Public Interest

[86] Staff's third allegation is that Verbeek acted contrary to the public interest, by participating in a scheme that involved the subsequent loan to the investor of approximately 65% of the CCPC share purchase price and an administration fee of 35% of the loan, requiring repayment of 100% of the loan with interest, and that he took advantage of people who were in dire straits, in a manner that resulted in a financial benefit to himself. This conduct is not becoming of a registrant.

Staff's Submissions

[87] Staff submits that, in the Agreed Statement of Facts, Verbeek admits he knew that the investors who participated in this scheme were low income earners who became involved in these transactions because they were in financial difficulty and needed to access the funds in their locked-in RRSP.

[88] Verbeek was not acting merely as an administrative agent, as he claimed, but was dealing with the public, handled the public's funds, and received orders to buy and sell securities.

[89] Between March 2000 and November 2000, Verbeek received approximately two million dollars from companies controlled by Guy Petrement and Jean Tremblay. This money flowed through foreign exchange accounts related to Verbeek at Jameson International ("Jameson") before being deposited in the account of Bryden Investment Corp. ("Bryden") in the Turks and Caicos Islands or other investment vehicles directed by Verbeek. Staff maintains that Bryden was Verbeek's company or that, at the very least, Verbeek was involved with Bryden. This evidence shows that Verbeek received a payment from the Tremblay Group for his role in the arrangements which is clearly a commission for his efforts.

Verbeek's Submissions

[90] With respect to the Petrement Group, Verbeek acknowledges that he or his assistant may have explained the loan to clients referred to him, but these clients were ultimately referred back to the Petrement Group if they intended to obtain a loan. He claims he was not involved in arranging, issuing or administering the loans, or deciding the percentage of funds charged as an administrative fee.

[91] Verbeek also relied on the fact that the compliance departments of the dealers and trustees processed the CCPC transactions with full knowledge that a loan was involved. He notes that many of the share certificates in the CCPC package examined by these departments contained statements that the corporation has a "lien on the shares represented by this certificate for any debt of the shareholder to the Corporation".

[92] Verbeek further relied on the representations of the Petrement or Tremblay Groups, and their respective professional advisers, that the arrangements were legitimate.

[93] Verbeek denies that his participation in the arrangement was for his financial benefit, and denies he was compensated. He submits that the evidence adduced was insufficient to prove he was compensated for his administrative role in the arrangements. He characterizes the evidence of his direct compensation by the Tremblay Group as unreliable and submits it should be disregarded in favour of a letter from Jean Tremblay (which predates Tremblay's examination under oath) which states, among other things, that Verbeek did not receive compensation for his role in the arrangements. Verbeek says that any payments received by Bryden from the Petrement or Tremblay Groups were private investments in Bryden, unrelated to his role in the arrangements.

Analysis

(a) Verbeek's knowledge of loans

[94] We find that Verbeek had knowledge at the material time that loans were involved in the arrangements and of the basic structure of the loans.

[95] Ms. Carbino testified that she or Verbeek explained the loans to holders who visited Verbeek's office. She identified a document in her handwriting that was used to explain the loans to the holders, and she testified that Verbeek taught her how to explain the process and the numbers to use in the example. Verbeek admits that he explained the loan process to several holders involved in arrangements with the Petrement Group, but denies that he had knowledge that loans were involved in arrangements involving the Tremblay Group, as he understood the Tremblay Group arrangements involved dividends. He claims he terminated his relationship with the Tremblay Group following complaints from holders that they had not received the promised loans from the Tremblay Group.

[96] We do not find Verbeek's evidence and submissions to be credible on this point. His involvement in arrangements with the Tremblay Group overlapped with those of the Petrement Group over a period of many months. He played a similar role in

the arrangements of both groups. Prior to working with the Tremblay Group in December 1999, Verbeek knew that these arrangements were based on loans: he knew of the form of arrangements from his first involvement with Guy Petrement for a Mr. O'Connor in early 1998, and he placed at least one advertisement for loans in May 1999 (although he claims to have received no responses). We heard no other evidence to support Verbeek's contention the Tremblay Group's arrangements involved dividends.

[97] Mrs. Williams, who participated in an arrangement with the Tremblay Group, testified that the Tremblay Group salesperson referred her to Verbeek when she asked about the status of her loan and that she then spoke to Verbeek. Although Verbeek denied speaking to her, her testimony was not challenged successfully and we accept her evidence.

(b) Verbeek's Knowledge of the Holders' Circumstances

[98] We find that Verbeek was aware at the material time that the holders were unsophisticated investors who earned a low income and who required immediate access to cash, and he has admitted this in the Agreed Statement of Facts.

(c) Compensation

[99] We find that Verbeek received direct and indirect compensation for his participation in the arrangements.

[100] We heard conflicting and ambiguous evidence on this issue. Verbeek testified that he was not compensated for his participation in the arrangements. Jennifer Carbino testified that that the commissions he earned were based on mutual fund sales and a percentage of pre-authorized chequing plans sold to the holders, but was not aware of compensation connected to the CCPC transactions. Jean Paul Belanger testified that he received a commission of four to five percent from Guy Petrement, but he did not know whether Verbeek earned any commissions.

[101] Staff presented evidence of Verbeek's direct compensation by the Tremblay Group. We were shown a series of documents indicating that Verbeek received a payment equal to 4% of the CCPC share purchase price.

[102] Rima Pilipavicius, senior forensic accountant in the enforcement branch of the Commission ("Enforcement"), testified that the Quebec Securities Commission ("CVMQ") investigated Financiere Telco Inc. and CFM, the companies owned by Jean Tremblay that provided the loans in the arrangements involving the Tremblay Group. In May 2002, the CVMQ included Enforcement in its investigation. It provided Ms. Pilipavicius with documents that it had seized from the offices of the two companies. Included were documents titled "Honoraires & Remboursements", or "Fees and Repayments" (the "Honoraires documents"), which provided some details on amounts transferred from holder's RSP to purchase CCPC shares, related loan amount, fees charged, loan interest and principal repayments and a section on commissions.

[103] Ms. Pilipavicius reviewed the Honoraires documents during her testimony. In one example, the holder purchased 1477 shares in Edimax Technolgie, a Tremblay Group CCPC, for a total purchase price of $36,925. For this holder the Honoraries document showed the following:

(a) The *loan amount* was shown as 80% of $36,925 (the transferred amount), or $29,540.

(b) Fees of 12% of the $36,925 ($4,431), 3% of the $36,925 ($1107.75), and $500 (for a total of $6,038.75) were deducted from the loan amount by CFM and another company.

(c) The total amount of the *cash* received by the holder was $23,501.25, or about 64% of the original amount transferred by the holder.

(d) A repayment schedule followed. The investor's monthly payments were derived from the initial base loan amount of $29,540.

i. Interest was calculated at an annual rate of 5%, with interest payable monthly ($123.08). This payment amount was fixed at the calculation level of the first payment, and was not adjusted for the reduction in the loan balance due to the monthly principal repayments;

ii. The principal was payable over 7 years (84 months) on a flat monthly basis in the amount of $351.67;

iii. The total amount repayable by the holder to CFM over the 7 years was shown as $39,879, paid on a monthly basis at $474.75 per month.

(e) These amounts were in addition to the initial 20% deducted of $6,038.75.

(f) A schedule of commissions, calculated against the total amount transferred of $36,925.00 was placed below the loan amount, fee, interest and repayment schedule. A commission of 3% was paid to the salesperson, 0.25% to the president of the CCPC, 1% to the Danielle Tremblay, and 4% to "Verbeek".

[104] The effective interest paid by the holders would be significantly higher than the 5% annual rate shown in the calculation once we include the initial fees deducted and adjust the interest calculations to reflect the diminishing loan balance resulting from the monthly principal repayments.

[105] Staff submitted approximately 110 sheets of Honoraires documents. In 41 of them, "Verbeek" is explicitly shown receiving a 4% commission. Other sheets do not show a commission payable to "Verbeek", but to "Courtier" ("broker"). Still others list "Dundee" instead of "Verbeek" or "Courtier". Holders whose Honoraires sheets list commissions payable to "Dundee" or "Courtier" had all completed NCAFs signed by Verbeek. Staff submits that Verbeek received commission in all of these cases.

[106] Ms. Pilipavicius testified that she participated in an investigation interview of Jean Tremblay with the CVMQ on June 22, 2002. The transcript of this interview (the "Tremblay transcript") was tendered into evidence in this hearing, and Ms. Pilipavicius was examined on it.

[107] We have reviewed the Tremblay transcript and the testimony relating to it. During the interview, Ms. Pilipavicius showed Mr. Tremblay one of the Honoraires document. Reading from it, Mr. Tremblay identified Verbeek as having received a commission of four percent. He said that the percentages were set beforehand, and that either he himself decided on the percentages "or it was a group decision." He said that Verbeek acted as broker for the company, as others had before him. Verbeek participated in hundreds of transactions for the company in the year 2000 and would have earned a commission of 4% on total sales of approximately $10,000,000. He said that he created about 10 to 15 CCPCs, each of which had 49 clients. The money earned by the individual CCPCs in the Tremblay Group was invested in Telco.

[108] Verbeek argues that we should give the Honoraires documents no weight. The sheets are not dated. There is no indication about who prepared them or what information was used in their preparation. The set of sheets is also incomplete, in that one of the CCPCs in the Tremblay Group has no corresponding sheets. He accuses Staff of using false information in compiling summaries from the Honoraires documents.

[109] Verbeek also argues that we should give no weight to the transcript, other than the parts of it that would benefit his defence. He indicates several comments made by Mr. Tremblay about commission payments that are contradictory or vague. Mr. Tremblay could not explain one Honoraires document that listed Dundee as receiving a commission. Mr. Tremblay also contradicted himself by saying that some commissions to Verbeek were not paid. Verbeek argues that the statements in the transcript contradict the evidence of Ms. Carbino, that Verbeek received no commissions other than commissions from pre-authorized chequing plans from the remaining funds in the holders' self-directed locked-in RRSPs following the CCPC transaction.

[110] Verbeek argues that the transcript should not be given any weight because he had no opportunity to cross-examine Mr. Tremblay and there is a risk of prejudice to him if we were to rely on the transcript. He argues that we should rely on a letter from Jean Tremblay that he entered into evidence (the "Tremblay letter") instead of the transcript. The Tremblay letter is dated January 9, 2001 (before the evidence given under oath by Tremblay), is signed, is marked "Without Prejudice", and is addressed to "Brian Verbeek and Whom Else it May Concern". The letter states *inter alia* that Verbeek did not receive commissions.

[111] The Tremblay letter, the Honoraires documents, and the Tremblay transcript were admitted into evidence pursuant to section 15 of the SPPA, along with the other documentary evidence tendered by Staff and Verbeek. We accord these documents appropriate weight based on their reliability in the absence of cross examination and Verbeek's submissions. The Honoraires documents, which were seized from Tremblay's business premises by the CVMQ, are business records of the Tremblay Group arrangements which find generally reliable. Where there are contradictions in the contents of the Tremblay letter and the Tremblay transcript, we give greater weight to the Tremblay transcript, because it was made under conditions that give us greater assurances of its reliability.

[112] Having considered the evidence and submissions, we find that Verbeek received commissions for his role in the Tremblay Group arrangements. Similar direct evidence or submissions with respect to the Petrement Group of arrangements was not introduced.

[113] Staff did lead substantial evidence of payments made by several Petrement Group companies that were transferred through Canadian foreign exchange accounts related to Verbeek and, ultimately, to Bryden in the Turks and Caicos Islands. Scott Boyle, senior investigator with Enforcement, testified about his analysis of banking records, wire transfers, and other documents which were presented to us. Joy Stevenson, the Chief Financial Officer of Jameson International Foreign Exchange ("Jameson"), testified about the accounts related to Verbeek at Jameson and the transactions that related to those accounts. Ms. Carbino testified that she signed letters of direction, at the instruction of Verbeek, directing the flow of money into and out of

those accounts and ultimately into the account of Bryden. She testified that Verbeek told her Bryden was established offshore because he was going through a divorce and he wanted to hide money from his wife.

[114] We also heard the evidence of Michael Smythe, CEO of a company called Impact Revenue Inc. Smythe testified that Verbeek agreed to purchase a 10% equity share in the company for US$500,000. Smythe opened an account at Jameson and received a wire transfer from Bryden as part payment for the shares. He also received from Verbeek part payment in the form of bank drafts from Petrement Group companies and cheques from Financiere-Telco Inc. of the Tremblay Group.

[115] We note that:

(a) the Petrement Group companies that purchased the bank drafts were among those listed in the Agreed Statement of Facts;

(b) Tremblay Group accounting records seized by the CVMQ and presented to us through Mr. Boyle recorded the payments made to Michael Smythe; and

(c) in the Tremblay transcript, Tremblay said Verbeek asked that payments to him be made in the name the president of another company because Verbeek did not want the cheques to bear his name.

[116] Mr. Smythe testified that, upon receiving payment in full for the 10% equity share, he delivered the share certificate in the name of Bryden to Verbeek's office in Nepean. He said that Verbeek was his only point of contact with Bryden and that he knew nothing more about Bryden or its shareholders.

[117] We accept Staff's extensive and detailed evidence with respect to the Jameson accounts, the payments of almost two million dollars made by Petrement Group companies that were transferred through them to the Bryden account, and the payments made by Bryden and the Petrement and Tremblay Group companies to Smythe.

[118] Verbeek admitted that funds did go through Jameson and that he directed those transfers to Bryden and other investments; however, he denied that he personally received any of the funds, or that the funds were related to his role in the arrangements.

[119] The evidence about Bryden itself was unclear. Verbeek testified that it is a mutual fund that he established through Temple Trust in the Turks and Caicos Islands in 1998. He named the company. He directed Bryden's investments and stood to benefit from the performance of the investments by receiving 25 percent of all profits, but said he was not the beneficial or legal owner. He described, in general terms, some of the investments that Bryden had entered into and said that Bryden investors "lost their shirts". Verbeek did not provide any documentary evidence about Bryden that could assist us to understand it further.

[120] We have insufficient evidence to make a finding about the exact nature of Bryden and its activities. We also have insufficient clear evidence that the payments made by the Petrement or Tremblay Group companies consisted entirely of the commissions made by Verbeek for his role in the arrangements. Furthermore, we are not confident that we have the complete picture of the payments received from the Petrement or Tremblay Groups to Bryden; we note, for example, the Petrement Group payments to Bryden are issued from only three of the Petrement Group companies listed in the Agreed Statement of Facts.

[121] We do have sufficient, cogent evidence to find that (a) Bryden received at least two million dollars through the Petrement and Tremblay Groups, (b) Verbeek was intimately related to Bryden at the material time and is still so related, and (c) Verbeek personally stood to receive substantial financial rewards from the investment of this money from the Petrement or Tremblay Groups. We consider this to be, at very least, indirect compensation to Verbeek, the *quid pro quo* for his participation in the arrangements.

[122] Accordingly, we find that Verbeek received direct compensation from the Tremblay Group and indirect compensation from both the Petrement and Tremblay Groups for his participation in the arrangements.

(d) Reliance

[123] We also do not accept Verbeek's submissions on reliance. There was no evidence that the dealers who employed Verbeek or the independent trustees knew that a loan was made after the CCPC transaction. The notice printed on the share certificates in the CCPC package only gives notice of a lien on the shares *in the event* of a debt by the shareholder to the corporation. We do not find that it gives any notice to a dealer or trust company a private loan *would* follow the purchase of "qualified CCPC" shares within the self-directed RRSP.

[124] Ms. Carbino testified that Verbeek instructed her not tell the trust companies that loans were involved with the purchase of the CCPC shares. She testified that Verbeek "stated that it was a loophole through Revenue Canada that they probably wouldn't want to be involved with." When Staff cross examined Verbeek on Ms. Carbino's statement, he stated:

> why would you want to involve the trust company in something that they would question as opposed to knowing that it was actually legitimate? If they asked questions, there would have been the prospect of perhaps losing the trustee. They may have chosen not to do business even though we would give them the comfort of having known that Revenue Canada has okayed this type of transaction.

It appears that Verbeek deliberately omitted telling the independent trustees and Dundee all the details of the loan transaction.

[125] In the Agreed Statement of Facts, Verbeek agreed he misled Dundee's Vice President of Compliance, Frank Hurst, about his participation in RRSP transactions that involved loans. In cross examination, Verbeek said that he did not lie to Mr. Hurst, who asked him whether he was involved in any illegal loans, when he told Mr. Hurst he was unaware of illegal loans. Verbeek testified that, based on Revenue Canada's clearance of the loan to Mr. O'Connor, he believed that the loans in the arrangements were legal.

[126] Mr. Hurst showed Verbeek the Alert issued by the Commission in November 1999. The Alert stated: "The Ontario Securities Commission warns investors, eager to access money tied up in Registered Plans (e.g. RRSPs, RRIFs, LIFs and Locked-in RRSPs), to be wary of often illegal investment schemes." It went on to describe a scheme identical to the arrangements in which Verbeek was participating. The Alert stated the Commission's view that the schemes were contrary to the public interest and harmful to investors. It provided reasons based on securities law considerations.

[127] Verbeek's reliance on other parties was unreasonable in all the circumstances.

(e) Conclusion

[128] This is not a narrow allegation about the nature of the loans or the exorbitant fees taken by the promoters of the arrangements. It is about the participation by a registered representative for his financial benefit in a scheme that abused securities laws and harmed investors.

[129] Verbeek may have received some comfort about the tax implications of the arrangements; however, as a registered representative and branch manager, he should have been aware that the arrangements involved securities law issues. Upon reading the OSC Investor Alert in November 1999, he knew or ought to have known that the arrangements presented serious securities law concerns to the extent that the Commission considered them scams, harmful to investors and contrary to the public interest.

[130] For the above reasons, we find that Verbeek acted contrary to the public interest by participating in the arrangements.

4. Referencing Lafferty without being registered and without Lafferty's Knowledge

[131] Staff's fourth allegation is that Verbeek acted contrary to the public interest by processing documents that referenced "Lafferty, Harwood and Partners Ltd." without Lafferty's knowledge and at a time when Verbeek was not registered through Lafferty. Verbeek has admitted all the facts necessary to establish this violation at paragraphs (x) and (y) of the Agreed Statement of Facts.

[132] Verbeek submits that the references to Lafferty in the letter of indemnity were made during the time that he was awaiting approval for his registration with Lafferty. He claims that Lafferty's compliance officer, Nolan Trudeau, advised him that his registration was imminent. Verbeek's registration with Lafferty was not approved. He submits that there was no deceit or misdirection intended in using the Lafferty name, but he was trying to save a step of having to send out NCAFs and letters of indemnity once he became registered with Lafferty.

[133] Verbeek explained that he relied on the representations of the principals of Ionian Securities, who were in the process of purchasing of Lafferty. Verbeek claims that he showed the letters of indemnity to the principals of Ionian Securities beforehand. They did not object to his use of the name, so Verbeek proceeded to use the letter of indemnity that mentioned Lafferty.

[134] Verbeek submits his continued use of documents that referred to Lafferty after he was registered with Buckingham was an "extreme oversight on his part, and was not meant to harm or mislead any party in any way."

[135] We do not accept Verbeek's submissions with respect to this allegation. Staff took us to several documents used by Verbeek in the arrangements that refer to Lafferty and imply that he was registered there. Verbeek has admitted that he was not registered with Lafferty and he never obtained registration through Lafferty.

[136] Under these circumstances, Verbeek's reference to Lafferty was improper. He misled investors by leading them to believe that he was registered with that firm and that they were protected by all of the safeguards that registration imports.

Verbeek's continued reference to Lafferty after he joined Buckingham may have been an "extreme oversight", but it is inexcusable.

[137] Staff referred us to a memo from Lafferty's compliance officer Nolan Trudeau in which he notes Lafferty's disapproval of transactions that Verbeek had entered into, including opening a foreign account at Jameson in Lafferty's name and transferring amounts offshore. We heard evidence from Verbeek that he knew that Ionian Securities had not completed the purchase of Lafferty during the material time. We find his "oversight" and explanations unsatisfactory.

[138] Accordingly, we find that Verbeek improperly referenced "Lafferty, Harwood and Partners Ltd." without Lafferty's knowledge and at a time when Verbeek was not registered through Lafferty.

5. Making misleading or untrue statements to Staff

[139] Staff's fifth allegation is that, on or about February 14, 2001 and February 22, 2001, in response to inquiries made by Staff, Verbeek advised Staff that:

(a) he did not know that advertisements had been placed;

(b) he did not know that the transactions involved loans to the investors; and

(c) he had not received compensation for his involvement in these transactions.

Staff submits that at the time Verbeek made these representations, he knew that they were misleading or untrue and, therefore, acted contrary to the public interest.

[140] Staff submits that the statements in the above transcripts are conclusive evidence of the fact that Verbeek misled Staff.

[141] We agree with Staff's submissions. Based on our findings on the other allegations, we find that, as at February 2001, Verbeek knew that:

(a) advertisements had been placed in respect of the arrangements. He knew that the majority of holders became involved in the arrangements by answering advertisements placed in newspapers by the Petrement and Tremblay Groups. He placed advertisements for similar arrangements himself, though we have no evidence that anyone responded to these;

(b) the arrangements involved loans to holders. As he submitted, the main purpose of the arrangements was to allow holders to receive a portion of the value of their locked-in RRSPs via a loan from the Petrement Group or the Tremblay Group; and

(c) he had received compensation for his involvement in the arrangements. We have found that Verbeek was compensated by the Tremblay Group for his role in the arrangements. Even if we restrict his knowledge to compensation in this group of arrangements, we find Verbeek's statement to Staff in 2001 at least misleading if not untrue.

[142] Because Verbeek made misleading or untrue representations to Staff during the course of Staff's investigation, he acted contrary to the public interest.

CONCLUSION

[143] For the above reasons, we find that Verbeek violated the Act and engaged in conduct that is contrary to the public interest. Specifically, we find that Verbeek:

(a) participated in illegal distributions of securities, contrary to section 53(1) of the Securities Act, by trading securities for which there was no exemption available;

(b) failed to ascertain the general investment needs and objectives of his clients and the suitability of the purchases or sales of the securities for his clients, and thus acted contrary to the public interest and contrary to section 1.5 of Ontario Securities Commission Rule 31-505;

(c) acted contrary to the public interest by participating in the scheme that involved the subsequent loan to the investor of approximately 65% of the share purchase and by charging an administration fee to the investors of 35% of the loan proceeds;

(d) acted contrary to the public interest by processing documents that referenced "Lafferty, Harwood and Partners Ltd." without Lafferty's knowledge and at a time when Verbeek was not registered through Lafferty; and

(e) acted contrary to the public interest by making misleading or untrue representations to Staff on or about February 14, 2001 and February 22, 2001, in response to inquiries made by Staff during the investigation of this matter.

[144] Having regard to these findings, the Secretary of the Commission is requested to arrange a date to hear submissions concerning whether it is in the public interest for the Commission to make one or more orders under section 127(1) and 127.1 of the Securities Act .

July 26, 2005.

"Wendell S. Wigle", Q.C.

"Suresh Thakrar"

3.1.5 Francis George Lee Simpson

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

AND

IN THE MATTER OF
FRANCIS GEORGE LEE SIMPSON

SETTLEMENT AGREEMENT

I INTRODUCTION

1. In a Notice of Hearing to be issued, the Ontario Securities Commission (the "Commission") will announce that it will hold a hearing to consider whether, pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c. S-5, as amended (the "Act"), it is in the public interest for the Commission to make an order regarding Francis George Lee Simpson ("Simpson") that:

   (a) this settlement agreement be approved;

   (b) the registration of Simpson under securities law be suspended or restricted or terminated, or that terms and conditions be imposed on his registration;

   (c) Simpson resign all positions that he holds as director or officer of a registrant and of a reporting issuer;

   (d) Simpson be prohibited from becoming or acting as a director or officer of a registrant and a reporting issuer; and

   (e) Simpson be required to pay the costs of Staff's investigation into the matters set out in this settlement agreement.

II JOINT SETTLEMENT RECOMMENDATION

2. Staff of the Commission ("Staff") agree to recommend settlement of the proceeding against Simpson in accordance with the terms and conditions set out below. Simpson agrees to the settlement on the basis of the facts set out in Part IV below and consents to the making of an order against him in the form attached as Schedule "A".

III ACKNOWLEDGEMENT

3. Staff and Simpson agree with the facts set out in Part IV herein for the purposes of this settlement agreement only.

IV AGREED FACTS

A. Background

(a) F. G. Lee Simpson

4. At all relevant times, Francis George Lee Simpson was the President, Chief Executive Officer and Chief Financial Officer of Thomson Kernaghan & Co. Ltd. ("TK"). Simpson was also TK's Ultimate Designated Person ("UDP"), as defined by the Investment Dealers' Association ("IDA").

(b) Mark Valentine

5. At all relevant times, Mark Edward Valentine was the Chairman of TK. Valentine was also a Registered Representative licensed through TK with the IDA. In his role as TK's President and UDP, Simpson was ultimately responsible for the supervision of all of Valentine's trading activities at TK.

6. On December 14, 2004, Valentine executed a settlement agreement with Staff (the "Valentine Settlement Agreement"). In the Valentine Settlement Agreement, Valentine admitted that while employed at TK and supervised by Simpson, he committed several breaches of Ontario securities law, and engaged in conduct contrary to the public interest.

(c) Thomson Kernaghan

7. TK is a corporation incorporated pursuant to the laws of Ontario and was registered with the IDA as an Investment Dealer in the provinces of Ontario, British Columbia, Alberta and Quebec. TK's headquarters were located in Toronto.

(d) The Funds

8. Valentine was the President, Director and a shareholder of VMH Management Ltd. ("VMH"), an Ontario corporation. VMH held trading accounts at TK. Valentine was the Registered Representative assigned to those accounts and held trading authority over them.

9. VMH was the General Partner of the Canadian Advantage Limited Partnership ("CALP"), an Ontario limited partnership which operated as a private investment fund.

10. Advantage (Bermuda) Fund Ltd. ("CALP Offshore Fund") is a mutual fund company incorporated under the laws of Bermuda and is CALP's corresponding offshore fund.

11. Valentine was the President, Director and a shareholder of VC Advantage Limited ("VC Ltd."), an Ontario corporation. VC Ltd. was the General Partner of the VC Advantage Fund Limited

Partnership ("VC Fund"), an Ontario limited partnership which operated as a private investment fund.

12. VC Advantage (Bermuda) Fund Ltd. ("VC Offshore Fund") is a mutual fund company incorporated under the laws of Bermuda and is the VC Fund's corresponding offshore fund.

13. Collectively, CALP, CALP Offshore Fund, VC Fund and VC Offshore Fund will be referred to as the "Funds".

14. Pursuant to written partnership agreements and offering memoranda, Valentine, acting through VMH and VC Ltd. (together, the "General Partners"), was authorized to recommend, advise on and enter into all investments on behalf of the Funds and he did so.

15. The majority of the limited partners (unitholders) of the Funds were individual retail clients of TK. The Funds performed all of their securities transactions through trading accounts held at TK. Valentine was the Registered Representative at TK for all of these trading accounts. In his role as TK's UDP, Simpson was ultimately responsible for the supervision of all of Valentine's trades on behalf of the Funds.

B. The JAWZ Transaction

16. In the Valentine Settlement Agreement, Valentine admitted that in August of 2000, Valentine caused the Funds to enter into a financing transaction with JAWZ Inc. ("JAWZ"). JAWZ was a Canadian company whose shares traded on the NASDAQ exchange.

17. According to Valentine, in return for their investment, the Funds acquired floorless warrants to purchase shares of JAWZ. The warrants provided that the Funds would receive increasing numbers of JAWZ shares as the share price declined. This type of financing creates a strong incentive for the investor to sell securities short in a relatively illiquid market, which is often referred to as "death spiral" or "toxic" financing.

18. On November 7, 2000, TK's research department issued a research report regarding JAWZ shares which rated them as a "buy". TK did not disclose in this report, or to any of its clients holding JAWZ shares at that time, the fact that JAWZ had entered into this type of financing, the fact that the warrants were held by TK clients, or the fact that the Chairman of TK controlled the holders of the "death spiral" warrants.

19. In or about December of 2000, a retail client of TK who had purchased shares of JAWZ met with Valentine and Simpson and informed them that the firm was in a conflict of interest position in advocating the purchase of JAWZ shares by retail investors in the face of the "death spiral" warrants. In response, Valentine stated that the terms of the warrants would be modified to mitigate the Funds' incentive to sell the shares short. The warrants, however, were never amended and Valentine continued to sell JAWZ shares short through the Funds' accounts.

C. The Trilon Loans

20. In the spring of 2001, Simpson, Valentine and other senior officers of TK approached Trilon Bancorp Inc. ("Trilon") to obtain a short-term loan. On March 30, 2001, Trilon advanced the sum of $5,000,000 to TK Holdings Inc (the "TK Loan"). The TK Loan required the approval of both the Executive Committee and Board of Directors of TK. The funds advanced under the TK Loan were used by TK Holdings to purchase $5,000,000 worth of preferred shares of TK. The TK Loan was to be repaid in full by June 30, 2001. This transaction was properly reported to the IDA. On July 3, 2001, the TK Loan was repaid in full.

21. In July of 2001, Valentine approached Trilon to borrow money which he planned to use to pay off his debts to TK. Trilon agreed to provide Valentine a US$5,000,000 loan facility with an initial advance of US$3,000,000 (the "Valentine Loan"). The approval of the Executive Committee and Board of Directors of TK was not sought for the Valentine Loan. The funds under the Valentine Loan were advanced to Valentine personally. The Valentine Loan was to be repaid in full by December 31, 2001.

22. Simpson, on behalf of TK, signed a guarantee of all of Valentine's obligations under the Valentine Loan.

23. On July 31, 2001, US $3,000,000 was advanced to Valentine under the Valentine Loan. US $816,945 ($1,250,579.41) of this sum was placed in a trading account at TK held in the name of Trilon Securities Corp.

24. TK reported to the IDA that the $1,250,579.41 represented a subordinated loan made by Valentine to TK. TK did not disclose to the IDA that further funds had been advanced by Trilon to Valentine. TK also did not disclose to the IDA that it had guaranteed Valentine's entire obligation to Trilon.

25. Simpson and Valentine signed the mandatory quarterly report filed with the IDA which disclosed the $1,250,579.41 "subordinated loan", certifying that the report contained full and accurate disclosure of TK's liabilities.

26. In the Valentine Settlement Agreement, Valentine admitted that he was unable to repay the US

$3,000,000 advance by the due date of December 31, 2001. He therefore negotiated several further advances of funds and extensions of the repayment deadline under the Valentine Loan, the last of which expired on July 15, 2002. As of that date, the amount outstanding on the loan was approximately US $5,600,000. Valentine defaulted on the Valentine Loan on July 15, 2002.

D. The TK Report and TK's Bankruptcy

27. On May 7, 2002, the Executive Committee of TK was informed by Marty Sims, TK's Retail Branch Manager and Executive Vice President, that Valentine had executed a series of questionable transactions. As a result, Simpson retained outside counsel for TK and commenced an investigation into Valentine's activities (the "Investigation"). Simpson advised both the OSC and the IDA of the fact that he had commenced the Investigation.

28. On June 13, 2002, Valentine was suspended from his employment at TK for 30 days pending the final results of the Investigation. On June 19, 2002, Simpson delivered a report reflecting the results of the Investigation to the IDA (the "TK Report"). The TK Report was tendered into evidence in proceedings taken by the OSC against Valentine on June 24, 2002.

29. On July 11, 2002, Simpson informed the IDA and the Canadian Investor Protection Fund ("CIPF") that TK might not be able to meet its Risk-Adjusted Capital requirement, and its registration as an Investment Dealer was suspended. On the same date, CIPF brought a motion for an order declaring TK bankrupt and appointing Ernst & Young Inc. as the trustee of its estate. The motion was unopposed by TK and a receiving order was made by the Ontario Superior Court of Justice on July 12, 2002.

E. The March 28, 2002 Transactions by Valentine

30. The Valentine Settlement Agreement includes the details of two series of improper transactions that he executed on March 28, 2002, as set out below.

(a) The Chell Corp. Transaction

31. Chell Group Corporation ("Chell Corp.") was a Canadian company whose shares traded on the NASDAQ exchange.

32. On March 28, 2002, Valentine's pro account received 1,060,000 shares of Chell Corp. that belonged to CALP without any cash payment by Valentine. Valentine claimed that the shares were provided to repay a debt of US $1,060,000 owed by CALP to him personally. The shares were thus transferred at a value of US $1 per share.

33. Valentine's explanation for CALP's debt to him was that CALP had borrowed US $360,000 from him in July 2001, and another US $700,000 from him in January 2002. The $360,000 that was transferred to CALP came from the proceeds of the Trilon loan, described above.

34. Also on March 28, 2002, pursuant to sell orders placed March 26, 2002, after receiving the Chell Corp. shares from CALP, Valentine effected the following transactions:

(i) Valentine sold 1,000,000 Chell Corp. shares at a price of US $2 per share to his inventory account;

(ii) Valentine sold 375,000 Chell Corp. shares at a price of US $2 per share from his inventory account to the VC Fund;

(iii) Valentine sold 375,000 Chell Corp. shares at a price of US $2 per share from his inventory account to the VC Offshore Fund; and

(iv) Valentine sold 250,000 Chell Corp. shares at a price of US $2 per share.

35. Of the US $2 million in proceeds in his pro account from these sales, Valentine transferred US $450,000 ($717,000) to his trader receivable account to reduce his liabilities to TK.

36. On April 30, 2002, the VC Fund sold 200,000 shares of Chell Corp. at a price of US $2.09 per share. At the time, there was an agreement between Valentine and the VC Fund that Valentine would buy 250,000 shares of Chell Corp. per quarter from the VC Fund commencing July 1, 2002 at a price of US $2.20 per share. The agreement was purportedly guaranteed by the General Partners.

37. Valentine could not produce evidence of a loan of US $700,000 to CALP in January of 2002. No evidence of the loan could be found in the books and records of TK that were provided to Staff.

(b) The IKAR Transaction

38. In the Valentine Settlement Agreement, Valentine admitted that he had a beneficial interest in Hammock Group Ltd., a corporation registered pursuant to the laws of Bermuda. Hammock had a trading account at TK. Valentine was the Registered Representative for that account. The Hammock account was not designated by Valentine as a pro account on the books and records of TK, as it was required to be.

39. On March 28, 2002, CALP paid US $1.3 million to Hammock to purchase a debenture issued by a company named IKAR Minerals. The debenture

was dated March 1998 and had expired in March of 2000.

40. Valentine stated that the rationale for the transaction was to settle a debt that CALP owed to Hammock of US $1,582,830. The debt related to transactions in the shares of JAWZ Inc., a Canadian company whose shares traded on the NASDAQ exchange. Valentine explained that this debt had been incurred as follows:

    (a) In July, 2001, Hammock paid CALP US $537,068 for 652,573 shares of JAWZ at a price of US $0.823 per share. JAWZ shares were then trading at a price of US $0.59 per share. Valentine explained this step as Hammock assisting CALP in meeting its margin requirement at TK. In consideration for its help, CALP guaranteed the JAWZ investment by promising that any losses Hammock might suffer from its eventual sale of the JAWZ shares would be reimbursed by CALP;

    (b) Over the next three weeks, Hammock sold the JAWZ shares at an average price of US $0.218 per share, generating a loss of US $386,895.54 which Valentine claimed that CALP was obliged to reimburse pursuant to its "guarantee";

    (c) In a separate transaction, Valentine stated that CALP had sold 900,000 shares of a firm called Global Path short to Hammock at a price of US $1.33 per share for net proceeds of US $1,196,500. Valentine claimed that CALP made the short sale "believing that it was to receive Global Path shares as partial compensation for its JAWZ losses"; and

    (d) CALP was unable to deliver the Global Path shares and was therefore indebted to Hammock for total of US $1,582,830 as a result of the JAWZ guarantee and the undeliverable Global Path shares.

41. "To allow Hammock to recoup the bulk of its out of pocket cost in supporting the funds", Valentine stated that he took the following steps:

    (a) Valentine's company VMH was the owner of the IKAR debenture which it "gifted" to Hammock;

    (b) Hammock in turn sold the debenture to CALP for US $1.3 million as payment for the "debt" which CALP owed to Hammock;

    (c) The debenture had value because IKAR's principal had recently promised Valentine to make up the US $1.3 million loss by converting the IKAR debenture into shares of the renamed company, Patriot Energy Corporation. This promise was later set out in a letter addressed to Valentine by the President of Patriot Energy. This promise was purportedly given because Valentine had personally made a US $250,000 private placement investment in Patriot Energy; and

    (d) Valentine claimed that as a result, CALP was the beneficiary of a "gift" from him through VMH of the IKAR position.

42. The evidence did not support this explanation. Hammock did not purchase JAWZ shares from CALP but rather from Valentine's inventory account. Therefore CALP did not guarantee Hammock's JAWZ investment, and correspondingly was not liable for Hammock's US $386,330.70 loss in the JAWZ transaction.

43. CALP did not sell 900,000 shares of Global Path to Hammock but rather sold 1,000,000 shares of Global Path to Valentine's inventory account. The price per share and net proceeds of this transaction were not US $1.33 and US $1,196,500 respectively, but rather US $0.65 and US $635,000.

44. Hammock did not purchase 900,000 Global Path shares at a price of US $1.33 per share from CALP but rather from Valentine's inventory account. The price per share and net proceeds of this transaction were not US $1.33 and US $1,196,500 respectively but rather US $1.05 and US $945,000.

45. The Global Path trade did not fail as delivery slips confirm the transfer of share certificates.

Conduct Contrary to the Public Interest

46. Simpson's conduct was contrary to the public interest for the reasons set out below.

A. Failure to Disclose the Valentine Loan Guarantee

47. Simpson failed to ensure that the terms of the Valentine Loan were properly disclosed to the IDA, as required by IDA By-laws 17 and 38. This failure had the effect of presenting an inaccurate picture of TK's financial circumstances to the IDA.

B. Failure to Supervise Valentine's Transactions

48. Simpson failed to ensure that Valentine's handling of the Funds' business in the JAWZ, Chell Corp. and IKAR transactions was within the bounds of ethical conduct and consistent with just and

equitable principles of trade, contrary to IDA Regulation 1300 and By-law 38.

49. In these transactions, Simpson failed to supervise Valentine in accordance with Ontario securities law, and failed to ensure that Valentine dealt fairly, honestly and in good faith with his clients, contrary to sections 3.1 and 2.1 of OSC Rule 31-505.

50. Simpson agrees that it is in the public interest for the Commission to make the order set out in Schedule "A" to this agreement.

V RESPONDENT'S POSITION

A. Valentine Loan

51. With regard to the Valentine Loan, as described in paragraphs 20 through 26, above, Simpson represents that he and the TK Executive Committee were made aware of the Valentine Loan by Valentine himself. Simpson represents that the TK Executive Committee asked Valentine on several occasions whether the Valentine Loan bound TK in any way. Simpson represents that Valentine advised the Executive Committee that TK was not bound. Simpson represents that Valentine informed him that securities held in Valentine's pro account at TK would be pledged as security for the Valentine Loan. Simpson was asked to, and did, execute confirmations to that effect.

52. Simpson represents that he believed that he was only executing documents in connection with the pledge of Valentine's securities to Trilon. Simpson represents that, unbeknownst to him, TK's guarantee of the Valentine Loan was embedded in the documents that he executed. Simpson acknowledges that he executed these documents without reviewing them.

B. IKAR Transaction

53. With regard to Valentine's actions in the IKAR Transaction, as described in paragraphs 38 through 45 above, Simpson represents that he was not aware at any material time that Valentine had an interest, beneficial or otherwise, in Hammock.

C. Cooperation With Regulatory Authorities

54. When he became aware of the issues surrounding Valentine's conduct, Simpson responded proactively and co-operated with the OSC, IDA and CIPF. Prior to TK's bankruptcy, Simpson met regularly with the OSC, IDA and CIPF during which time he attempted to arrange for the orderly transfer of client assets from TK. Following TK's bankruptcy, Simpson continued to work for the benefit of TK's stakeholders by assisting the Receiver of TK and ensuring that all of TK's clients were made whole and that the estate of TK recovered all amounts due to it. Simpson lost a significant amount of his own funds as a result of TK's bankruptcy.

VI TERMS OF SETTLEMENT

55. Simpson agrees to the terms of settlement listed below.

56. The Commission will make an order:

(a) terminating his registration under Ontario securities law;

(b) requiring Simpson to resign all positions that he holds as director or officer of a registrant or a reporting issuer;

(c) permanently prohibiting Simpson from becoming a director or officer of any registrant;

(d) prohibiting Simpson from becoming a director or Chief Financial Officer of a reporting issuer for a period of 5 years from the date of the order;

(e) requiring Simpson to pay the sum of $50,000.00 towards the costs of Staff's investigation into the matters set out in this settlement agreement.

57. Simpson undertakes to never re-apply for registration or recognition of any kind under Ontario securities law or any other Canadian securities legislation.

58. Simpson undertakes to never seek membership in, or approval in any capacity from, the IDA.

VII STAFF COMMITMENT

59. If this Settlement Agreement is approved by the Commission, Staff will not initiate any proceeding under Ontario securities law in relation to the facts set out in Part IV of this agreement, subject to the provisions of paragraph 60 below.

60. If this Settlement Agreement is approved by the Commission and at any subsequent time Simpson fails to honour the undertakings and agreements contained in paragraphs 57, 58, and 63 of this Settlement Agreement, Staff reserve the right to bring proceedings under Ontario securities law against Simpson based on the facts set out in Part IV of this Settlement Agreement, as well as the breach of the undertakings and agreements.

VIII PROCEDURE FOR APPROVAL OF SETTLEMENT

61. Approval of this Settlement Agreement will be sought at a public hearing before the Commission scheduled for a date to be agreed to by counsel for Staff and Simpson, in accordance with the procedures set out in this Settlement Agreement and the Commission's Rules of Practice.

62. Staff and Simpson may refer to any part, or all, of this Settlement Agreement at the settlement hearing. Staff and Simpson also agree this Settlement Agreement will constitute the entirety of the evidence to be submitted regarding Simpson's conduct in this matter, and Simpson agrees to waive his rights to a full hearing and appeal of this matter under the Act.

63. Staff and Simpson agree that if this Settlement Agreement is approved by the Commission, neither party will make any public statement that is inconsistent with this Settlement Agreement. Nothing in this section is intended to restrict Simpson from making full answer and defence to any civil proceeding brought against him.

64. If this Settlement Agreement is not approved by the Commission, or an order in the form attached as Schedule "A" to this Settlement Agreement is not made by the Commission, each of Staff and Simpson will be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing of Staff's allegations against Simpson, unaffected by this Settlement Agreement or the settlement negotiations.

65. Whether or not this Settlement Agreement is approved by the Commission, Simpson agrees that he will not, in any proceeding, refer to or rely upon this agreement or the negotiation or process of approval of this Settlement Agreement as the basis for any attack on the Commission's jurisdiction, alleged bias, alleged unfairness or any other remedies or challenges that may otherwise be available.

IX DISCLOSURE OF AGREEMENT

66. The terms of this Settlement Agreement will be treated as confidential by both parties until approved by the Commission. The terms of this Settlement Agreement will be treated as confidential forever if this Settlement Agreement is not approved by the Commission, except with the written consent of both Simpson and Staff or as may be required by law.

67. Any obligations of confidentiality will terminate upon approval of this Settlement Agreement by the Commission.

X EXECUTION OF SETTLEMENT AGREEMENT

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

69. A facsimile copy of any signature will be as effective as an original signature.

DATED this 15th day of August, 2005

"Lee Simpson"

DATED this 12th day of August, 2005

STAFF OF THE ONTARIO SECURITIES COMMISSION

(Per) "Michael Watson"
Michael Watson
Director, Enforcement Branch

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Chapter 4

Cease Trading Orders

4.1.1 Temporary, Permanent & Rescinding Issuer Cease Trading Orders

Company Name	Date of Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/Revoke
Goldnev Resources Inc.	11 Aug 05	23 Aug 05		23 Aug 05
Racad Technologies Ltd.	12 Aug 05	24 Aug 05	24 Aug 05	
Rocky Mountain Brands, Inc.	08 Aug 05	19 Aug 05	19 Aug 05	
Teddy Bear Valley Mines, Limited	03 Aug 05	15 Aug 05	15 Aug 05	18 Aug 05

4.2.1 Temporary, Permanent & Rescinding Management 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
TS Telecom Ltd	08 Aug 05	19 Aug 05	19 Aug 05		
HMZ Metals Inc.	24 Aug 05	06 Sept 05			

4.2.2 Outstanding 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		
Brainhunter Inc.	18 May 05	31 May 05	31 May 05		
Hip Interactive Corp.	04 Jul 05	15 Jul 05	15 Jul 05		
HMZ Metals Inc.	24 Aug 05	06 Sept 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	18 May 04	01 Jun 04	01 Jun 04		
Kinross Gold Corporation	01 Apr 05	14 Apr 05	14 Apr 05		
Rex Diamond Mining Corporation	04 Jul 05	15 Jul 05	15 Jul 05		
Thistle Mining Inc.	05 Apr 05	18 Apr 05	18 Apr 05		
TS Telecom Ltd	08 Aug 05	19 Aug 05	19 Aug 05		
Xplore Technologies Corp.	04 Jul 05	15 Jul 05	15 Jul 05		

4.3.1 Issuer CTO's Revoked

Company Name	Date of Revocation
Mediterranean Minerals Corp.	**17 Aug 05**

Chapter 5

Rules and Policies

5.1.1 OSC Notice 11-754

OSC NOTICE 11-754

**MULTILATERAL INSTRUMENT 11-101 PRINCIPAL REGULATOR SYSTEM,
FORM 11-101F1 PRINCIPAL REGULATOR NOTICE UNDER MULTILATERAL INSTRUMENT 11-101,
COMPANION POLICY 11-101CP PRINCIPAL REGULATOR SYSTEM,**

**AMENDMENTS TO NATIONAL POLICY 43-201 MUTUAL RELIANCE REVIEW SYSTEM
FOR PROSPECTUSES AND ANNUAL INFORMATION FORMS,**

**AMENDMENTS TO NATIONAL POLICY 12-201 MUTUAL RELIANCE REVIEW SYSTEM
FOR EXEMPTIVE RELIEF APPLICATIONS,**

**AMENDMENTS TO NATIONAL INSTRUMENT 51-101 STANDARDS OF DISCLOSURE FOR
OIL AND GAS ACTIVITIES, AND MULTILATERAL INSTRUMENT 81-104 COMMODITY POOLS**

Introduction

On May 27, 2005, the Ontario Securities Commission ("we" or the "Commission"), published a notice regarding proposed Multilateral Instrument 11-101 *Principal Regulator System* (MI 11-101), Form 11-101F1 *Notice of Principal Regulator under Multilateral Instrument 11-101,* Companion Policy 11-101CP *Principal Regulator System.* The notice also discussed proposed amendments to:

- National Policy 43-201 *Mutual Reliance Review System for Prospectuses and Annual Information Forms* (MRRS Prospectus Policy),
- National Policy 31-201 *National Registration System* (NRS Policy),
- National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities* (NI 51-101), and
- Multilateral Instrument 81-104 *Commodity Pools* (MI 81-104).

Other members of the Canadian Securities Administrators ("CSA") published a similar notice on May 27, 2005, but, unlike the Commission, indicated their intention to adopt MI 11-101.

Nine comment letters were submitted in connection with the May 27, 2005 notices. Five comment letters were addressed to the Commission and another four comment letters were addressed solely to the other CSA members. The comment letters received by the Commission are posted on the Commission's website at www.osc.gov.on.ca. We have considered the comments and thank all the commenters. For a summary of all comments and responses by the other members of the CSA, please see the following CSA member websites:

www.albertasecurities.com
www.bcsc.bc.ca
www.lautorite.qc.ca

Notice of Amendments

For the reasons set out in the Commission's Notice dated May 27, 2005, we are not adopting MI 11-101, or its related Form and Companion Policy. Other members of the CSA, however, will be adopting MI 11-101 in their respective jurisdictions effective September 19, 2005. The text for MI 11-101 and related materials can be found on the CSA member websites noted above.

The Commission, together with the other members of the CSA, is adopting amendments to the MRRS Prospectus Policy, and National Policy 12-201 *Mutual Reliance Review System for Exemptive Relief Applications* (the "MRRS Applications

Policy")(discussed below). The amendments to the MRRS Prospectus Policy and MRRS Applications Policy will also take effect on September 19, 2005.

In the Notice of May 27, the Commission also proposed an amendment to National Policy 31-201 *National Registration System* (NP 31-201) to shorten the decision-making process. The amendment would have reduced the opt-in period in NP 31-201 from five business days to two business days. NP 31-201 has been in effect since April 4 of this year. The CSA have decided not to make the proposed amendment at this time because we need more experience with the system to determine whether it is practical to reduce the opt-in period. The CSA will, therefore, monitor the operation of the system and reconsider the proposed amendment on the first anniversary of NP 31-201.

The British Columbia Securities Commission (BCSC) has also adopted amendments to remove B.C. only carve-outs in sections 2.1.3 and 3.6 of NI 51-101, and in section 8.6 of MI 81-104, to become effective September 19, 2005.

Changes Introduced to the Existing Regulatory System by MI 11-101

The fact that we have not adopted MI 11-101 will not affect the current filing requirements or mutual reliance practices for reporting issuers. All reporting issuers, regardless of where their head office is located, will continue to have to file, deliver and disseminate continuous disclosure information and will continue to pay filing fees in each province or territory where they are reporting issuers. In addition, they will continue to have to file prospectuses with, and obtain receipts from, the securities regulator in each jurisdiction in which they undertake a public offering.

Other than the mobility exemption for registrants (discussed below), the principal change for issuers introduced by MI 11-101 will be to reduce the number of securities regulators that may be involved in an application for relief from certain continuous disclosure requirements, or certain processing prospectus related disclosure or eligibility requirements. In this regard, for reporting issuers in Ontario that have a head office outside Ontario, they will continue to rely on the mutual reliance review systems ("MRRS"), but only two securities regulators will be involved - the OSC and the securities regulator located in the "participating principal jurisdiction" under MI 11-101. For reporting issuers with a head office in Ontario, they will continue to rely on MRRS in each jurisdiction where the relief is required. Considering that the current practice under MRRS enables market participants to deal with one regulator (i.e., their principal regulator), the changes introduced by MI 11-101 should, from an issuer's perspective, be marginal.

Commitment to Achieving Greater Efficiencies

Several commenters supported the Commission's decision not to publish MI 11-101 and many urged us to continue working to develop a set of harmonized, if not uniform, requirements. Some commenters also expressed the view that, rather than trying to get multiple regulators to act as one, it would be more efficient to create a single regulator with a single and consistent set of regulatory standards across the country. In this regard, the Commission continues to be committed to enhancing the efficiency and effectiveness of the Canadian regulatory system and developing harmonized requirements. We continue to work with other CSA members to develop greater uniformity in our regulatory requirements and practices.

In addition, we note that as a result of the collective efforts of all CSA members, the following rules or requirements will become uniform across the country on September 19, 2005 when the BCSC adopts them:

- Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (MI 52-109),
- The requirements in National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities* (NI 51-101) respecting Form 51-101F3 and responsibilities by the Board of Directors to review certain procedures, statements and appointments,
- The disclosure requirement in Multilateral Instrument 81-104 *Commodity Pools* (MI 81-104) respecting the minimum and maximum levels of leverage experienced in a particular financial period, and
- The requirements in National Instrument 51-102 *Continuous Disclosure Obligations* (MI 51-102) respecting Business Acquisition Reports and restricted share disclosure.

We fully support initiatives that will further streamline our current administrative and review processes, as well as lead to greater harmonization in our regulatory requirements. Accordingly, we are amending, together with other CSA members, the MRRS Prospectus Policy and the MRRS Applications Policy (see discussion below).

We also support, in principle, the mobility registration exemption contained in MI 11-101. This exemption will permit registrants to continue to work with their existing clients who relocate to another jurisdiction. As a result of the comments we received, the Commission will study the feasibility of introducing a similar exemption for registrants whose clients move to Ontario. In the

interim, the Commission will, in the appropriate cases, consider and grant applications for exemptive relief from the registration requirements based on the same type of restrictions listed under the mobility exemption in MI 11-101.

Amendments to the MRRS Prospectus Policy

The MRRS Prospectus Policy establishes the mutual reliance review system ("MRRS") for the review and clearance of prospectuses (including long-form, short-form and mutual fund prospectuses), prospectus amendments, waiver applications, and pre-filing discussions. The MRRS remains an important component of the Commission's focus on harmonization and streamlining regulatory requirements and processes that benefit market participants. Under the MRRS Prospectus Policy, each non-principal regulator relies primarily on the review and analysis of the principal regulator in reaching its own decision to grant a receipt.

A blacklined version of the MRRS Prospectus Policy is attached showing the amendments made by the CSA.

Summary of Comments and Changes

The commenters generally welcomed and supported the proposed changes to the prospectus review and clearance system.

To facilitate the review and clearance of prospectus filings, we have streamlined the MRRS Prospectus Policy by reducing the time it takes to review a prospectus by ensuring the non-principal regulators do their review at the same time (instead of after) the principal regulator does its review. We estimate this will shorten the prospectus review process for long form prospectuses by five business days and for short form prospectuses by one to two business days. The result should be quicker access to the capital markets for market participants.

In addition, we have extended the list of jurisdictions that can act as principal regulator under the MRRS Prospectus Policy by including New Brunswick.

We are also making changes that will virtually eliminate the need for issuers to deal with non-principal regulators on any comments. One of these changes requires the principal regulator to forward potential opt-out issues raised by a non-principal regulator to the filer and attempt to resolve those issues with the non-principal regulator and the filer (i.e., the filer would no longer be required to deal directly with a non-principal regulator).

Additional Changes

In addition to the changes we published for comment on May 27, we have amended the pre-filing procedures under the MRRS Prospectus Policy. We made these amendments even though we did not publish them for comment because they relate to internal CSA processes. The amendments shorten the timelines for the review of pre-filings and waiver applications and impose a time limit for the review of these applications by the principal regulator. We made these changes to encourage issuers to use the pre-filing and waiver application process when filing prospectuses that raise novel and substantive issues or raise a novel public policy concern.

Review of AIFs Pending Changes to National Instrument 44-101

The amendments to the MRRS Prospectus Policy streamline the process for reviewing annual information forms. They do not distinguish between the review process for initial and renewal annual information forms because the CSA expects to eliminate this distinction in the restatement of National Instrument 44-101 *Short Form Prospectus Distributions* later this year. Until that happens, we will continue to review initial and renewal annual information forms as we did prior to amending the MRRS Prospectus Policy.

Amendments to the MRRS Applications Policy

The MRRS Applications Policy establishes the MRRS for the review of applications for exemptive relief that are filed in more than one jurisdiction. Under the MRRS Applications Policy, each non-principal regulator relies primarily on the review and analysis of the principal regulator in reaching its own decision on whether to grant relief.

A blacklined version of the MRRS Applications Policy is attached showing the amendments made by the CSA.

The Commission, together with the other CSA, amended the MRRS Applications Policy even though we did not publish it for comment. The amendments will clarify the interplay between the MRRS Applications Policy and MI 11-101 and are not material. The amendments include:

- appending a template decision document for filers to use when they require a decision from their principal regulator under MI 11-101, and

- changing the list of jurisdictions willing to act as principal regulator to remove Newfoundland and Labrador, which has indicated it no longer wishes to act as such, and adding New Brunswick.

These amendments take effect on September 19, 2005.

QUESTIONS

Please refer your questions to:

Jean-Paul Bureaud
Senior Legal Counsel
General Counsel's Office
Ontario Securities Commission
(416) 593-8131
jbureaud@osc.gov.on.ca

The text of the amendments to the MRRS Prospectus Policy, the MRRS Applications Policy, NI 51-101, and MI 81-104 follow.

August 26, 2005

5.1.2 National Policy 43-201 Mutual Reliance Review System For Prospectuses - Blackline Copy

NATIONAL POLICY 43- 201
MUTUAL RELIANCE REVIEW SYSTEM FOR PROSPECTUSES

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NATIONAL POLICY 43- 201
MUTUAL RELIANCE REVIEW SYSTEM FOR PROSPECTUSES[1]

PART 1 OVERVIEW AND APPLICATION

1.1 Scope - This Policy describes the practical application of mutual reliance concepts set out in the MRRS MOU relating to the filing and review of prospectuses, including ~~mutual~~investment fund and shelf prospectuses, amendments to prospectuses and related materials.

1.2 Objective - Under the MRRS, a designated securities regulatory authority or regulator, as applicable, acts as the principal regulator for all materials relating to a filer. This will enable participating principal regulators to develop greater familiarity with their respective filers, which will enhance the efficiency and quality of their review of materials filed under the MRRS.

1.3 Application of Local Requirements - Although the filer will generally deal only with its principal regulator in connection with materials filed under the MRRS, the local securities legislation and local securities directions in each jurisdiction in which the materials are filed are applicable to the materials~~.~~**, except to the extent that MI 11-101 provides relief from those local requirements.**

PART 2 DEFINITIONS AND INTERPRETATION

2.1 Definitions - In this Policy,

"amendment" means an amendment to a preliminary prospectus or prospectus;

"application" means a request for discretionary relief from or approval under securities legislation or securities directions, but does not include a waiver application or pre-filing;

"applications policy" means National Policy 12-201, *Mutual Reliance Review System for Exemptive Relief Applications*;

"CSA committee" means the Mutual Reliance Review System Committee of the Canadian Securities Administrators;

"local securities directions" means, for the local jurisdiction, the instruments listed in Appendix A of National Instrument 14-101, *Definitions* opposite the name of the local jurisdiction;

"local securities legislation" means, for the local jurisdiction, the statute and other instruments listed in Appendix B of National Instrument 14-101, *Definitions* opposite the name of the local jurisdiction;

"local securities regulatory authority" means, for the local jurisdiction, the securities commission or similar regulatory authority listed in Appendix C of National Instrument 14-101 *Definitions* opposite the name of the local jurisdiction;

"long form prospectus" includes a simplified prospectus and annual information form for a mutual fund;

"materials" means the documents and fees referred to in Appendix "A" to this Policy, as amended from time to time, for each category of filing;

"MRRS MOU" means the Memorandum of Understanding relating to the Mutual Reliance Review System signed as of October 14, 1999;

"MI 11-101" means Multilateral Instrument 11-101, *Principal Regulator System*;

"NI 44-101" means National Instrument 44-101, *Short Form Prospectus Distributions*;

"NI 81-101" means National Instrument 81-101, *Mutual Fund Prospectus Disclosure*;

"OSC 41-501" means Ontario Securities Commission Rule 41-501, *General Prospectus Requirements*;

"pre-filing" means a consultation with one or more of the securities regulatory authorities regarding the interpretation or application of securities legislation or securities directions to a particular transaction or proposed transaction that is the subject of, or is referred to in, materials, if the consultation is initiated before the filing of those materials;

[1] This document has been blacklined to show changes from the version of NP 43-201 published for comment January 7, 2005 in connection with proposed changes to National Instrument 44-101 *Short Form Prospectus Distributions*

"preliminary prospectus amendment" means an amendment to a preliminary prospectus;

"preliminary prospectus amendment MRRS decision document" means a MRRS decision document issued for a preliminary prospectus amendment;

"prospectus amendment" means an amendment to a prospectus;

"prospectus amendment MRRS decision document" means a MRRS decision document issued for a prospectus amendment;

"Q-28" means Policy Statement No. Q-28, *General Prospectus Requirements* of the Autorité des marchés financiers;

"renewal shelf prospectus" means a short form prospectus that is prepared and filed in accordance with the shelf prospectus system to replace a short form prospectus previously filed by the issuer under the shelf prospectus system for which a final receipt or final MRRS decision document was issued;

"requested regulator" means a participating principal regulator, other than the principal regulator determined in accordance with section 3.2, which a filer requests under subsection 3.4 to act as its principal regulator;

"seasoned prospectus" means a pro forma or preliminary prospectus of an issuer, if it is filed within two years of the date that a final MRRS decision document, or receipt, was issued to the issuer for a prospectus;

"securities directions" means the instruments listed in Appendix A of National Instrument 14-101, *Definitions*;

"securities legislation" means the statutes and other instruments listed in Appendix B of National Instrument 14-101, *Definitions*;

"securities regulatory authorities" means the securities commissions and similar regulatory authorities listed in Appendix C of National Instrument 14-101, *Definitions*;

"SEDAR" has the meaning ascribed to that term in National Instrument 13-101 System for Electronic Document Analysis and Retrieval;

"shelf prospectus system" means the system for the distribution of securities using a shelf prospectus as contemplated in National Instrument 44-102, *Shelf Distributions*;

"short form prospectus system" means the system for the distribution of securities as contemplated in NI 44-101; and

"waiver application" means a request for discretionary relief from securities legislation or securities directions, if the relief, if granted, would be evidenced by the issuance of a MRRS decision document under this Policy.

2.2 Interpretation - Unless otherwise defined herein, terms used in this Policy that are defined or interpreted in the MRRS MOU should be read in accordance with the MRRS MOU.

PART 3 PRINCIPAL REGULATOR

3.1 Participating Principal Regulators - As of the date of this Policy, the securities regulatory authorities of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, New Brunswick and Nova Scotia have agreed to act as principal regulator for materials filed under this Policy.

3.2 Determination of Principal Regulator

(1) It is the responsibility of the filer to determine its principal regulator. Unless changed or redesignated under section 3.3, 3.4 or 3.5, the principal regulator for a filer is determined in accordance with the following criteria:

(a) For filers, other than ~~mutual~~investment funds, whose head office is in a jurisdiction in which a participating principal regulator is located, the principal regulator is the local securities regulatory authority or regulator in the jurisdiction in which the head office is located.

(b) For filers, other than ~~mutual~~investment funds, whose head office is not in a jurisdiction in which a participating principal regulator is located, the filer ~~can~~should select ~~a~~the participating principal regulator ~~as its principal regulator, if~~with which the filer has ~~a reasonable~~the next most significant connection ~~with the jurisdiction in which the selected~~to act as the principal regulator ~~is located~~. The

next most significant connection should be determined by reference to the factors listed in subsection 3.4(1).

(c) For filers that are ~~mutual~~investment funds whose manager's head office is in a jurisdiction in which a participating principal regulator is located, the principal regulator is the local securities regulatory authority or regulator in the jurisdiction in which the manager's head office is located.

(d) For filers that are ~~mutual~~investment funds whose manager's head office is not in a jurisdiction in which a participating principal regulator is located, the filer ~~can~~should select ~~a~~the participating principal regulator ~~as its principal regulator, if~~with which the filer has ~~a reasonable~~the next most significant connection ~~with the jurisdiction in which the selected~~to act as the principal regulator ~~is located~~. The next most significant connection should be determined by reference to the factors listed in subsection 3.4(1).

(2) For a particular filing of materials, if the filer has incorrectly identified a non-principal regulator as the principal regulator, that non-principal regulator will decline to act as principal regulator and will notify the filer.

(3) The principal regulator determined in accordance with section 3.2 is the principal regulator for all materials filed under this Policy unless the principal regulator has been changed under section 3.3, 3.4 or 3.5.

3.3 Automatic Change of Principal Regulator - If the location of the head office of the filer or in the case of ~~a mutual~~an investment fund, the manager, is changed after the determination of the principal regulator in accordance with section 3.2, the principal regulator will change automatically to the local securities regulatory authority or regulator in the jurisdiction to which the head office has been moved if the new head office is in a jurisdiction in which a participating principal regulator is located. In all other circumstances the principal regulator can only be changed in accordance with section 3.4 or 3.5.

3.4 Discretionary Change of Principal Regulator Applied for by Filer

(1) A filer may apply for a change of principal regulator if it believes that its principal regulator is not the appropriate principal regulator. However, a change of a filer's principal regulator based on factors other than the head office criteria set out in section 3.2 will generally not be permitted unless exceptional circumstances justify the change. The factors that may be considered in assessing an application for a change of a filer's principal regulator include:

(a) location of management;

(b) location of assets and operations; and

(c) location of filer's trading market or quotation system in Canada, or, if the filer's securities are not traded or quoted on a trading market or quotation system in Canada, location of filer's securityholders.

(2) If a filer applies for a change of its principal regulator, the application should be submitted in paper form to the principal regulator and the requested regulator at least thirty days in advance of any filing of materials under this Policy to permit adequate time for staff of the relevant securities regulatory authorities to consider and resolve the application. If the application is not resolved before the date of any filing of materials, the principal regulator will continue to act as principal regulator for that filing, and the change requested, if granted, will relate to materials filed after the issuance of the final MRRS decision document.

(3) The application should address the basis for the designation of the filer's principal regulator in accordance with section 3.2, and should set forth the reasons for the requested regulator to act as principal regulator with regard to the factors specified in subsection (1) and any other relevant factors. The filer will be given an opportunity to respond to concerns or comments raised by the relevant securities regulatory authorities.

(4) If an application is denied, the principal regulator will provide written reasons for the denial to the filer.

3.5 Discretionary Change of Principal Regulator Proposed by the Participating Principal Regulators

(1) The participating principal regulators may determine that it would be preferable for a participating principal regulator other than the securities regulatory authority acting as principal regulator to act as a filer's principal regulator. This determination will generally only be made if changing the principal regulator of a filer would result in greater administrative and regulatory efficiencies with regard to the factors specified in subsection

3.4(1) and other relevant factors. The participating principal regulators will not redesignate a filer's principal regulator after materials have been filed and before a final MRRS decision document has been issued for the materials.

(2) If the participating principal regulators propose to change a filer's principal regulator, the principal regulator will notify the filer in writing of the proposed change, and will identify the reasons for the proposed change. The redesignated principal regulator will become the filer's principal regulator thirty days after the date of the notice unless the filer objects in writing to the proposed change. The filer, the principal regulator and the proposed principal regulator will attempt to resolve any objections raised by the filer to the proposed change.

3.6 Notification to CSA Committee of Discretionary Change of Principal Regulator - The participating principal regulators involved in an application or proposal to change a filer's principal regulator will advise the CSA committee of all decisions rendered under sections 3.4 or 3.5 and the reasons for the decisions.

3.7 Effect of Change of Principal Regulator

(1) A change of principal regulator under section 3.3, 3.4 or 3.5 applies for all materials filed under this Policy after the change.

(2) If the circumstances relevant to the determination of the principal regulator change after the date of any filing of materials and before a final MRRS decision document is issued relating to those materials, the principal regulator will act as principal regulator for that filing, and the change of principal regulator will relate to materials filed after the issuance of the final MRRS decision document.

3.8 Identification of New Principal Regulator - At the time of the first filing following a change of principal regulator, the filer should identify the new principal regulator in the cover page information for the SEDAR filing and indicate that this is a change from the previous filing. The filer should also update its SEDAR filer profile to identify the new principal regulator and include the basis for the change of principal regulator.

PART 4 FILING MATERIALS UNDER THE MRRS

4.1 Election of MRRS and Identifying Principal Regulator - The filer should indicate in the cover page information for the SEDAR filing its principal regulator and that it is electing to file materials under the MRRS. The filer should also identify its principal regulator and the basis for the determination in its SEDAR filer profile. If a filer's principal regulator is determined in accordance with paragraph 3.2(1)(b) or 3.2(1)(d), the filer should provide a description of the factors connecting the filer to the jurisdiction of the principal regulator it has selected. If applicable, the filer should provide the date of the change in circumstances resulting in an automatic change of principal regulator under section 3.3 or of a decision under section 3.4 or 3.5 changing the principal regulator.

4.2 Filing - If a filer proposes to distribute its securities by prospectus only to purchasers in jurisdictions other than the jurisdiction in which its principal regulator is located, the materials, including the required fees, should also be filed with the principal regulator, and will be reviewed by the principal regulator. This will enable participating principal regulators to maintain familiarity with their respective filers.

4.3 Black-lined Document - Except in the case of short form prospectuses, it is strongly recommended that a filer file through SEDAR a draft prospectus (the French language version, in Québec), black lined to show changes, as far as possible in advance of filing final materials. This black lined version is in addition to the black lined version of the final prospectus to be filed with the final materials.

4.4 Seasoned Prospectuses

(1) If appropriate, a filer may identify a prospectus being filed as a seasoned prospectus. When a seasoned prospectus is filed it should be accompanied by a copy of the seasoned prospectus black lined against the preceding prospectus of the filer to show all changes made. The prospectus should be accompanied by a certificate of the filer. The certificate should certify that the black lined prospectus indicates all differences between the content of the seasoned prospectus and that of the previous prospectus of the filer.

(2) If a filing is made under this section, the principal regulator will advise the non-principal regulators when the comment letter is issued that the prospectus is being reviewed as a seasoned prospectus. The non-principal regulators will then assume that the principal regulator has conducted only a limited review of the prospectus unless the contrary is specifically stated.

(3) The procedures set out in this section do not apply to filings made under NI 81-101.

PART 5 REVIEW OF MATERIALS

5.1 Review by Principal Regulator - The principal regulator is responsible for reviewing all materials in accordance with the local securities legislation and local securities directions of the jurisdiction in which the principal regulator is located, and in accordance with its review procedures, analysis and precedents. The principal regulator will be responsible for issuing and resolving comments on materials and issuing the MRRS decision document once the relevant conditions have been satisfied. While the non-principal regulators may review the materials and will advise the principal regulator of any material concerns relating to the materials that, if left unresolved, would cause the non-principal regulators to opt out of the MRRS, the filer will generally deal solely with the principal regulator.

5.2 Review Period for Long Form Prospectuses and Renewal Shelf Prospectuses

~~**(1)** A principal regulator that has implemented a system of selective review will, within three working days of the date of the preliminary MRRS decision document or receipt of the pro forma materials, notify the non-principal regulators if the designated level of review to be given to the materials is a basic review.~~

(1) ~~(2) If a principal regulator that has implemented a system of selective review selects materials for either full review or issue-oriented review, or a principal regulator does not have a system of selective review, the~~The principal regulator will use its best efforts to review the materials and issue a comment letter within 10 working days of the date of the preliminary MRRS decision document or receipt of the pro forma materials.

(2) ~~(3)~~ Each non-principal regulator will, within five working days of the date of the preliminary MRRS decision document or receipt of the ~~comment letter of the principal regulator~~pro forma materials, use its best efforts to:

(a) advise the principal regulator of any material concerns with the materials that, if left unresolved, would cause the non-principal regulator to opt out of the MRRS; or

(b) indicate in the SEDAR "Filing Status" screen that it is clear to receive final materials, if there are no outstanding applications or waiver applications that have been filed with the non-principal regulators.

~~(4) For materials that have been selected for basic review, the non-principal regulators will, within 6 working days of being notified that the materials have been selected for basic review, use their best efforts to comply with paragraphs (3)(a) or (3)(b), as appropriate.~~

5.3 Review Period for Short Form Prospectuses

(1) The principal regulator will use its best efforts to review materials relating to a preliminary short form prospectus and issue a comment letter within three working days of the date of the preliminary MRRS decision document. Each non-principal regulator will, ~~by 12:00 noon, Eastern time, on the~~within three working ~~day following~~days of the date of ~~issuance of the comment letter of the principal regulator~~the preliminary MRRS decision document, use its best efforts to:

(a) advise the principal regulator of any material concerns with the materials that, if left unresolved, would cause the non-principal regulator to opt out of the MRRS; or

(b) indicate in the SEDAR "Filing Status" screen that it is clear to receive final materials, if there are no outstanding applications that have been filed with the non-principal regulators.

(2) Despite the foregoing, if, in the opinion of the principal regulator, a proposed distribution by way of short form prospectus is too complex to be reviewed adequately within the prescribed time periods, the principal regulator may determine that the time periods applicable to long form prospectuses should apply, and the principal regulator will, within one working day of the filing of the preliminary short form prospectus, so notify the filer and the non-principal regulators. The filer is encouraged to submit a pre-filing to resolve any issues that may cause a delay in the prescribed time periods.

5.4 Novel Structure or Issue - If a prospectus is filed for an offering that involves a novel structure or novel issue and the issues were not resolved in a pre-filing with the relevant regulators, the principal regulator may establish a cooperative review process actively involving the non-principal regulators in formulating and resolving the comments. The principles of mutual reliance, in all other respects, will continue to apply. The complexity of the structure or the issue may affect the prescribed review periods.

5.5 Form of Response - The filer should provide to the principal regulator written responses to the comment letter issued by the principal regulator.

PART 6 OPTING OUT

6.1 **Opting Out** - A non-principal regulator can opt out of the MRRS for a filing at any time before the principal regulator issues a final MRRS decision document for the materials. The non-principal regulator will provide notice of its decision to opt out to the filer, the principal regulator and the other non-principal regulators by indicating "MRRS - Opt Out" in the SEDAR "Filing Status" screen. The non-principal regulator will at that time provide written reasons for its decision to opt out of the MRRS to the ~~filer via SEDAR. The non-principal regulator that has opted out will also advise the~~ principal regulator and the other non-principal regulators ~~of its reasons for opting out. The filer will~~. The principal regulator will forward the reasons for opting out to the filer and will use its best efforts to resolve opt out issues with the filer on behalf of the non-principal regulator that has opted out. If the principal regulator is able to resolve these issues with the filer and the non-principal regulator that has opted out, the non-principal regulator that has opted out may opt back in. Reasons for opting out will be forwarded to the CSA committee. In the event that the principal regulator is unable to resolve the opt out issues with the non-principal regulator, the principal regulator will issue a final MRRS decision document on behalf of the non-principal regulators that have not opted out. The filer will then deal directly with the non-principal regulator that has opted out to resolve any outstanding issues~~. Reasons for opting out will be forwarded to the CSA committee.~~

~~**6.2** **Opting Back In** - If the filer and the non principal regulator are able to resolve their outstanding issues before the principal regulator issues the final MRRS decision document, the non-principal regulator may opt back in to the MRRS by notifying the principal regulator, all other non principal regulators and the filer by indicating "MRRS - Opt Back In - Clear for Final" in the SEDAR "Filing Status" screen.~~ outside the MRRS.

PART 7 MRRS DECISION DOCUMENT

7.1 **Effect of MRRS Decision Document** - The MRRS decision document evidences that a determination on materials has been made by the principal regulator and the non-principal regulators that have not opted out of the MRRS for the materials.

7.2 **Conditions to Issuance of Preliminary MRRS Decision Document -** The principal regulator will issue a preliminary MRRS decision document if:

1. the principal regulator has determined that acceptable materials have been filed; and

2. the filer has confirmed to the principal regulator in a letter accompanying the materials that, to the best of its knowledge and belief:

   (a) materials, including all required translations, have been filed with all non-principal regulators that have not opted out of the MRRS for the materials;

   (b) in respect of each jurisdiction in which the materials are filed, the filer has filed or delivered all documents required to be filed or delivered under the local securities legislation and is not subject to a cease trade order issued by a local securities regulatory authority;

   (c) in each jurisdiction in which the securities will be offered to purchasers, at least one underwriter that has signed the certificate is registered, or has filed an application for registration or an application for exemptive relief from the requirement to be registered. If none of the underwriters that has signed the certificate are registered in a jurisdiction in which the distribution is being made but one of the underwriters has filed an application for registration or an application for exemptive relief from the requirement to be registered, that underwriter will file an undertaking with the principal regulator not to solicit in that jurisdiction until the registration or exemption has been obtained; and

   (d) in the case of distributions to be effected by the filer, the filer is registered in each jurisdiction in which the securities will be offered to purchasers, or has filed an application for registration. If the filer has filed an application for registration in a jurisdiction, the filer will file an undertaking with the principal regulator not to solicit in that jurisdiction until the registration is obtained.

7.3 **Form of Preliminary MRRS Decision Document** - The preliminary MRRS decision document for a preliminary prospectus will contain the following legend:

This preliminary mutual reliance review system decision document evidences that preliminary receipts of the regulators in each of (name of each jurisdiction in which materials have been filed and where the regulator has not opted out of the MRRS for the materials) have been issued.

7.4 Conditions to Issuance of Final MRRS Decision Document for Long Form Prospectus and Renewal Shelf Prospectus - The principal regulator will issue a final MRRS decision document for a long-form prospectus or a renewal shelf prospectus if:

1. the statutory waiting period between the issuance of a MRRS decision document for preliminary materials and final materials, if applicable, has expired;

2. all non-principal regulators, other than the regulators in ~~New Brunswick,~~ Prince Edward Island, the Yukon Territory, the Northwest Territories and Nunavut, have indicated in the SEDAR "Filing Status" screen that they are "Clear for Final" or have opted out of the MRRS for the filing by indicating "MRRS - Opt Out" in the SEDAR "Filing Status" screen;

3. the principal regulator has determined that acceptable materials have been filed; and

4. the filer has confirmed to the principal regulator in a letter accompanying the materials that, to the best of its knowledge and belief:

   (a) materials, including all required translations, have been filed with all non-principal regulators that have not opted out of the MRRS for the materials;

   (b) in respect of each jurisdiction in which the materials are filed, the filer has filed or delivered all documents required to be filed or delivered under the local securities legislation and is not subject to a cease trade order issued by a local securities regulatory authority;

   (c) in each jurisdiction in which the securities will be offered to purchasers, at least one underwriter that has signed the certificate is registered or has been exempted from the requirement to be registered;

   (d) in the case of distributions to be effected by the filer, the filer is registered in each jurisdiction in which the securities will be offered to purchasers; and

   (e) all necessary relief from applicable securities legislation or securities directions has been applied for and granted by the principal regulator and non-principal regulators.

7.5 Conditions to Issuance of Final MRRS Decision Document for Short Form Prospectus - The principal regulator will issue a final MRRS decision document for a short form prospectus if the conditions specified in section 7.4, other than subsection 7.4(1), have been met and at least two working days have elapsed from the date of the preliminary MRRS decision document.

7.6 Form of Final MRRS Decision Document - The final MRRS decision document for a prospectus will contain the following legend:

> *This final mutual reliance review system decision document evidences that final receipts of the regulators in each of (name of each jurisdiction in which materials have been filed and where the regulator has not opted out of the MRRS for the materials) have been issued.*

7.7 Local Decision Document - Despite the issuance of the MRRS decision document, certain non-principal regulators will issue concurrently their own decision documents for materials. In the case of materials filed for a proposed distribution of securities, it is not necessary for a filer to obtain a copy of the local decision document before commencing the distribution of its securities.

7.8 Holidays - The principal regulator will issue a MRRS decision document evidencing the receipt of non-principal regulators that are open on the date of the MRRS decision document. The principal regulator will issue a MRRS decision document evidencing the receipt of the remaining non-principal regulators on the next day that the non-principal regulators are open.

~~**7.9 Material Issues Raised Late**~~

~~(1) "Material issue" means a potential receipt refusal issue raised by the principal regulator as a result of its review of the materials or raised by the filer as a result of changes made by the filer after a non-principal regulator is clear for final.~~

~~**(2)** If a material issue is raised after a non-principal regulator has indicated that it is clear for final, the principal regulator may determine that it is not prepared to issue a final MRRS decision document unless such non-principal regulator provides reconfirmation that it is clear for final materials. The principal regulator will submit through SEDAR under "Memo to Regulators - Reconfirmation Requested" a letter identifying the new material issue. The filer should encourage the non-principal regulators to respond to the correspondence of the principal regulator. A non-principal regulator, other than the regulators in New Brunswick, Prince Edward Island, the Yukon Territory, the Northwest Territories and Nunavut, that does not provide reconfirmation within five days is considered to have opted out of MRRS.~~

7.9 ~~7.10~~ Refusal by Principal Regulator to Issue a Receipt

(1) If the principal regulator refuses to issue a receipt for materials and therefore refuses to issue a MRRS decision document, it will notify the filer and the non-principal regulators by sending a refusal letter through SEDAR, and the MRRS will no longer apply to the filing. In these circumstances, the filer will deal separately with the local securities regulatory authority in each jurisdiction in which the materials were filed, including the principal regulator, to determine if the local securities regulatory authority or regulator in those jurisdictions will issue a local decision document. Filers are cautioned that, once the MRRS is no longer applicable to the materials, each non-principal regulator may conduct its own comprehensive review of the materials.

(2) To the extent the issues that gave rise to the refusal to issue a MRRS decision document are resolved to the satisfaction of all parties, the filer may request that the MRRS apply once again to the materials.

7.10 ~~7.11~~ Right to be Heard Following a Refusal - If a filer requests a hearing for a refusal by the principal regulator to issue a receipt, the principal regulator will promptly advise the non-principal regulators of the request. The principal regulator will generally hold the hearing, either solely or together with other interested non-principal regulators. The non-principal regulators may make whatever arrangements they consider appropriate, including conducting hearings.

PART 8 APPLICATIONS

8.1 Applications - In many instances, certain exemptive relief is required by a filer to enable a filing of materials or to facilitate a distribution of securities under materials filed. The following guidelines may assist a filer in ensuring that the review of materials is not unduly delayed if there is a concurrent application that is not subject to Part 9:

1. The principles of mutual reliance are available to govern the review and disposition of applications that are made in multiple jurisdictions. If the application is to be filed under the MRRS, it should be filed under the applications policy.

2. If the relief requested in the application is a condition to the issuance of a MRRS decision document and if the application is not filed in a timely manner, the issuance of the MRRS decision document may be delayed. In this regard, if an application is filed under the MRRS, filers are referred to the time periods for processing applications as contained in the applications policy.

3. If an application is filed, the filer should indicate in the SEDAR cover page information for the related filing of materials under the field "Application for Exemption Order in", those jurisdictions in which the application is being made. The filer should also indicate in a cover letter accompanying the application that there is a related filing of materials that has either been filed or will be filed.

PART 9 PRE-FILINGS AND WAIVER APPLICATIONS

9.1 General

(1) The principles of mutual reliance are available to govern the review of pre-filings and waiver applications that are made in more than one jurisdiction. There may be pre-filings and waiver applications where a formal order is required in some jurisdictions while the issuance of a receipt will evidence the required relief in other jurisdictions. This difference among the jurisdictions may create ambiguity about whether a particular pre-filing or waiver application should be made under this policy or the applications policy. In order to free the process of ambiguity, Appendix B contains examples of applications that are dealt with under this Policy.

(2) If the filer does not require exemptive relief in the jurisdiction of its principal regulator, the filer should select the participating principal regulator in the jurisdiction with which the filer has the next most significant connection to act as the principal regulator for the purposes of the pre-filing or waiver application.

(3) In a letter accompanying materials filed, the filer should describe the subject matter of any pre-filings or waiver applications made to the non-principal regulators and the disposition thereof by the non-principal regulators.

(4) If the resolution of a pre-filing or waiver application is a condition precedent to the issuance of either a preliminary or final MRRS decision document, filers are reminded to file the pre-filing or waiver application sufficiently in advance of the filing of the related materials to avoid any delay in the issuance of the MRRS decision document.

(5) Different review procedures apply to those pre-filings and waiver applications filed under the MRRS that are routine and those that raise novel and substantive issues.

(6) If a pre-filing or waiver application has been filed, the filer should indicate in the SEDAR cover page information for the related filing of materials under the field "Pre-filing or Waiver Application", those jurisdictions in which the pre-filing or waiver application has been made. The filer should also indicate in a cover letter accompanying the pre-filing or waiver application that there is a related filing of materials that has either been filed or will be filed.

9.2 Procedure for Routine Pre-Filings and Waiver Applications - Except as provided in section 9.3, a pre-filing or waiver application made under the MRRS should be submitted to the principal regulator in the form required by the principal regulator, and the filer will deal directly with the principal regulator to resolve the pre-filing or waiver application.

9.3 Procedure for Novel and Substantive Pre-Filings and Waiver Applications

(1) If the principal regulator determines that a pre-filing or waiver application filed, or to be filed, under the MRRS involves a novel and substantive issue or raises a novel public policy concern:

(a) the principal regulator will direct the filer to submit the pre-filing or waiver application in written form to the principal regulator and the non-principal regulators;

(b) the principal regulator will use its best efforts to review the materials and send its proposed disposition to non-principal regulators within four working days from the date of its receipt of the pre-filing or waiver application;

(c) ~~(b)~~ each non-principal regulator will ~~be given five working days from the date of its receipt of the pre-filing or waiver application to forward to~~use its best efforts to advise the principal regulator and the other non-principal regulators ~~substantive issues that may, if left unresolved, cause the non-principal regulator to opt out of the disposition of the pre-filing or waiver application~~of its agreement or disagreement with the proposed disposition of the principal regulator within two working days from the date of receipt of the principal regulator's proposed disposition; and

(d) ~~(c) the principal regulator will notify all non-principal regulators of its proposed disposition of the pre-filing or waiver application and will give each non-principal regulator a reasonable period of time to advise the principal regulator of its disagreement with the proposed disposition of the pre-filing or waiver application before notifying the filer of the disposition.~~ The principal regulator will advise the filer that the disposition of the pre-filing or waiver application represents the disposition by all non-principal regulators other than those that advised the principal regulator of their disagreement with the disposition within the specified period of time. If a non-principal regulator disagrees with the disposition, the ~~filer should deal directly with that~~principal regulator will use its best efforts to resolve the outstanding issues with the non-principal regulator ~~to resolve~~that disagrees with the proposed disposition of the pre-filing or waiver application.

(2) In circumstances where it is apparent to the filer that a proposed pre-filing or waiver application contains a novel public policy issue, the filer is encouraged, for the purpose of accelerating the resolution of the pre-filing or waiver application, to send the pre-filing or waiver application in written form to the non-principal regulators contemporaneously with submitting it to the principal regulator.

9.4 Filing of Related Materials - For any materials filed under the MRRS to which a pre-filing or waiver application relates, the filer should include in the cover letter accompanying the materials a description of the subject matter of the pre-filing or waiver application, including the relevant provisions of the securities legislation and securities directions of the

principal regulator and ~~each non-principal regulator and~~ the proposed disposition of the pre-filing or waiver application by the principal regulator and, if applicable, any non-principal regulator that disagreed with the disposition by the principal regulator and had an alternative disposition of the pre-filing or waiver application. In the case of a waiver application, the filer should identify the other non-principal regulators from which the requested relief is also needed.

9.5 Effect of Related MRRS Decision Document - In the case of a waiver application, the filer should include in the cover letter referred to in section 9.4 a request that the non-principal regulators grant the discretionary relief requested from the principal regulator. The final MRRS decision document will evidence that the principal regulator and the non-principal regulators that have not opted out have granted the discretionary relief requested in the waiver application. The securities regulatory authorities of certain jurisdictions will also issue their own local decision documents.

PART 10 AMENDMENTS

10.1 Filing of Amendments

(1) Amendment materials should be filed with the principal regulator and the non-principal regulators in accordance with Part 4 of this Policy.

(2) The Securities Act (Québec) provides that the Autorité des marchés financiers must decide to issue or to refuse to issue a receipt for a prospectus amendment, other than a prospectus relating to a continuous distribution, within two working days of filing of the prospectus amendment. If a filer wishes to apply the MRRS to a prospectus amendment, other than a prospectus amendment relating to a continuous distribution that is also filed in the province of Québec, it should include in the cover letter accompanying the prospectus amendment materials statements that:

(a) it acknowledges that the Autorité des marchés financiers may be unable to issue a receipt within two working days of the date of receipt of the prospectus amendment and specifically waives any rights it may have to have a receipt issued by the Autorité des marchés financiers within that time frame; and

(b) it undertakes to the Autorité des marchés financiers that it will cease the distribution of its securities in Québec until the prospectus amendment MRRS decision document is issued.

(3) If the filer does not include the statements referred to in subsection (2) in the cover letter accompanying the prospectus amendment materials, the MRRS will not apply to that filing.

(4) Filers are reminded that local securities legislation in other jurisdictions contain restrictions on distributing securities until the prospectus amendment MRRS decision document is issued**,** as discussed in section 10.9.

10.2 Conditions to Issuance of MRRS Decision Document for Preliminary Prospectus Amendments - The principal regulator will issue a preliminary prospectus amendment MRRS decision document if:

1. the principal regulator has determined that acceptable materials have been filed; and

2. the filer has confirmed to the principal regulator in a letter accompanying the materials that, to the best of its knowledge and belief:

   (a) materials, including all required translations, have been filed with all relevant non-principal regulators that have not opted out of the MRRS for the materials;

   (b) in respect of each jurisdiction in which the materials are filed, the filer has filed or delivered all documents required to be filed or delivered under the local securities legislation and is not subject to a cease trade order issued by a local securities regulatory authority; and

   (c) if the amendment reflects the removal of an underwriter, the filer has confirmed to the principal regulator that in each jurisdiction in which the securities will be offered to purchasers, at least one underwriter that has signed the certificate is registered, or has filed an application for registration or an application for exemptive relief from the requirement to be registered. If none of the underwriters that has signed the certificate are registered in a jurisdiction in which the distribution is being made but one of the underwriters has filed an application for registration or an application for exemptive relief from the requirement to be registered, that underwriter will file an undertaking with the principal regulator not to solicit in that jurisdiction until the registration or exemption has been obtained.

10.3 Form of MRRS Decision Document for Preliminary Prospectus Amendments

(1) The securities legislation and securities directions in force in certain jurisdictions require that a receipt be issued for a preliminary prospectus amendment. The securities legislation and securities directions in force in other jurisdictions do not require that a receipt be issued, and it has been the administrative practice to issue a notice of acceptance of filing for the preliminary prospectus amendment. For the purposes of this Policy, a preliminary prospectus amendment MRRS decision document will evidence that, if applicable, the required receipts or notices of acceptance of filing have been issued by the principal regulator and the non-principal regulators.

(2) The preliminary prospectus amendment MRRS decision document will contain the following legend:

This mutual reliance review system decision document evidences that receipts or notices of acceptance of filing of the regulators in each of (name of each jurisdiction in which materials have been filed and where the regulator has not opted out of the MRRS for the materials) have been issued.

10.4 Review Period for Preliminary Prospectus Amendments

(1) If a preliminary prospectus amendment is filed before the principal regulator issues its comment letter relating to the preliminary prospectus materials, the principal regulator may be unable to complete its review of the preliminary materials and issue its comment letter within the time periods indicated in sections 5.2 and 5.3, as applicable. In ~~this~~the case of a long form prospectus, the principal regulator will use its best efforts to issue its comment letter on the later of the date that is five working days after the filing of the amendment and the original due date for the comment letter. In the case of a short form prospectus, the principal regulator will use its best efforts to issue its comment letter on the later of the date that is three working days after the filing of the amendment and the original due date for the comment letter. Similarly, if a preliminary prospectus amendment is filed before the non-principal regulator completes its review described in section 5.2(2) and 5.3(1), the non-principal regulator may be unable to complete its review within the relevant time periods. In this case, the non-principal regulator will use its best efforts to complete its review on the later of the date that is three working days after the filing of the amendment and the original due date for completing the review.

(2) If a preliminary prospectus amendment for a preliminary long form prospectus is filed after the principal regulator has issued its comment letter:

(a) the principal regulator will use its best efforts to review the materials and issue a comment letter within three working days of the date of the preliminary prospectus amendment MRRS decision document; and

(b) the non-principal regulators will use their best efforts to advise the principal regulator of any material concerns with the materials that, if left unresolved, would cause the non-principal regulator to opt out of the MRRS within ~~the later of:~~three working days of the date of the preliminary prospectus amendment MRRS decision document

~~(i) two working days of the date of receipt of the comment letter of the principal regulator relating to the amendment; and~~

~~(ii) the expiry of the time period indicated in section 5.2 for review by the non-principal regulator of the preliminary materials.~~

(3) If a preliminary prospectus amendment for a preliminary short form prospectus is filed after the principal regulator has issued its comment letter:

(a) the principal regulator will use its best efforts to review the materials and issue a comment letter within two working days of the date of the preliminary prospectus amendment MRRS decision document; and

(b) the non-principal regulators will use their best efforts to advise the principal regulator of any material concerns with the materials that, if left unresolved, would cause the non-principal regulator to opt out of the MRRS ~~by the later of:~~ within two working days of the date of the preliminary prospectus amendment MRRS decision document:

~~(i) 12:00 noon, Eastern time, on the working day following the date of issuance of the comment letter of the principal regulator relating to the prospectus amendment; and~~

~~(ii) the expiry of the time period indicated in section 5.3 for review by the non-principal regulator of the preliminary materials.~~

(4) The time periods in subsections (2) and (3) may not apply in certain circumstances if it would be more appropriate for the principal regulator and the non-principal regulators to review the amendment materials at a different stage of the review process. For example, the principal regulator and the non-principal regulators may wish to defer review of the amendment materials until after receiving and reviewing the filer's responses to comments already issued in respect of the preliminary materials.

10.5 Review Period for Prospectus Amendments

(1) If a prospectus amendment to a long form prospectus, including a prospectus for ~~a mutual~~an investment fund, is filed, the principal regulator will use its best efforts to review the materials and to issue a comment letter within three working days of the date of the receipt of the prospectus amendment, and the non-principal regulators will use their best efforts to advise the principal regulator of any material concerns with the materials that, if left unresolved, would cause the non-principal regulator to opt out of the MRRS within ~~two~~three working days of the date of the ~~issuance~~receipt of the ~~comment letter of the principal regulator~~prospectus amendment.

(2) If a prospectus amendment to a short form prospectus is filed, the principal regulator will use its best efforts to review the materials and to issue a comment letter within two working days of the date of the receipt of the prospectus amendment, and the non-principal regulators will use their best efforts to advise the principal regulator of any material concerns with the materials that, if left unresolved, would cause the non-principal regulator to opt out of the MRRS ~~by 12:00 noon, Eastern time, on the~~within two working ~~day following~~days of the date of ~~issuance of the comment letter of the principal regulator~~the receipt of the prospectus amendment.

10.6 Conditions to Issuance of Prospectus Amendment MRRS Decision Document - The principal regulator will issue a prospectus amendment MRRS decision document if:

1. all comments raised have been resolved to the satisfaction of the principal regulator and, if applicable, any non-principal regulator that has not opted out of the MRRS for the materials;

2. the principal regulator has determined that acceptable materials have been filed;

3. all non-principal regulators, other than the regulators in ~~New Brunswick,~~ Prince Edward Island, the Yukon Territory, the Northwest Territories and Nunavut, have indicated in the SEDAR "Filing Status" screen that they are "Clear for First Amendment to Final" (or "Clear for Second Amendment to Final" or "Clear for Third Amendment to Final" as applicable) or have opted out of the MRRS for the filing by indicating "MRRS - Opt Out" in the SEDAR "Filing Status" screen; and

4. the filer has confirmed to the principal regulator in a letter accompanying the materials that, to the best of its knowledge and belief:

   (a) materials, including all required translations, have been filed with all non-principal regulators that have not opted out of the MRRS for the materials;

   (b) in respect of each jurisdiction in which the materials are filed, the filer has filed or delivered all documents required to be filed or delivered under the local securities legislation and is not subject to a cease trade order issued by a local securities regulatory authority;

   (c) if the amendment reflects the removal of an underwriter, the filer has confirmed to the principal regulator that in each jurisdiction in which the securities will be offered to purchasers, at least one underwriter that has signed the certificate is registered or has been exempted from the requirement to be registered; and

   (d) all necessary relief from applicable securities legislation or securities directions has been applied for and granted by the principal regulator and non-principal regulators.

10.7 Form of Prospectus Amendment MRRS Decision Document

(1) The securities legislation and securities directions in force in different jurisdictions impose different requirements on receipting or accepting amendments. The securities legislation and securities directions in force in certain jurisdictions require that a receipt be issued for any prospectus amendment, whereas the

securities legislation and securities directions in force in other jurisdictions do not require that a receipt be issued, and it has been the administrative practice to issue a notice of acceptance of filing for the prospectus amendment. The securities legislation and securities directions in other jurisdictions require that a receipt be issued for a prospectus amendment only where the prospectus amendment is filed for the purpose of distributing securities in addition to the securities previously disclosed in the related prospectus. For the purposes of this Policy, a prospectus amendment MRRS decision document will constitute confirmation that, if applicable, the required receipts or notices of acceptance of filing have been issued by the principal regulator and the non-principal regulators.

(2) The prospectus amendment MRRS decision document will contain the following legend:

This mutual reliance review system decision document evidences that receipts or notices of acceptance of filing of the regulators in each of (name of each jurisdiction in which materials have been filed and where the regulator has not opted out of the MRRS for the materials) have been issued.

10.8 Local Decision Document - Despite the issuance of the MRRS decision document, certain non-principal regulators will issue concurrently their own decision documents for amendments. In the case of prospectus amendments, it is not necessary for a filer to obtain a copy of the local decision document before recommencing the distribution of its securities.

10.9 Other Requirements

(1) Filers are reminded that the securities legislation and securities directions in force in certain jurisdictions require that where an amendment has been filed for the purposes of distributing securities in addition to the securities previously disclosed in the prospectus, the additional distribution will not be proceeded with for a specified period of time.

(2) Filers are also reminded that the securities legislation and securities directions of certain jurisdictions provide that, except in certain circumstances with the written permission of a designated person, a distribution or additional distribution must not proceed until a receipt for a prospectus amendment is issued.

APPENDIX A

MATERIALS REQUIRED TO BE FILED UNDER NATIONAL POLICY 43-201

The attached lists of documents, as varied in accordance with the following guidance, are those required to be filed or delivered under each category of filing to which the Policy applies.

The following guidance applies to all filings of materials under the MRRS:

1. Where a filing is to be made in the province of Québec, a French language version of the following documents must also be filed:

   (a) the preliminary prospectus and the prospectus; and

   (b) any amendment to a preliminary prospectus and any amendment to a prospectus.

   The French language versions of all documents incorporated by reference, if not previously filed, must be filed at the time of filing of a preliminary short form prospectus.

2. The attached lists do not refer to the applicable filing and distribution fees required by the securities regulatory authorities. The filer should consult the fee schedules of the relevant securities legislation for the applicable fees.

   For filers that are permitted to file materials in paper form under National Instrument 13-101, *System for Electronic Document Analysis and Retrieval (SEDAR)*, the payment of fees should be made by cheque payable as follows:

   British Columbia - British Columbia Securities Commission
   Alberta - Alberta Securities Commission
   Saskatchewan - Minister of Finance
   Manitoba - Minister of Finance
   Ontario - Ontario Securities Commission
   Québec - Autorité des marchés financiers
   New Brunswick - ~~Minister of Finance~~New Brunswick Securities Commission
   Nova Scotia - Minister of Finance
   Prince Edward Island - Provincial Secretary
   Newfoundland and Labrador - Newfoundland and Labrador Exchequer Account
   Northwest Territories - Government of the Northwest Territories
   Yukon Territory - Government of Yukon
   Nunavut - Nunavut Securities Registry

   In all other cases, payment of filing fees should be transmitted electronically through SEDAR.

3. Additional filing requirements apply to certain types of offerings such as offerings using the shelf offering procedures (National Instrument 44-102), the post-receipt pricing procedures (National Instrument 44-103) or the multijurisdictional disclosure system (National Instrument 71-101). Reference should be made to the applicable provisions of national or local rules or policies for any additional filing requirements or procedures.

~~4. **[Further filing requirements for British Columbia are contained in BC Policy 41-601.]**~~

~~5. Further filing requirements for Alberta, for filings not filed in compliance with OSC 41-501 or NI 44-101, are contained in ASC Policy 4.7.~~

~~6. Further filing requirements for Québec are contained in local securities legislation and local securities directions.7.~~ Where the attached requirements refer to personal information regarding directors, executive officers and promoters of the filer, the filer should provide, for each director and executive officer of the filer and for each promoter of the filer (or in the case where the promoter is not an individual, for each director and executive officer of the promoter) the following information for security check purposes:

   (i) full name (including any previous name(s) if any);

   (ii) position with or relationship to the issuer;

   (iii) employer's name and address, if other than the issuer;

(iv) full residential address;

(v) date and place of birth; and

(vi) citizenship.

For any of the above noted individuals with a residential address outside of Canada, the filer should provide the following additional information:

(i) previous address(es) (5 year history);

(ii) dates residing in foreign country;

(iii) height and weight;

(iv) eye colour;

(v) hair colour; and

(vi) passport nationality and number.

Where the offering is made under the provisions of NI 44-101, a completed authorization form as per Appendix A of NI 44-101, "Authorization of Indirect Collection of Personal Information" must be filed. Where the offering is made under the provisions of OSC 41-501 a completed Form 41-501F2 "Authorization of Indirect Collection of Personal Information" must be filed. Where the offering is made ~~in Québec~~ under the provisions of Q-28, a completed form as per Appendix A of Q-28, *Authorization of Indirect Collection of Personal Information,* must be filed.

~~Where Saskatchewan, Manitoba or Nova Scotia is principal regulator, a RCMP GRC Securities Fraud Information Centre Request Form #2674 (89-07) must be filed. In connection with the filing of an initial public offering prospectus: (i) where Québec is principal regulator, a Form 4 under the Regulation concerning securities made under the Securities Act (Québec) must be filed; and (ii) where British Columbia is principal regulator, the filer must file the personal information form required by BC Policy 41-601.~~

PRELIMINARY OR PRO FORMA LONG FORM PROSPECTUS

An issuer that files a preliminary prospectus or a *pro forma* prospectus pursuant to OSC 41-501 or~~, in Québec~~ pursuant to Q-28, shall file and/or deliver the documents required to be filed and/or delivered as set out in Section 13.2 of OSC 41-501 or~~, in Québec~~ as set out in Section 13.2 of Q-28, along with:

1. Filing fees; and

2. A letter to the principal regulator prepared in accordance with section 7.2.2 of the Policy.

Issuers filing prospectuses and pro forma prospectuses outside Québec in accordance with OSC 41-501 will satisfy requirements in other jurisdictions governing the form and content of a long form prospectus and the accompanying filings and deliveries to the Commissions. Issuers should consult local rules or orders for details.

~~Issuers not filing in accordance with OSC 41-501 or, in Québec pursuant to Q-28, should look to local requirements to determine documents to be filed and/or delivered but in all cases should include the items set out in #1 and #2 above.~~

FINAL LONG FORM PROSPECTUS

An issuer that files a final prospectus pursuant to OSC 41-501 or~~, in Québec~~ pursuant to Q-28, shall file and/or deliver the documents required to be filed and/or delivered as set out in Section 13.3 of OSC 41-501 or~~, in Québec~~ as set out in Section 13.3 of Q-28, along with:

1 Filing fees and other applicable fees including participation fees; and

2. A letter to the principal regulator prepared in accordance with section 7.4.4 of the Policy.

Issuers filing prospectuses and pro forma prospectuses outside Québec in accordance with OSC 41-501 will satisfy requirements in other jurisdictions governing the form and content of a long form prospectus and the accompanying filings and deliveries to the Commissions. Issuers should consult local rules or orders for details.

~~Issuers not filing in accordance with OSC 41-501 or, in Québec pursuant to Q-28, should look to local requirements to determine documents to be filed and/or delivered but in all cases should include the items set out in #1 and #2 above.~~

PRELIMINARY SHORT FORM PROSPECTUS

An issuer that files a preliminary short form prospectus pursuant to NI 44-101 shall file and/or deliver the documents required to be filed and/or delivered as set out in Section ~~4.2~~4.1 of that instrument along with:

1. Filing fees; and

2. A letter to the principal regulator prepared in accordance with section 7.2.2 of the Policy.

FINAL SHORT FORM PROSPECTUS

An issuer that files a final short form prospectus pursuant to NI 44-101 shall file and/or deliver the documents required to be filed and/or delivered as set out in Section ~~4.3~~4.2 of that ~~Instrument~~instrument along with:

1. Filing fees and other applicable fees including participation fees; and

2. A letter to the principal regulator prepared in accordance with section 7.4.4 of the Policy.

AMENDMENTS TO PRELIMINARY PROSPECTUS AND PROSPECTUS
(SHORT FORM AND LONG FORM)

An issuer that files an amendment pursuant to OSC 41-501 or~~, in Québec~~ pursuant to Q-28, or pursuant to NI 44-101, shall file and/or deliver the documents required to be filed and/or delivered as set out in section 13.7 of OSC 41-501, section 13.6 of Q-28 or section ~~5.3~~5.2 of NI 44-101, respectively, along with:

1. Filing fees;

2. A letter prepared in accordance with section 10.1(2) of the Policy, if applicable; and

3. A letter to the principal regulator:

   (a) for a preliminary prospectus amendment, prepared in accordance with section 10.2.2 of the Policy; or

   (b) for a prospectus amendment, prepared in accordance with section 10.6.4 of the Policy.

~~Issuers not filing in accordance with OSC 41-501 or, in Québec pursuant to Q-28, or NI 44-101 should look to local requirements to determine documents to be filed and/or delivered but in all cases should include the items set out in #1, #2 and #3 above.~~

PRELIMINARY SIMPLIFIED PROSPECTUS AND ANNUAL INFORMATION FORM FILED UNDER NI 81-101

1. Preliminary simplified prospectus

2. Preliminary simplified prospectus – blacklined

   (where a new fund is being qualified by a separate prospectus but is to be part of an existing group of funds sold by prospectus, a blacklined version of the simplified prospectus should indicate any changes from the existing simplified prospectus for the group of funds)

3. Preliminary annual information form

4. Preliminary annual information form – blacklined

   (where a new fund is being qualified by a separate prospectus but is to be part of an existing group of funds sold by prospectus, a blacklined version of the annual information form should indicate any changes from the existing annual information form for the group of funds)

5. Copy or draft of all material contracts for the new mutual funds

6. For a new mutual fund in a new mutual fund group, personal information regarding individuals acting as trustees and promoters, and directors and senior officers of the fund, trustee, manager and promoter. If the mutual fund is a member of a mutual fund family for which this type of information was previously provided, the information would be required only for those persons for whom the information was not previously provided by other members of the mutual fund family

7. Financial statements, if applicable

8. Filing fees

9. A letter to the principal regulator prepared in accordance with section 7.2.2 of the Policy

PRO FORMA SIMPLIFIED PROSPECTUS AND ANNUAL INFORMATION FORM FILED UNDER NI 81-101

1. Pro forma simplified prospectus

2. Pro forma simplified prospectus - blacklined to indicate all changes from previous simplified prospectus

3. Pro forma annual information form

4. Pro forma annual information form - blacklined to indicate all changes from previous annual information form

5. Copy or draft of all material contracts not previously filed

6. Personal information regarding individuals acting as trustees and promoters, and directors and senior officers of the fund, trustee, manager and promoter where this information has not previously been provided for these persons in connection with a previous filing of the mutual fund family

7. Compliance report required under Part 12 of National Instrument 81-102, *Mutual Funds*

8. Filing fees

FINAL SIMPLIFIED PROSPECTUS AND ANNUAL INFORMATION FORM FILED UNDER NI 81-101

1. Final simplified prospectus
2. Final simplified prospectus - blacklined to show changes from preliminary or pro forma simplified prospectus, as the case may be
3. Final annual information form
4. Final annual information form - blacklined to show changes from preliminary or pro forma annual information form, as the case may be
5. Copy of all material contracts not previously filed
6. For new funds, audited financial statements if not previously filed
7. Auditors' consent letter re audited financial statements
8. Auditors' comfort letter re unaudited financial statements, if applicable
9. Consent of legal counsel or other experts
10. Certificate re proceeds of distribution in the jurisdiction (applicable to filings in B.C., Alberta, Ontario and Québec)
11. Filing fees
12. A letter to the principal regulator prepared in accordance with section 7.4.4 of the Policy

AMENDMENT TO A SIMPLIFIED PROSPECTUS AND ANNUAL INFORMATION FORM FILED UNDER NI 81-101

1. Amendment to simplified prospectus
2. Amendment to simplified prospectus - blacklined (where amendment is an amended and restated simplified prospectus)
3. Amendment to annual information form
4. Amendment to annual information form - blacklined (where amendment is an amended and restated annual information form)
5. Copy of all material contracts not previously filed
6. Auditors' consent letter, if applicable
7. Auditors' comfort letter, if applicable
8. Consent of legal counsel and other experts, if applicable
9. Filing fees
10. A letter to the principal regulator prepared in accordance with section 10.6.4 of the Policy

APPENDIX B

EXAMPLES OF APPLICATIONS DEALT WITH UNDER NATIONAL POLICY 43-201

1. relief from financial statement and other requirements in a prospectus

2. relief from escrow requirements

3. applications relating to representations as to listing - however, because of the differences in local requirements, it may be easier to deal with these applications outside of the MRRS

4. requests for confidentiality of material contracts

5. NI 81-101 waiver applications

6. requests for confidential pre-filing of a prospectus for review purposes

5.1.3 National Policy 12-201 - Mutual Reliance Review System for Exemptive Relief Applications - Blackline Copy

National Policy 12-201
MUTUAL RELIANCE REVIEW SYSTEM FOR
EXEMPTIVE RELIEF APPLICATIONS*

Part 1 DEFINITIONS AND INTERPRETATION

1.1 Definitions - In this policy

"application" means a request for exemptive relief other than a waiver application or pre-filing as defined in the prospectus policy or a request for exemptive relief if a certificate of registration can evidence the granting of exemptive relief for that request;

"**CSA committee**" means the Exemptive Relief Applications Committee of the Canadian Securities Administrators;

"exemptive relief" means any approval, declaration, determination, exemption, extension, order, ruling, permission, recognition, revocation, waiver or other relief sought under securities legislation or securities directions;

"**filer**" means

(a) a person or company filing an application, and

(b) an agent of a person or company referred to in paragraph (a);

"local securities directions" means, for the local jurisdiction, the instruments listed in Appendix A of NI 14-101 opposite the name of the local jurisdiction;

"local securities legislation" means, for the local jurisdiction, the statute and other instruments listed in Appendix B of NI 14-101 opposite the name of the local jurisdiction;

"local securities regulatory authority or regulator " means, for the local jurisdiction, the securities commission or similar regulatory authority listed in Appendix C of NI 14-101 opposite the name of the local jurisdiction or the regulator listed in Appendix D of NI 14-101 opposite the name of the local jurisdiction;

"materials" means the documents and fees set out in Part 5;

"**MRRS MOU**" means the Memorandum of Understanding related to the mutual reliance review system signed as of October 14, 1999;

"**NI 14-101**" means National Instrument 14-101 Definitions, or in Québec Policy statement 14-101 relating to definitions;

"pre-filing" means a consultation with one or more of the local securities regulatory authorities or regulators regarding the interpretation or application of securities legislation or securities directions to a particular transaction or matter or proposed transaction or matter that is the subject of, or is referred to in, an application, if the consultation is initiated before the filing of the application;

"**principal decision documents"** means the principal regulator's staff memorandum, recommendation and proposed MRRS decision document(s) that are circulated to each non-principal regulator with whom an application has been filed under this policy;

"**prospectus policy**" means National Policy 43-201 - Mutual Reliance Review System for Prospectuses ~~and AIFS~~;

"**requested regulator**" means a participating principal regulator that a filer requests under section 3.3(1) to act as the principal regulator;

"securities directions" means the instruments listed in Appendix A of NI 14-101;

"securities legislation" means the statutes and other instruments listed in Appendix B of NI 14-101;

* In Québec, the title of this instrument is: Notice 12-201 relating to the Mutual Reliance Review System for exemptive relief applications

"**system**" means the mutual reliance review system described in this policy for the review of applications;

1.2 Interpretation

Terms defined or interpreted in the MRRS MOU and used in this policy have the respective meanings given them in the MRRS MOU.

Part 2 OVERVIEW AND APPLICATION

2.1 Overview and Application

(1) This policy describes the application of the mutual reliance concepts set out in the MRRS MOU relating to the filing and review of applications.

(2) A filer may elect to use the system for any application made in more than one jurisdiction.

(3) Although the filer will generally deal only with the principal regulator regarding an application filed under the system, the local securities legislation and local securities directions in each jurisdiction are applicable to that application. Filers should ensure that the exemptive relief sought is both appropriate and necessary in each jurisdiction where the application is made.

(4) Filers should be aware that the terms and conditions of the MRRS decision document will generally reflect the local securities legislation and local securities directions of the jurisdiction in which the principal regulator is located.

(5) Filers are reminded that the primary objective of the system is to reduce unnecessary duplication in the review of applications. The timelines set out in the system are designed to ensure that the principal regulator and the non-principal regulators have sufficient time to consider the application and exercise their discretion.

Part 3 PRINCIPAL REGULATOR

3.1 Participating Principal Regulators - As of the date of this policy, the securities regulatory authorities and regulators of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, New Brunswick and Nova Scotia ~~and Newfoundland and Labrador~~ have agreed to act as principal regulator for applications filed under this policy.

3.2 Determination of Principal Regulator - A filer is responsible for selecting a principal regulator in accordance with the following guidelines when electing to use the system for a particular application:

1. The filer should select as its principal regulator the local securities regulatory authority or regulator in the jurisdiction where the filer's head office is located.

2. If the filer does not require exemptive relief in the jurisdiction referred to in paragraph 1 or the local securities regulatory authority or regulator in the jurisdiction referred to in paragraph 1 is not a participating principal regulator under the system, the filer should select the participating principal regulator in the jurisdiction with which the filer has the next most significant connection to act as the principal regulator.

3. If the filer has no significant connection to any jurisdiction, the filer may select any participating principal regulator to act as the principal regulator.

4. If the filer is ~~a mutual~~an investment fund, the location of the head office of the manager of the ~~mutual~~investment fund will be considered to be the location of the head office of the ~~mutual~~investment fund for the purposes of selecting a principal regulator under section 3.2.

Filers are reminded that it is the location of the head office or the significant connection of the person or company filing an application, not the head office location or connection of the agent, that is used to satisfy the criteria for selecting a principal regulator under section 3.2. For example, the selection of the jurisdiction in which the offices of the law firm filing an application on behalf of a client, whose head office is located in another jurisdiction, would not satisfy the criteria under section 3.2.

3.3 Change of Principal Regulator - by Filer

(1) A filer may apply for a change of principal regulator for an application if:

(a) the filer believes the principal regulator determined in accordance with section 3.2 is not the appropriate local securities regulatory authority or regulator to act as principal regulator for a particular application such as where the nature of the exemptive relief sought could result in the selection of more than one principal regulator in respect of a transaction or matter; or

(b) the filer withdraws its application in the jurisdiction where the principal regulator is located after the principal regulator has commenced its review of the application because no exemptive relief is required in that jurisdiction, but the filer wishes to remain in the system for the application.

(2) A filer may apply for a change of principal regulator by filing a written notice of the request with the principal regulator determined in accordance with section 3.2 and the requested regulator at least two business days before the filing of the application referred to in paragraph (1)(a) or as soon as practicable after the withdrawal referred to in paragraph (1)(b). The written notice should address the basis for the original designation of principal regulator under section 3.2 and the reasons for the requested change.

(3) Filers are reminded to include notice of any change of principal regulator together with reasons for the change in the application.

(4) Requests to change a filer's principal regulator under paragraph (1) will not generally be granted unless exceptional circumstances justify the change.

(5) If staff of both participating principal regulators consent to the change in designated principal regulator under paragraph (1)(a), staff of the requested regulator will notify the filer.

(6) If staff of both participating principal regulators consent to the change in designated principal regulator under paragraph (1)(b), staff of the requested regulator will notify the filer and the non-principal regulators by e-mail or facsimile of the change and the reasons for the change.

3.4 Change of Principal Regulator - by the Participating Principal Regulators

(1) For a particular application filed under the system, staff of the participating principal regulators may determine that it would be preferable for a participating principal regulator other than the principal regulator determined in accordance with section 3.2 to act as a filer's principal regulator. This determination will generally only be made when changing the principal regulator would result in greater administrative and regulatory efficiencies in the review process for the application such as where the nature of the exemptive relief sought results in the selection of more than one principal regulator in respect of a transaction or matter.

(2) If staff of the participating principal regulators propose to change a filer's principal regulator for a particular application, staff of the redesignated principal regulator will notify the filer and non-principal regulators by e-mail or facsimile of the change in principal regulator and the reasons for the proposed change in principal regulator.

3.5 Continued Use of Requested Regulator - A filer may continue to select the requested principal regulator as its principal regulator for future applications filed under the system, if there has been no material change in the circumstances giving rise to the change in principal regulator. Filers are reminded to reference the change in principal regulator when setting out the basis for its selection of principal regulator in any future application under the system.

3.6 Notification to CSA Committee - The participating principal regulators involved in a proposal to change a filer's principal regulator will advise the CSA committee of all determinations made under section 3.3 or 3.4 and the reasons for the decision.

Part 4 PRE-FILING DISCUSSIONS

4.1 General

(1) The principles of mutual reliance are available to govern the review of pre-filings of applications that will be made to a principal regulator and at least one other non-principal regulator. Filers intending to file an application under the system should use the procedures set out in Part 4 for any pre-filings related to the application.

(2) Filers are reminded to identify the pre-filing as an MRRS filing and file the pre-filing sufficiently in advance of the filing of the application under the system to avoid any delays in the issuance of the MRRS decision document.

(3) Filers should also be aware that different review procedures apply to those pre-filings that are routine and those that raise novel and substantive issues or novel public policy issues.

4.2 Procedure for Routine Pre-Filings - Except as provided in section 4.3, a pre-filing made under Part 4 should be submitted to the principal regulator in the form required by the principal regulator and the filer will deal directly with the principal regulator to resolve the pre-filing. If staff of the principal regulator determine that the pre-filing involves novel and substantive issues or raises novel public policy issues, staff of the principal regulator will advise the filer that the pre-filing would be more appropriately dealt with in accordance with the procedures described in section 4.3.

4.3 Procedure for Novel and Substantive Pre-Filings - If staff of the principal regulator determine that a pre-filing filed under Part 4 involves a novel and substantive issue or raises a novel public policy issue:

(a) staff of the principal regulator will request that the filer concurrently submit the pre-filing by facsimile to the principal regulator and all non-principal regulators where relief may be required;

(b) the principal regulator will notify the non-principal regulators by e-mail or facsimile that it has requested that the pre-filing be sent to the non-principal regulators. The notice will identify the name, phone number, fax number and e-mail address of the staff member who has been assigned to review the pre-filing;

(c) on receipt of the notice, staff of each non-principal regulator will notify the principal regulator staff member by e-mail or facsimile of the name, phone number, fax number and e-mail address of the staff member assigned to the pre-filing in that jurisdiction;

(d) staff of the principal regulator will make arrangements with the non-principal regulators within seven business days or as soon as practicable after the notice referred to in subsection 4.3(b) to discuss the issues arising on the pre-filing. The principal regulator will assume that a non-principal regulator who does not participate in discussions has no position on the pre-filing. The principal regulator will advise the filer of the results of those discussions; and

(e) if a non-principal regulator has not received the pre-filing at the time the notice is received, the filer will be directed by staff of the principal regulator to deliver the pre-filing to that non-principal regulator. When the principal regulator is satisfied that each non-principal regulator is in receipt of the pre-filing, the principal regulator will provide the filer and the non-principal regulators with a new notice referred to in subsection 4.3(b) and will make the arrangements in subsection 4.3(d) after sending the new notice.

4.4 Disclosure in Related Application - In any application filed under this system, the filer should describe the subject matter of any pre-filing and the approach taken on the pre-filing by staff of the principal regulator and, if applicable, staff of any non-principal regulator that disagreed with the approach adopted by the principal regulator and had an alternative approach for the pre-filing.

Part 5 FILING OF MATERIALS UNDER MRRS

5.1 Election of MRRS and Identification of Principal Regulator - A filer wishing to use the system is responsible for selecting a principal regulator in accordance with the criteria set out in Part 3 and identifying the non-principal regulators from whom exemptive relief is sought.

5.2 Materials to be Filed

(1) A filer should file concurrently in each jurisdiction where exemptive relief is sought materials consisting of

(a) a written application drafted in accordance with the procedures of the principal regulator as to format and content in which the filer:

(i) states that the application is being filed under the system and identifies the jurisdictions in which the application is being filed,

(ii) identifies whether a separate application in connection with the same transaction or subject matter has been filed outside of the system in one or more jurisdictions and the reasons for filing a separate application,

(iii) identifies the principal regulator(s) selected and the basis for that selection (i.e. whether in accordance with the guidelines in section 3.2 or the criteria in section 3.3 or 3.4),

(iv) describes any pre-filing discussions under sections 4.2 and 4.3,

(v) sets out any request to shorten either the review period referred to in section 6.2 or the opting out period referred to in section 8.1, or both, together with supporting reasons,

(vi) sets out under separate headings all of the exemptive relief sought, including any request for confidentiality, and clearly identifies the jurisdictions in which each head of relief is sought and all of the relevant provisions of the local securities legislation and local securities directions of the jurisdiction in which the principal regulator and each non-principal regulator is located, including an analysis where the provisions of the local securities legislation or local securities directions of a jurisdiction in which a non-principal regulator is located differs from those of the jurisdiction in which the principal regulator is located. These provisions may be set out in a footnote or table of concordance, and

(vii) sets out references to previous orders of the decision makers which would support granting the relief or indicates that the relief requested is novel and has not been previously granted;

(b) supporting materials;

(c) draft form(s) of MRRS decision document(s) with terms and conditions, including resale restrictions, based on the local securities legislation and local securities directions of the jurisdiction in which the principal regulator is located; and

(d) the appropriate fees payable in each jurisdiction under securities legislation.

(2) By way of example,

(a) if in connection with a reorganization, a filer with a head office in jurisdiction A requires exemptive relief from the prospectus and registration requirements in all jurisdictions and wishes to be designated as a reporting issuer in only three jurisdictions (jurisdictions “A”, “B” and “C”), the filer would

(i) select a principal regulator in accordance with section 3.2 - in this case the filer selects jurisdiction “A” as the principal regulator for each head of relief,

(ii) set out the relief sought under two separate headings - in this case one for the registration and prospectus relief and a second for the reporting issuer designation,

(iii) prepare and file with the application one draft MRRS decision document dealing with the registration and prospectus relief for all jurisdictions and the reporting issuer designation for jurisdictions “A”, “B” and “C”;

(b) if, however, the filer in this example wishes to be designated as a reporting issuer in only jurisdictions “B” and “C”, the filer would ordinarily file a separate application for each head of relief, but under the system

(i) the filer would

(A) combine the requests for exemptive relief in one application,

(B) select another principal regulator in accordance with section 3.2 for the reporting issuer designation head of relief as that relief is not required in jurisdiction “A”, and

(C) prepare and file with the application two draft MRRS decision documents, one dealing with the registration and prospectus relief for which jurisdiction “A” is the principal regulator and the second dealing with the reporting issuer designation for which either jurisdiction “B” or “C” would act as the principal regulator, or

(ii) in exceptional circumstances, the filer could request a change of principal regulator under section 3.3; or

(c) if registration and prospectus relief is required in a number of jurisdictions for a multi-trade transaction, such as an amalgamation or reorganization, but the trades that require relief differ from jurisdiction to jurisdiction, due to the availability of statutory exemptions or blanket relief, the filer would

(i) select a principal regulator in accordance with section 3.2,

(ii) in the application

(A) establish that some aspect of the transaction or subject matter of the application requires exemptive relief in each jurisdiction,

(B) provide a detailed analysis of the trades and the exemptive relief required in each jurisdiction together with supporting arguments, and

(C) identify any statutory exemptions that apply to any aspect of the transaction or subject matter of the application in each jurisdiction, and

(iii) prepare and file with the application one draft MRRS decision document that provides registration and prospectus relief for the entire transaction or subject matter of the application. This will ensure that the exempt transaction or subject matter is treated uniformly in all jurisdictions named in the MRRS decision document.

(3) Filers are advised to submit their applications sufficiently in advance of any deadlines to ensure that staff of the principal regulator has a reasonable opportunity to complete their review of the application and make recommendations to the principal regulator and all of the non-principal regulators for a decision on the merits of the application.

(4) Filers must ensure that some aspect of the exemptive relief sought is necessary in each jurisdiction where the application is made.

(5) Filers are reminded that the ~~Commission des valeurs mobilières du Québec ("CVMQ~~Autorité des marchés financiers ("AMF") will require that a French language version of the draft MRRS decision document be filed in Québec when the ~~CVMQ~~AMF is acting as principal regulator.

5.3 Request for Confidentiality

(1) Filers requesting that the application and supporting material be held in confidence during the application review process must provide a substantive reason for the request.

(2) If a filer is seeking to have any of the application, supporting materials, or the MRRS decision document held in confidence after the effective date of the MRRS decision document, the request for confidentiality should be set out in a separate head of relief with the appropriate fee payable in each jurisdiction where confidentiality is sought.

(3) The filer should provide an explanation in the application to demonstrate that the request for confidentiality is reasonable in the circumstances and is not prejudicial to the public interest.

(4) The filer should also provide a timeline for lifting a grant of confidentiality.

(5) Staff of the principal and non-principal regulators normally communicate among themselves and the filer using e-mail. If the filer is concerned with this practice, they may request in the application that all communications be made by facsimile or telephone.

5.4 Filing

(1) The filer should file materials with the principal regulator and concurrently with each non-principal regulator. Applications cannot be filed electronically through SEDAR as the materials filed under the system are not a mandated filing under SEDAR.

(2) Filers are encouraged to file the application both by facsimile and in paper format to ensure the timely delivery of materials to all non-principal regulators. Failure to file the application concurrently in all jurisdictions may affect the timing of the review and the issuance of the MRRS decision document.

5.5 Incomplete or Deficient Material

(1) If the materials filed under the system are deficient or incomplete, staff of the principal regulator may direct that the filer file an amended application with the principal regulator and each non-principal regulator.

(2) Upon confirmation from the filer that an amended application has been filed with the principal regulator and all non-principal regulators, the principal regulator will provide the filer and the non-principal regulators with a new acknowledgment of receipt referred to in section 5.6 which will trigger a new seven business day review period referred to in section 6.2.

5.6 Acknowledgment of Receipt of Filing

(1) Upon receipt of an application, the principal regulator will provide by e-mail or facsimile an acknowledgment of receipt of the application to the filer and non-principal regulators. In the acknowledgement, the principal regulator will identify the name, phone number, fax number and e-mail address of the staff member who has been assigned to review the application and the end date of the review period referred to in section 6.2.

(2) On receipt of the acknowledgement, each non-principal regulator will notify the principal regulator by e-mail or facsimile of the name, phone number, fax number and e-mail address of the staff member assigned to the application in that jurisdiction and confirm receipt of the application.

(3) If a non-principal regulator has not received the application at the time the acknowledgment is received, the filer will be directed by staff of the principal regulator to deliver the application to that non-principal regulator. When the principal regulator is satisfied that each non-principal regulator is in receipt of the application, the principal regulator will provide the filer and the non-principal regulators with a new acknowledgement of receipt referred to in this section which will trigger a new seven business day review period referred to in section 6.2.

5.7 Withdrawal or Abandonment of Application

(1) If an application is withdrawn at any time during the process, the filer is responsible for notifying by e-mail or facsimile the principal regulator and all non-principal regulators and providing an explanation for the withdrawal.

(2) If at any time during the review process staff of the principal regulator determine that an application has been abandoned by a filer, staff of the principal regulator will notify by e-mail or facsimile the filer that the application will be marked “not proceeded with” and the file closed without further notice to the filer unless the filer responds in writing within 10 business days with acceptable reasons as to why the file should remain open. If no response is received from the filer within the 10 business day time period, staff of the principal regulator will notify by e-mail or facsimile the filer and all non-principal regulators that the file has been closed.

Part 6 REVIEW OF MATERIALS

6.1 Reliance on Principal Regulator

(1) Staff of the principal regulator is responsible for reviewing any application filed under the system in accordance with its usual review procedures, analysis and previous orders together with the benefit of comments, if any, from staff of the non-principal regulators.

(2) The filer will generally deal only with staff of the principal regulator, who will be responsible for issuing comments to and receiving responses from the filer.

(3) In exceptional circumstances, staff of the principal regulator may refer the filer to staff of a non-principal regulator.

6.2 Review Period for Non-Principal Regulators

(1) Staff of the non-principal regulators will have seven business days from receipt of the acknowledgment referred to in section 5.6 to review the application.

(2) If staff of a non-principal regulator identify substantive issues that in the view of staff may, if left unresolved, cause the non-principal regulator to opt out of the system for that particular application, staff will forward these comments to staff of the principal regulator by e-mail or facsimile before the expiration of the seven business day review period or the abridged period referred to in section 6.3.

(3) If staff of a non-principal regulator are of the view that no relief is required under the securities legislation of that jurisdiction, staff of the non-principal regulator will notify the filer and the principal regulator by e-mail or facsimile and request that the application be withdrawn in that jurisdiction.

(4) If staff of a non-principal regulator do not send comments within the seven business day review period, or the abridged period provided under section 6.3, staff of the principal regulator may assume that staff of the non-principal regulator have no comments on the application.

6.3 Abridgement of Review Period for Non-Principal Regulators

(1) If staff of the principal regulator considers it appropriate, they can abridge the seven business day review period referred to in section 6.2 by notifying each of the non-principal regulators by e-mail or facsimile.

(2) Such abridgements will generally be made only in exceptional circumstances.

(3) Filers requesting an abridgement must satisfy the staff of the principal regulator that the application has been concurrently filed in all jurisdictions and that immediate attention to the application is necessary and reasonable under the circumstances.

(4) If staff of a non-principal regulator are of the view that there is insufficient time to review the application under the abridged time period, staff of the non-principal regulator will notify the filer and the principal regulator by e-mail or facsimile and request that the application be withdrawn from the system for that jurisdiction. The application will be processed as a local application filed in that jurisdiction.

6.4 Review and Processing of Application by Principal Regulator - Following the expiration of the seven business day period referred to in section 6.2 or the abridged period referred to in section 6.3, staff of the principal regulator will

(a) complete their review of the application;

(b) prepare a staff memorandum that

(i) provides an analysis of the application and the exemptive relief sought,

(ii) identifies a request by the filer for the application and/or the MRRS decision document to be held in confidence beyond the effective date of the MRRS decision document, the basis for the request, including a timeframe for lifting of any grant of confidentiality, and

(iii) identifies any substantive issues raised by staff of the non-principal regulators and sets out how those issues have been resolved*;*

(c) if it is making a recommendation to deny the exemptive relief sought by the filer, concurrently notify staff of each non-principal regulator by e-mail or facsimile of the recommendation;

(d) if there is a recommendation to grant the exemptive relief sought, prepare a proposed MRRS decision document following the form described in section 11.2. The proposed MRRS decision document should also reference any request for confidentiality of materials and/or the MRRS decision document beyond the effective date of the MRRS decision document; and

(e) where the relief requested, or the terms and conditions of the relief requested in the proposed MRRS decision document differs substantially from any draft decision document submitted by the filer either with the application or during the time the application is under review, staff of the principal regulator will circulate the proposed MRRS decision document to staff of the non-principal regulators for comments.

Part 7 DECISION OF PRINCIPAL REGULATOR

7.1 Principal Regulator to Grant or Deny Relief - Upon completion of the review process and after considering the recommendation of its staff, the principal regulator will determine whether it will grant or deny the exemptive relief sought.

7.2 Decision to Grant Exemptive Relief

(1) If the principal regulator makes a decision to grant the exemptive relief sought, the principal regulator will immediately circulate by facsimile the principal decision documents to the non-principal regulators.

(2) Two business days before the expiry of the opting out period referred to in section 8.1, the principal regulator will follow-up by e-mail or facsimile with a reminder to each non-principal regulator that has not provided the confirmation referred to in section 8.1.

(3) The principal regulator will not communicate the decision to the filer until after the opting out period referred to in section 8.1 has elapsed except where all non-principal regulators have made their decisions before the expiry of the opting out period, in which case the principal regulator will communicate the decision to the filer as soon as it receives all of the confirmations referred to in section 8.1.

7.3 Potential Denial of Exemptive Relief - If the principal regulator is not prepared to grant the exemptive relief sought based on the information before it, staff of the principal regulator will notify the filer and the staff of the non-principal regulators by e-mail or facsimile that it is not prepared to grant the exemptive relief sought based on the information before it.

7.4 Opportunity to be Heard on a Potential Denial

(1) If a filer requests the opportunity to appear and make submissions to the principal regulator as a result of a potential denial of the exemptive relief sought, the principal regulator will notify by e-mail or facsimile the non-principal regulators with whom the application was filed that the filer has made the request and circulate their staff memorandum and recommendation.

(2) The principal regulator may hold a hearing, either solely, jointly or concurrently with other interested non-principal regulators.

(3) The non-principal regulators with whom the application was filed may make whatever arrangements they consider appropriate, including conducting a hearing contemporaneously with the hearing held by the principal regulator.

(4) After the hearing, staff of the principal regulator will provide a copy of the decision to the non-principal regulators by e-mail or facsimile.

Part 8 DECISION OF NON-PRINCIPAL REGULATORS

8.1 Decision of Non-Principal Regulator

(1) Each non-principal regulator will have five business days from receipt of the principal decision documents to confirm to the principal regulator by e-mail or facsimile whether it has made the same decision as the principal regulator or is opting out of the system for that application.

(2) If staff of the principal regulator considers it appropriate, staff may only request, but cannot require, that the non-principal regulators abridge the five business day time period if possible. Filers requesting an abridgement will be asked to satisfy staff of the principal regulator that the abridgement is necessary and reasonable in the circumstances.

(3) Each non-principal regulator may document for its own purposes the decision made on each application in its jurisdiction in accordance with its own procedures.

Part 9 OPTING OUT OF THE SYSTEM

9.1 Opting Out of the System

(1) A non-principal regulator electing to opt out of the system on any particular application will notify the filer, the principal regulator and other non-principal regulators by e-mail or facsimile and briefly indicate reasons for opting out.

(2) In opting out of the system for a particular application, a non-principal regulator is not making a decision on the merits of the application.

(3) A filer is entitled to deal directly with a non-principal regulator that has opted out of the system to resolve outstanding issues and obtain a decision in respect of that particular application without having to file a new application or remit a new application fee. If the filer and non-principal regulator are able to resolve all outstanding issues, the non-principal regulator may opt back into the system for that application by notifying the principal regulator and all other non-principal regulators by e-mail or facsimile within the opting out period referred to in section 8.1.

(4) Reasons for opting out will be forwarded by the non-principal regulator to the CSA committee.

Part 10 EFFECT OF SILENCE

10.1 Effect of Silence - Silence on the part of a non-principal regulator at the end of the opting out period referred to in section 8.1 will mean that the non-principal regulator is considered to have opted out of the system for that particular application.

Part 11 MRRS DECISION DOCUMENT

11.1 Effect of MRRS Decision Document

(1) The MRRS decision document evidences that a decision has been made by the principal regulator and each of the non-principal regulators that has not opted out of the system for the application.

(2) The MRRS decision document will generally reflect the local securities legislation and local securities directions of the jurisdiction in which the principal regulator is located. This may mean that similar transactions or matters may be subject to different terms and conditions, for example resale restrictions, depending on who acts as the principal regulator for an application.

(3) The MRRS decision document provides exemptive relief for the entire transaction or matter that is the subject of the application. This ensures that the exempt transaction or matter is treated in a uniform manner in all jurisdictions named in the MRRS decision document. Consequently, if the transaction or matter is a composite transaction or matter comprised of a series of trades, the filer will look to the MRRS decision document for all trades in the series and not rely on statutory exemptions for some trades and on the MRRS decision document for other trades.

11.2 Form of MRRS Decision Document

(1) Except as described below, the MRRS decision document will be in the form of the MRRS decision document attached as Schedule A. This will not preclude the issuance of a less formal MRRS Decision Document where it is the current practice. If the decision is a denial of the relief sought, the MRRS decision document will set out reasons for the decision.

(2) If a filer is relying on the exemptions in Multilateral Instrument 11-101 Principal Regulator System and needs exemptive relief in Ontario, the MRRS decision document will be in the form of the MRRS decision document attached as Schedule B.

(3) If the MRRS decision document is in a form other than the form set out in Schedules A or B, the MRRS decision document should contain wording to the effect that the MRRS decision document evidences the decisions of each relevant local securities regulatory authority or regulator, as the case may be, and that the decision sets out the decisions of such securities regulatory authorities or regulators, as the case may be.

11.3 Issuance of MRRS Decision Document

(1) The principal regulator will not issue a MRRS decision document with respect to an application until the earlier of

(a) the date that the principal regulator has received all of the confirmations referred to in section 8.1; or

(b) the date the opting out period referred to in section 8.1 has expired.

(2) After the opting-out period has elapsed, or such earlier date as the principal regulator has received all of the confirmations referred to above, the principal regulator will issue a MRRS decision document evidencing that a decision to grant or deny the exemptive relief sought has been made by the principal regulator and each non-principal regulator that has not opted out of the system for that application.

(3) If the MRRS decision document evidences a denial of the exemptive relief sought, reasons for the denial will be provided in the MRRS decision document.

(4) The principal regulator will then send the MRRS decision document by facsimile to the filer and by facsimile, e-mail, or both to the non-principal regulators.

11.4 Effective Date of MRRS Decision Document - The decisions made by each of the principal regulator and the non-principal regulators with respect to an application will have the same effective date as the MRRS decision document.

11.5 Local Decision - Notwithstanding the issuance of the MRRS decision document, the ~~CVMQ~~AMF will concurrently issue its own local decision in each case. The ~~CVMQ~~AMF local decision will have the same terms and conditions as the MRRS decision document. No other local securities regulatory authority or regulator will issue a local decision.

SCHEDULE A

[Citation:[**neutral citation**] [**Date of decision Document**]][1]

In the Matter of
the Securities Legislation
of **[names of jurisdictions participating in this decision document (the Jurisdictions)]**

and

In the Matter of
the Mutual Reliance Review System for Exemptive Relief Applications

and

In The Matter of **[name(s) of filer(s) and relevant parties, including definitions as required, collectively, 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(s) for a decision under the securities legislation of the Jurisdictions (the Legislation) for [**describe the requested relief (the Requested Relief) in words following the examples below - do not use statutory references - include defined terms as necessary:**

- **an exemption from the dealer registration requirement and the prospectus requirements of the Legislation**
- **a waiver from the valuation requirements of the Legislation**
- **that the Filer is deemed to have ceased to be a reporting issuer]**

Under the Mutual Reliance Review System for Exemptive Relief Applications

(a) the **[name of the principal regulator]** 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. [**add additional definitions here**]

Representations

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

[Insert material representations necessary to explain why the Decision Makers came to this decision and include the location of the Filer's head office. Do not use statutory references. It may be appropriate to refer to national or multilateral instruments.]

Decision

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

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

[Insert numbered terms and conditions. These should be generic and without statutory references to the Legislation of the Jurisdictions where this application was filed

[1] The citation and date of decision will be completed by staff after the opt-out period has expired

If the effective date of any head of relief differs from the date of the decision document, state here. For example, designating an issuer to be a reporting issuer as of the closing of transaction]

_____(Name(s) of Decision Maker(s))

_____(Title)

_____(Name of Principal Regulator)
(*justify signature block*)

SCHEDULE B

[Filer Relying on MI 11-101 Exemptions with Head Office Outside Ontario and Requiring Relief in Ontario under MRRS]

[Citation:[**neutral citation**] [**Date of Decision Document**]][1]

In the Matter of
the Securities Legislation
of **[name of jurisdiction acting as principal regulator under MI 11-101 and Ontario] (the Jurisdictions)]**

and

In the Matter of the Mutual Reliance Review System for Exemptive Relief Applications

and

In The Matter of **[name(s) of filer(s) and relevant parties, including definitions as required, collectively, 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(s) for a decision under the securities legislation of the Jurisdictions (the Legislation) for **[describe the requested relief (the Requested Relief) in words following the examples below - do not use statutory references - include defined terms as necessary:**

- **an exemption from the prospectus form and content or disclosure requirements of the Legislation (e.g. long form rule, national prospectus rules or local prospectus-related requirements as defined in MI 11-101 that cannot be evidenced by a prospectus receipt, such as the eligibility requirements under NI 44-101)**
- **an exemption from the continuous disclosure requirements of the Legislation (i.e. the CD requirements as defined in MI 11-101)]**

Application of Principal Regulator System

Under Multilateral Instrument 11-101 *Principal Regulator System* (MI 11-101) and the Mutual Reliance Review System for Exemptive Relief Applications

(a) the **[name of the principal regulator]** is the principal regulator for the Filer,

(b) the Filer is relying on the exemption in Part [3 or 4] of MI 11-101 in [list the jurisdictions where the exemption would apply for this Filer], and

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

Interpretation

Defined terms contained in National Instrument 14-101 Definitions have the same meaning in this decision unless they are otherwise defined in this decision. [**add additional definitions here**]

Representations

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

[Insert material representations necessary to explain why the Decision Makers came to this decision. Include:

- **the location of the Filer's head office,**
- **the jurisdictions in which the Filer or the issuer of the relevant securities is or will be a reporting issuer or its equivalent, where applicable, and**

[1]The citation and date of decision will be completed by staff after the opt-out period has expired

- **that the Filer is not in default of its obligations as a reporting issuer under the legislation of any jurisdiction in which it is a reporting issuer or its equivalent.**

Do not use statutory references. It may be appropriate to refer to national or multilateral instruments.]

Decision

The Decision Makers being satisfied that they have [each has] jurisdiction to make this decision and that the relevant test under the Legislation has been met, the Requested Relief is granted if / unless / for so long as / provided that ... [as appropriate].

[Insert numbered terms and conditions. These should be generic and without statutory references to the Legislation of the Jurisdictions where this application was filed

If the effective date of any head of relief differs from the date of the decision document, state here.]

(Name of Decision Maker)

(Title)

(Name of Principal Regulator)

(justify signature block)

5.1.4 Amendments to National Instrument 51-101 Standards of Disclosure for Oil and Gas Activities

Amendments to
National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities*

PART 1 AMENDMENTS TO NATIONAL INSTRUMENT 51-101

1.1 **Amendment** - National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities* is amended by:

(a) in item 3 of section 2.1, striking the phrase “except in British Columbia”;

(b) repealing section 3.6;

(c) other than in British Columbia, in Form 51-101F3, striking the sentence “This form does not apply in British Columbia.”; and

(d) in British Columbia, adding the form attached as Appendix A.

PART 2 EFFECTIVE DATE

2.1 **Effective Date -** This amendment is effective September 19, 2005.

FORM 51-101F3
REPORT OF
MANAGEMENT AND DIRECTORS
ON OIL AND GAS DISCLOSURE

This is the form referred to in item 3 of section 2.1 of National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities* ("*NI 51-101*").

1. Terms to which a meaning is ascribed in *NI 51-101* have the same meaning in this form. [2]

2. The report referred to in item 3 of section 2.1 of *NI 51-101* shall in all material respects be as follows:

Report of Management and Directors on Reserves Data and Other Information

Management of [name of reporting issuer] (the "Company") are responsible for the preparation and disclosure of information with respect to the Company's oil and gas activities in accordance with securities regulatory requirements. This information includes reserves data, which consist of the following:

(a) (i) proved and proved plus probable oil and gas reserves estimated as at [last day of the reporting issuer's most recently completed financial year] using forecast prices and costs; and

(ii) the related estimated future net revenue; and

(b) (i) proved oil and gas reserves estimated as at [last day of the reporting issuer's most recently completed financial year] using constant prices and costs; and

(ii) the related estimated future net revenue.

[An] independent [qualified reserves evaluator[s] or qualified reserves auditor[s]] [has / have] [audited] [evaluated] [and reviewed] the Company's reserves data. The report of the independent [qualified reserves evaluator[s] or qualified reserves auditor[s]] [is presented below / will be filed with securities regulatory authorities concurrently with this report].

The [Reserves Committee of the] board of directors of the Company has

(a) reviewed the Company's procedures for providing information to the independent [qualified reserves evaluator[s] or qualified reserves auditor[s]];

(b) met with the independent [qualified reserves evaluator[s] or qualified reserves auditor[s]] to determine whether any restrictions affected the ability of the independent [qualified reserves evaluator[s] or qualified reserves auditor[s]] to report without reservation [and, because of the proposal to change the independent [qualified reserves evaluator[s] or qualified reserves auditor[s]], to inquire whether there had been disputes between the previous independent [qualified reserves evaluator[s] or qualified reserves auditor[s] and management]; and

(c) reviewed the reserves data with management and the independent [qualified reserves evaluator[s] or qualified reserves auditor[s]].

The [Reserves Committee of the] board of directors has reviewed the Company's procedures for assembling and reporting other information associated with oil and gas activities and has reviewed that information with management. The board of directors has [, on the recommendation of the Reserves Committee,] approved

(a) the content and filing with securities regulatory authorities of the reserves data and other oil and gas information;

(b) the filing of the report of the independent [qualified reserves evaluator[s] or qualified reserves auditor[s]] on the reserves data; and

(c) the content and filing of this report.

[2] For the convenience of readers, Appendix 1 to Companion Policy 51-101CP sets out the meanings of terms that are printed in italics in sections 1 and 2 of this Form or in *NI 51-101*, *Form 51-101F1*, *Form 51-101F2* or the Companion Policy.

Because the reserves data are based on judgements regarding future events, actual results will vary and the variations may be material.

[signature, name and title of chief executive officer]

[signature, name and title of a senior officer other than the chief executive officer]

[signature, name of a director]

[signature, name of a director]

[Date]

5.1.5 Amendment to Multilateral Instrument 81-104 Commodity Pools

Amendment to
Multilateral Instrument 81-104 *Commodity Pools*

PART 1 AMENDMENT TO MULTILATERAL INSTRUMENT 81-104

1.1 **Amendment** - Multilateral Instrument 81-104 *Commodity Pools* is amended by repealing section 8.6.

PART 2 EFFECTIVE DATE

2.1 **Effective Date -** This amendment is effective September 19, 2005.

5.1.6 CSA Notice 12-309 - Impact of MI 11-101 on the MRRS for Exemptive Relief Applications

CSA NOTICE 12-309

IMPACT OF THE MI 11-101 PRINCIPAL REGULATOR SYSTEM ON THE MUTUAL RELIANCE REVIEW SYSTEM FOR EXEMPTIVE RELIEF APPLICATIONS

August 26, 2005

Implementing MI 11-101 Principal Regulator System

Effective September 19, 2005, members of the Canadian Securities Administrators (CSA or we), except for the Ontario Securities Commission, will implement the principal regulator system contemplated under Multilateral Instrument 11-101 *Principal Regulator System* (MI 11-101).

MI 11-101 simplifies the regulatory system for market participants in those jurisdictions adopting MI 11-101 by providing a single window of access in areas where there already are highly harmonized securities laws across Canada, such as the prospectus and continuous disclosure regimes.

Under the principal regulator system, market participants can access and participate in the capital markets in multiple jurisdictions by following certain continuous disclosure and prospectus-related requirements in the jurisdiction of their principal regulator under MI 11-101 and by dealing generally with their principal regulator under MI 11-101.

A market participant will generally have the same principal regulator under MI 11-101 and the existing mutual reliance review system for exemptive relief applications (MRRS) described in National Policy 12-201 *Mutual Reliance Review System for Exemptive Relief Applications* (NP 12-201).

Where an issuer receives an exemption from its principal regulator under MI 11-101, that exemption will apply in other jurisdictions, except Ontario, where that issuer operates.

The purpose of this notice is to provide issuers with practical guidance on how the principal regulator system works in conjunction with MRRS for issuers that need an exemption from continuous disclosure or prospectus eligibility requirements.

Jurisdictions Willing to Act as Principal Regulator

Those jurisdictions willing to act as principal regulator under MRRS currently include British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, Nova Scotia and Newfoundland and Labrador. The CSA has decided to revise this list for purposes of both MI 11-101 and MRRS to add New Brunswick and to remove Newfoundland and Labrador as it is no longer willing to act as a principal regulator for purposes of MRRS. The CSA (including Ontario) are amending NP 12-201 to reflect these changes.

Types of Applications Principal Regulator System Applies To

The principal regulator system applies to any application for exemptive relief

(a) from a CD requirement (as defined in MI 11-101), or

(b) under the long form rule or the national prospectus rules or from the local prospectus-related requirements (as those terms are defined in MI 11-101) that cannot be evidenced by a receipt for a prospectus, such as relief from the eligibility requirements under NI 44-101.

All other applications for exemptive relief continue to be made under MRRS.

Principal Regulator System Not Available in Ontario

The Ontario Securities Commission will not be adopting MI 11-101 for the reasons set out in an OSC Notice dated May 27, 2005 published at (2005) 28 OSCB 4749. Ontario-based market participants will not be able to rely on the exemptions contained in MI 11-101, but will be able to continue to use MRRS with the Ontario Securities Commission acting as their principal regulator under MRRS.

Interplay between MI 11-101 and MRRS

The following chart illustrates where to file an application for exemptive relief when an issuer intends to rely on the exemptions contained in MI 11-101.

Filer Head Office	Principal Regulator under MI 11-101	Principal Regulator under MRRS	Type of Application	Where to file application
Ontario	not available	OSC	MRRS	all jurisdictions where relief needed
a province or territory other than Ontario, and no relief needed in Ontario	generally the jurisdiction where head office located[1]	not applicable	local application to principal regulator	only in the jurisdiction of the principal regulator under MI 11-101
a province or territory other than Ontario but relief is needed in Ontario	generally the jurisdiction where head office located[1]	jurisdiction where head office located (generally the same as under MI 11-101)[1]	MRRS application (2 jurisdictions)	in both the jurisdiction of the principal regulator under MI 11-101 and in Ontario (as non-principal regulator under MRRS)
a jurisdiction outside Canada (foreign issuer)	apply "most significant connection test"[2] to select principal regulator (other than OSC)	selection by issuer based on most significant connection test[3] - can choose Ontario as principal regulator	issuer must select principal regulator other than Ontario in order to obtain the benefits of the exemptions in MI 11-101 - application will be either local or MRRS depending on whether relief is needed in Ontario	Three possible scenarios: (i) if no relief is needed in Ontario, apply only in the jurisdiction of principal regulator under MI 11-101, (ii) if relief is needed in Ontario but Ontario is not the principal regulator under MRRS, apply in the jurisdiction of the principal regulator under MI 11-101 and in Ontario (as non-principal jurisdiction under MRRS), or (iii) if relief is needed in Ontario and Ontario is the principal regulator under MRRS, apply in Ontario as principal regulator under MRRS and in the jurisdiction of principal regulator under MI 11-101 (as the non-principal jurisdiction under MRRS).

[1] If the head office of the filer is located in Prince Edward Island, Newfoundland and Labrador, Yukon, Northwest Territories or Nunavut, then the principal regulator for the filer is the securities regulatory authority or regulator in a participating principal jurisdiction under MI 11-101 (i.e. British Columbia, Alberta, Saskatchewan, Manitoba, Quebec, New Brunswick or Nova Scotia) with which the issuer has the most significant connection as of the date it first files a continuous disclosure document in reliance on MI 11-101.

[2] The filer should select the securities regulatory authority or regulator in a participating principal jurisdiction under MI 11-101 (i.e. British Columbia, Alberta, Saskatchewan, Manitoba, Quebec, New Brunswick or Nova Scotia) with which the filer has the most significant connection to act as the principal regulator under MI 11-101.

[3] The filer should select the securities regulatory authority or regulator in a participating principal jurisdiction under MRRS (i.e. British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick or Nova Scotia) with which the filer has the most significant connection to act as the principal regulator under MRRS.

Decisions

If a filer is relying on an exemption in MI 11-101, the filer must disclose that in the draft decision document submitted with its application for exemptive relief. Filers relying on MI 11-101 should e-mail their applications to the MRRS contact person for their principal regulator or file their application electronically in those jurisdictions with an electronic filing system, such as British Columbia. Filers should continue to send payment for their application to their principal regulator using the process designated by their principal regulator for local applications.

The CSA is publishing illustrative versions of a local decision document (see Schedule A) and an MRRS decision document (see Schedule B) with this notice for use by filers when preparing their application materials for submission to their principal regulator under MI 11-101. The CSA (including Ontario) will add this version of the MRRS decision document as a new appendix to NP 12-201.

Locating Decisions Issued by Principal Regulators Under MI 11-101

Decisions (local and MRRS) issued by all principal regulators under MI 11-101 will be posted on the following website: www.csa-acvm.ca

Questions

Please refer your questions to any of:

Noreen Bent
British Columbia Securities Commission
Telephone: (604) 899-6741 or (800) 373-6393 (in B.C.)
e-mail: nbent@bcsc.bc.ca

Marsha Manolescu
Alberta Securities Commission
Telephone: (403) 297-2091
e-mail: Marsha.Manolescu@seccom.ab.ca

Dean Murrison
Saskatchewan Financial Services Commission
Telephone: (306) 787-5879
e-mail: dmurrison@sfsc.gov.sk.ca

Chris Besko
The Manitoba Securities Commission
Telephone: (204) 945-2561
e-mail: cbesko@gov.mb.ca

Michael Bennett
Ontario Securities Commission
Telephone: (416) 593-8079
e-mail: mbennett@osc.gov.on.ca

Rhonda Goldberg
Ontario Securities Commission
Telephone: (416) 593-3682
e-mail: rgoldberg@osc.gov.on.ca

Sylvie Lalonde
Autorité des marchés financiers
Telephone: (514) 395-0558 ext. 4398
e-mail: sylvie.lalonde@lautorite.qc.ca

Josée Deslauriers
Autorité des marchés financiers
Telephone: (514) 395-0558 ext. 4371
e-mail: josee.deslauriers@lautorite.qc.ca

Susan Powell
New Brunswick Securities Commission
Telephone: (506) 643-7697
e-mail: susan.powell@nbsc-cvmnb.ca

Shirley Lee
Nova Scotia Securities Commission
Telephone: (902) 424-5441
e-mail: leesp@gov.ns.ca

SCHEDULE A

[Filer requiring relief in principal regulator jurisdiction only under MI 11-101]

[Citation:[**neutral citation**] [**Date of Decision**]]

In the Matter of
the [title of the securities legislation] (the Act)
of **[name of jurisdiction acting as principal regulator under MI 11-101] (the Jurisdiction)]**

and

In the Matter of Multilateral Instrument 11-101 *Principal Regulator System*

and

In The Matter of **[name(s) of filer(s) and relevant parties, including definitions as required, collectively, the Filer]**

Decision
[insert section no.]

Background

The [insert name of principal regulator] (the Decision Maker) in the Jurisdiction has received an application from the Filer(s) for a decision under [name of Act, rules or regulation] (the Legislation) for [**describe the requested relief (the Requested Relief) in words following the examples below - (put statutory references in brackets e.g. see section 4.3 of NI 51-102) - include defined terms as necessary:**

- **an exemption from the prospectus form and content or disclosure requirements of the Legislation**
- **an exemption from the continuous disclosure requirements of the Legislation]**

Application of Principal Regulator System

Under Multilateral Instrument 11-101 *Principal Regulator System* (MI 11-101),

(a) the Decision Maker is the principal regulator for the Filer, and

(b) the Filer is relying on the exemption in Part [3 or 4] of MI 11-101 in [list the jurisdictions where the exemption(s) would apply to for this filer] .

Representations

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

[Insert material representations necessary to explain why the Decision Maker came to this decision. Include:

- **the location of the Filer's head office,**
- **the jurisdictions in which the Filer or the issuer of the relevant securities is or will be a reporting issuer or its equivalent, where applicable, and**
- **that the Filer is not in default of its obligations as a reporting issuer under the legislation of any jurisdiction in which it is a reporting issuer or its equivalent.**

If using statutory references, include both word description and statutory reference. It may be appropriate to refer to national or multilateral instruments.]

Decision

The Decision Maker being satisfied that it has jurisdiction to make this decision and that [insert the relevant test e.g. to do so would not be prejudicial to the public interest], the Requested Relief is granted if / unless / for so long as / provided that ... [as appropriate]:

[Insert numbered terms and conditions.

If the effective date of any head of relief differs from the date of the decision document, state here.]

_____**(Name of Decision Maker)**

_____**(Title)**

_____**(Name of Principal Regulator)**
(*justify signature block*)

SCHEDULE B

[Filer with Head Office Outside Ontario and Requiring Relief in Ontario under MRRS]

[Citation:[**neutral citation**] [**Date of Decision Document**]][3]

In the Matter of
the Securities Legislation
of **[name of jurisdiction acting as principal regulator under MI 11-101 and Ontario] (the Jurisdictions)]**

and

In the Matter of the Mutual Reliance Review System for Exemptive Relief Applications

and

In The Matter of **[name(s) of filer(s) and relevant parties, including definitions as required, collectively, 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(s) for a decision under the securities legislation of the Jurisdictions (the Legislation) for [**describe the requested relief (the Requested Relief) in words following the examples below - do not use statutory references - include defined terms as necessary:**

- **an exemption from the prospectus form and content or disclosure requirements of the Legislation (e.g. long form rule, national prospectus rules or local prospectus-related requirements as defined in MI 11-101 that cannot be evidenced by a prospectus receipt, such as the eligibility requirements under NI 44-101)**
- **an exemption from the continuous disclosure requirements of the Legislation (i.e. the CD requirements as defined in MI 11-101)]**

Application of Principal Regulator System

Under Multilateral Instrument 11-101 *Principal Regulator System* (MI 11-101) and the Mutual Reliance Review System for Exemptive Relief Applications

(a) the **[name of the principal regulator]** is the principal regulator for the Filer,

(b) the Filer is relying on the exemption in Part [3 or 4] of MI 11-101 in [list the jurisdictions where the exemption would apply for this Filer], and

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

Interpretation

Defined terms contained in National Instrument 14-101 Definitions have the same meaning in this decision unless they are otherwise defined in this decision. [**add additional definitions here**]

Representations

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

[Insert material representations necessary to explain why the Decision Makers came to this decision. Include:

- **the location of the Filer's head office,**
- **the jurisdictions in which the Filer or the issuer of the relevant securities is or will be a reporting issuer or its equivalent, where applicable, and**

[3] The citation and date of decision will be completed by staff after the opt-out period has expired

- **that the Filer is not in default of its obligations as a reporting issuer under the legislation of any jurisdiction in which it is a reporting issuer or its equivalent.**

Do not use statutory references. It may be appropriate to refer to national or multilateral instruments.]

Decision

The Decision Makers being satisfied that they have [each has] jurisdiction to make this decision and that the relevant test under the Legislation has been met, the Requested Relief is granted if / unless / for so long as / provided that ... [as appropriate].

[Insert numbered terms and conditions. These should be generic and without statutory references to the Legislation of the Jurisdictions where this application was filed

If the effective date of any head of relief differs from the date of the decision document, state here.]

_____**(Name of Decision Maker)**

_____**(Title)**

_____**(Name of Principal Regulator)**
(justify signature block)

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 45-501F

Transaction Date	Purchaser	Security	Total Purchase Price ($)	Number of Securities
09-Aug-2005	6 Purchasers	2073317 Ontario Inc. - Units	1,050,000.00	1,050,000.00
11-Aug-2005	10 Purchasers	2077406 Ontario Inc. - Common Shares	15,300,000.00	510,000.00
29-Jul-2005	MineralFields 2005 super Flow-Through Limited Partnership	Adriana Ventures Inc. - Units	100,000.00	333,333.00
10-Aug-2005	16 Purchasers	Alberta Clipper Energy Inc. - Common Shares	5,994,000.00	1,332,000.00
08-Aug-2005	Wallace M. Mitchell	Amalgamated Income Limited Partnership - Units	35,595.00	39,550.00
05-Aug-2005	13 Purchasers	American Bonanza Gold Mining Corp. - Units	1,995,102.00	4,433,560.00
04-Aug-2005	18 Purchasers	Anderson Energy Ltd. - Flow-Through Shares	6,654,120.00	831,765.00
04-Aug-2005	44 Purchasers	Anderson Energy Ltd. - Receipts	13,975,458.00	2,150,070.00
30-Jun-2005	BMO Nesbitt Burns Inc.	Apollo Gold Corporation - Common Shares	140,000.00	350,000.00
30-Jun-2005	BMO Nesbitt Burns Inc.	Apollo Gold Corporation - Warrants	0.00	1,250,000.00
08-Aug-2005	Con-West Developments Inc.	Aripeka Developments Inc. - Common Shares	14,500,000.00	14,500,000.00
03-Aug-2005	5 Purchasers	Avery Resources Inc. - Units	42,500.00	170,000.00
10-Aug-2005	3 Purchasers	Baidu.com Inc. - Shares	43,200.00	1,600.00
11-Aug-2005	3 Purchasers	Canadian Golden Dragon Resources Ltd. - Common Shares	10,000.00	170,000.00
10-Aug-2005	5 Purchasers	Capital Gold Corporation - Shares	0.00	662,688.00
03-Aug-2005	Credit Risk Advisors L.P. Elliot & Page Limited	Cardtronics Inc. - Notes	1,819,800.00	1,500.00
09-Aug-2005	3 Purchasers	CareVest Blended Mortgage Investment Corporation - Preferred Shares	13,443.00	13,443.00
09-Aug-2005	7 Purchasers	CareVest First Mortgage Investment Corporation - Preferred Shares	289,235.00	289,235.00
09-Aug-2005	Ernest & Honor Hachborn	CareVest Select Mortgage Investment Corporation - Preferred Shares	25,000.00	25,000.00
08-Aug-2005	Royter & Co.	Century Mining Corporation - Units	700,000.00	2,000,000.00
08-Aug-2005	Union Securities Limited	Century Mining Corporation - Warrants	0.00	80,000.00
17-Aug-2005	Spectrum Seniors Housing Development L.P.	Chartwell Master Care L.P. - Limited Partnership Units	1,300,383.00	85,048.00
15-Aug-2005	Elliott & Page RBC Asset Management	Coley Pharmaceutical Group Inc. - Shares	1,359,904.00	70,000.00
18-Aug-2005	Neil &/or Harish Sethi	Cooper Pacific II Mortgage Investment Corporation - Shares	25,000.00	25,000.00
03-Aug-2005	3 Purchasers	Cusac Gold Mines Ltd. - Units	137,498.00	1,057,676.00

02-Aug-2005	40 Purchasers	DEQ Systems Corp. - Receipts	0.00	3,121,261.00
16-Aug-2005	John Kutkevicius	Digital Immersion Software Corp. - Common Shares	80,015.00	10,500,000.00
05-May-2005	Bruce Lunn	Diversified Industries Ltd. - Common Share Purchase Warrant	15,000.00	50,000.00
08-Aug-2005	8 Purchasers	Dynex Capital Limited Partnership 2 - Limited Partnership Units	1,595,000.00	1,595.00
20-Jan-2005	Oljeg Pajkic	Echo Power Generation Inc. - Special Warrants	20,000.00	20,000.00
08-Aug-2005	Genesis (LA) Corp.	Genesis Limited Partnership #4 - Units	15,000.00	3.00
09-Aug-2005	Jim Voisin	Goldmarca Limited - Units	12,000.00	100,000.00
28-Jul-2005	5 Purchasers	Grande Portage Resources Ltd. - Units	100,000.00	1,250,000.00
04-Aug-2005	7 Purchasers	Greenfield Resources Ltd. - Common Shares	575,220.60	330,678.00
09-Aug-2005	Blair Franklin Management Inc.	Hexcel Corporation - Stock Option	18,000.00	1,000.00
12-Aug-2005	G. Mark Curry	Indicator Minerals Inc. - Units	92,000.00	400,000.00
03-Aug-2005	Scarborough Hospital Ltd.	InnVest Real Estate Investment Trust - Limited Partnership Units	4,299,997.65	362,869.00
05-Aug-2005	Strategic Capital Partners Inc. Strategic Advisors Corp.	Jumbo Development Corporation - Units	3,000,000.00	6,000,000.00
05-Aug-2005	Credit Risk Advisors L.P.	LifeCare Holdings, Inc. - Notes	6,093,500.00	5,000.00
15-Aug-2005	Silvermet Corporation	Logan Resources Ltd. - Units	100,000.00	333,333.00
27-Jul-2005	AGF Mutual Funds Blair Franklin	Maidenform Brands Inc. - Stock Option	187,000.00	11,000.00
06-Jul-2005	Laurence Capital Fund II L.L.P.	N-able Technologies International, Inc. - Units	250,000.00	250,000.00
09-Aug-2005	13 Purchasers	Navigant Consulting Inc. - Common Shares	3,780,000.00	38,364.00
27-Jun-2005 to 20-Jul-2005	13 Purchasers	New Hudson Television Corp. - Shares	36,900.00	12,300.00
05-Aug-2005 to 15-Aug-2005	4 Purchasers	New Solutions Financial (II) Corporation - Debentures	399,169.00	399,169.00
12-Aug-2005	Towima Resources Limited Don Lillie	Newport Private Yield L.P. - Limited Partnership Units	1,838,976.00	229,872.00
08-Aug-2005	2078153 Ontario Limited	Newport Private Yield L.P. - Limited Partnership Units	2,250,000.00	150,000.00
08-Aug-2005	5 Purchasers	Newport Private Yield L.P. - Units	8,094,460.00	449,692.00
16-Aug-2005	Canada Mortgage and Housing Corporation RBC Dominion Securities Inc.	NRW.Bank - Notes	73,970,400.00	73,970,400.00
12-Aug-2005	Paul Little Doug Guderian	O'Donnell Emerging Companies Fund - Units	172,791.00	25,882.00
28-Jul-2005	7 Purchasers	Pacific Comox Resources Ltd. - Non Flow-Through Shares	81,000.00	2,700,000.00
28-Jul-2005	5 Purchasers	Pacific Comox Resources Ltd. - Non Flow-Through Shares	30,990.00	516,500.00
27-Jul-2005	11 Purchasers	RDO Limited Partnership - Units	405,000.00	405.00
10-Aug-2005	Goodman & Co.	Refco Inc. - Common Shares	266,244.00	10,000.00
17-Aug-2005	3 Purchasers	Regional Power Inc. - Shares	1,546,500.00	1,546,500.00

08-Aug-2005	3 Purchasers	Seaspan Corporation - Shares	36,941,940.00	1,759,140.00
09-Aug-2005	CMP 2005 Resources L.P. and Greg Steers	Skygold Ventures Ltd. - Common Shares	220,000.00	550,000.00
15-Aug-2005	13 Purchasers	SLM Corporation - Notes	143,498,565.00	143,498,565.00
11-Aug-2005	7 Purchasers	Solar Capital Corp. - Notes	5,451,750.00	54,518.00
15-Aug-2005	Claude Allard Stanley Thomas	Sonomax Hearing Healthcare Inc. - Units	129,000.00	430,000.00
15-Aug-2005	Lorian Group Inc.	Sonomax Hearing Healthcare Inc. - Warrants	0.00	171,333.00
04-Aug-2005	10 Purchasers	Steeplejack Industrial Group Inc. - Common Shares	4,539,600.00	776,000.00
10-Aug-2005	7 Purchasers	St. Andrew Goldfields Ltd. - Common Shares	4,500,000.00	50,555,558.00
10-Aug-2005	MFC Global Investment Management	Taiwan Semiconductor Manufacturing Company Limited - Shares	4,300,000.00	500,000.00
11-Aug-2005	Mavrix A/C 501	TAB International Energy Corporation - Common Shares	100,000.00	200,000.00
12-Aug-2005	8 Purchasers	Temex Resource Corp. - Units	655,000.00	3,275,000.00
27-Jul-2005	3 Purchasers	Tower Energy Ltd. - Common Shares	96,600.00	345,000.00
11-Aug-2005	Ontario Municipal Employees Retirement Board	TPG Solar Co-Invest LLC - Units	31,761,202.29	384,827.00
16-Aug-2005	A. Joseph Mascarin Frank Campanile	TransAmerican Energy Inc. - Units	25,000.00	250,000.00
27-Feb-2004 to 31-Dec-2004	397 Purchasers	Tremont Core Diversified Fund - Trust Units	19,980,558.00	209,220.00
19-Aug-2005	Amernath Resources Limited	Trez Capital Corporation - Units	1,600,000.00	0.00
12-Aug-2005	Joyce Saifer In Trust	Trez Capital Corporation - Units	100,000.00	0.00
12-Aug-2005	Steel Investments Ltd. Al Gilbert	Trez Capital Corporation - Units	600,000.00	0.00
09-Aug-2005	8 Purchasers	U.S. Bank National Association - Notes	145,821,880.00	145,821,880.00
15-Aug-2005	Arthur Kernaghan Fernando Recchia	Vanquish Oil & Gas Corporation - Flow-Through Shares	12,368.50	8,530.00
15-Aug-2005	12 Purchasers	Vanquish Oil & Gas Corporation - Flow-Through Shares	200,747.00	118,087.00
05-Aug-2005	Mariel Vachon	ZoomMed Inc. - Common Shares	888,750.00	3,555,000.00

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Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:
Birch Mountain Resources Ltd.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated August 18, 2005
Mutual Reliance Review System Receipt dated August 18, 2005
Offering Price and Description:
$ * - * Common Shares
Price: $ * per Common Shares
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
TD Securities Inc.
Acumen Capital Finance Partners Limited
Westwind Partners Inc.
Promoter(s):
-
Project #820460

Issuer Name:
Birch Mountain Resources Ltd.
Principal Regulator - Alberta
Type and Date:
Amended and Restated Preliminary Short Form Prospectus dated August 19, 2005
Mutual Reliance Review System Receipt dated August 19, 2005
Offering Price and Description:
$32,000,000.00 - 8,000,000 Common Shares
Price: $4.00 per Common Share
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
TD Securities Inc.
Acumen Capital Finance Partners Limited
Westwind Partners Inc.
Promoter(s):
-
Project #820460

Issuer Name:
Bonnett's Energy Services Trust
Principal Regulator - Alberta
Type and Date:
Preliminary Prospectus dated August 16, 2005
Mutual Reliance Review System Receipt dated August 17, 2005
Offering Price and Description:
$ * - * Trust Units
Price: $10.00 per Trust Unit
Underwriter(s) or Distributor(s):
Raymond James Ltd.
Sprott Securities Inc.
Westwind Partners Inc.
Promoter(s):
Bonnett's Wireline Services Ltd.
The Testers Inc.
Project #820006

Issuer Name:
Canadian Natural Resources Limited
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Shelf Prospectus dated August 19, 2005
Mutual Reliance Review System Receipt dated August 22, 2005
Offering Price and Description:
$2,000,000,000.00 - Medium Term Notes
(unsecured)
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
RBC Dominion Securities Inc.
Scotia Capital Inc.
Promoter(s):
-
Project #821208

Issuer Name:
Canadian Superior Energy Inc.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated August 17, 2005
Mutual Reliance Review System Receipt dated August 17, 2005
Offering Price and Description:
5,500,000 Common Shares and 2,750,000 Warrants issuable upon the exercise of 5,500,000 previously issued Special Warrants
Underwriter(s) or Distributor(s):
Brant Securities Limited
Promoter(s):
-
Project #820098

Issuer Name:
Connacher Oil and Gas Limited
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated August 19, 2005
Mutual Reliance Review System Receipt dated August 19, 2005
Offering Price and Description:
$50,000,690.00 - 27,027,400 Common Shares
Price: $1.85 per Common Share
Underwriter(s) or Distributor(s):
GMP Securities Ltd.
TD Securities Inc.
Jennings Capital Inc.
Octagon Capital Corporation
Salman Partners Inc.
Promoter(s):
-
Project #821138

Issuer Name:
GeoPetro Resources Company
Principal Regulator - Alberta
Type and Date:
Amended and Restated Preliminary Prospectus dated August 18, 2005
Mutual Reliance Review System Receipt dated August 19, 2005
Offering Price and Description:
U.S. $ * -* Common Shares and * Flow-Through Common Shares
Price: U.S. $ * per Common Share
U.S. $ * per Flow-Through Share
Underwriter(s) or Distributor(s):
Dundee Securities Corporation
Westwind Partners Inc.
Promoter(s):
-
Project #796276

Issuer Name:
GGOF Small Cap Growth and Income Fund
GGOF World Wealth Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectuses dated August 19, 2005
Mutual Reliance Review System Receipt dated August 22, 2005
Offering Price and Description:
Mutual Fund Units and F Class Units
Underwriter(s) or Distributor(s):
Guardian Group of Funds Ltd.
Guardian Group of Funds Ltd.
Promoter(s):
Guardian Group of Funds Ltd.
Project #821052

Issuer Name:
Great Canadian Gaming Corporation
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated August 18, 2005
Mutual Reliance Review System Receipt dated August 18, 2005
Offering Price and Description:
$75,000,006.00 - 3,703,704 Common Shares Issuable on Exercise of 3,703,704 Special Warrants
Price: $20.25 per Special Warrant
Underwriter(s) or Distributor(s):
Sprott Securities Inc.
TD Securities Inc.
GMP Securities Ltd.
HSBC Securities (Canada) Inc.
Versant Partners Inc.
Pacific International Securities Inc.
Wellington West Capital Markets Inc.
Promoter(s):
-
Project #820827

Issuer Name:
Great Lakes Carbon Income Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated August 17, 2005
Mutual Reliance Review System Receipt dated August 17, 2005
Offering Price and Description:
$178,125,000.00 - 14,250,000 Units
Price: $12.50 per Unit
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
RBC Dominion Securities Inc.
National Bank Financial Inc.
Genuity Capital Markets
Scotia Capital Inc.
TD Securities Inc.
Promoter(s):
-
Project #820095

Issuer Name:
Gryphon Gold Corporation
Principal Regulator - British Columbia
Type and Date:
Preliminary Prospectus dated August 17, 2005
Mutual Reliance Review System Receipt dated August 17, 2005
Offering Price and Description:
US$15,000,000 - * Units
This prospectus qualifies the distribution of shares of common stock and non transferable Class A warrants ("Class A Warrants") in the capital of Gryphon Gold Corporation to be issued as units (the "units"). Each Unit consists of one share of our common stock (a ""Share") and one-half of one Class A Warrant, and is being offered hereunder at a price of US$ * per unit.
Underwriter(s) or Distributor(s):
Desjardins Securities Inc.
Promoter(s):
-
Project #820359

Issuer Name:
Knowlton Capital Inc.
Principal Regulator - Quebec
Type and Date:
Preliminary CPC Prospectus dated August 16, 2005
Mutual Reliance Review System Receipt dated August 17, 2005
Offering Price and Description:
Minimum Offering: $200,000.00 or 1,000,000 common shares
Maximum Offering: $1,500,000.00 or 7,500,000 common shares
Price: $0.20 per common share
Underwriter(s) or Distributor(s):
Desjardins Securities Inc.
Promoter(s):
Louis-Robert Lemire
Project #819937

Issuer Name:
Legacy Pharma Income Fund
Principal Regulator - Ontario
Type and Date:
Amended and Restated Preliminary Prospectus dated August 15, 2005
Mutual Reliance Review System Receipt dated August 18, 2005
Offering Price and Description:
$ * - * Units
Price: $10.00 per Unit
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
National Bank Financial Inc.
TD Securities Inc.
Genuity Capital Markets
First Associates Investments Inc.
Promoter(s):
Legacy Pharma Inc.
401 Capital Partners Inc.
Project #810351

Issuer Name:
OMG Mineral Exploration Inc.
Type and Date:
Preliminary Non-Offering Prospectus dated August 19, 2005
Receipted on August 23, 2005
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
John F. O'Donnell
Maxwell A. Polinsky
Frederich C. Voelker
Project #821695

Issuer Name:
PEYTO Energy Trust
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated August 22, 2005
Mutual Reliance Review System Receipt dated August 22, 2005
Offering Price and Description:
$152,750,000.00 - 5,000,000 Units
Price: $30.55 per Unit
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
FirstEnergy Capital Corp.
RBC Dominion Securities Inc.
CIBC World Markets Inc.
Haywood Securities Inc.
Raymond James Ltd.
Peters & Co. Limited
Promoter(s):
-
Project #821469

Issuer Name:
RBC DS Aggressive Growth Portfolio
RBC DS Balanced Portfolio
RBC DS Growth Portfolio
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectuses dated August 17, 2005
Mutual Reliance Review System Receipt dated August 17, 2005
Offering Price and Description:
Advisor and F Series Units
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
RBC Dominion Securities Inc.
Promoter(s):
RBC Asset Management Inc.
Project #820005

Issuer Name:
Sarbit US Equity Trust
Principal Regulator - Manitoba
Type and Date:
Preliminary Simplified Prospectus dated August 18, 2005
Mutual Reliance Review System Receipt dated August 19, 2005
Offering Price and Description:
Class F and I Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
Sarbit Asset Management Inc.
Project #821007

Issuer Name:
Beutel Goodman Canadian Equity Fund
Beutel Goodman Canadian Equity Plus Fund
Beutel Goodman Canadian Intrinsic Fund
Beutel Goodman Canadian Dividend Fund
Beutel Goodman Small Cap Fund
Beutel Goodman Income Fund
Beutel Goodman Long Term Bond Fund
Beutel Goodman Corporate/Provincial Active Bond Fund
Beutel Goodman Balanced Fund
Beutel Goodman Money Market Fund
Beutel Goodman American Equity Fund
Beutel Goodman International Equity Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated August 17, 2005
Mutual Reliance Review System Receipt dated August 18, 2005
Offering Price and Description:
Class A, F and I Units
Underwriter(s) or Distributor(s):
Beutel Goodman Managed Funds Inc.
Beutel Goodman Managed Funds Inc.
Beutel Goodman Managed Funds Inc,
Promoter(s):
Beutel Goodman Managed Funds Inc.
Project #806733

Issuer Name:
Bradmer Pharmaceuticals Inc.
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated August 17, 2005
Mutual Reliance Review System Receipt dated August 19, 2005
Offering Price and Description:
$500,000.00 - 2,500,000 Common Shares
PRICE: $0.20 per Common Share
Underwriter(s) or Distributor(s):
Raymond James Ltd.
Canaccord Capital Corporation
Promoter(s):
Dr. Mark C. Rogers
Project #806183

Issuer Name:
Candax Energy Inc.
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated August 22, 2005
Mutual Reliance Review System Receipt dated August 23, 2005
Offering Price and Description:
45,000,000 Common Shares and 22,500,000 Warrants Issuable
Upon the Exchange of 45,000,000 Subscription Receipts
Underwriter(s) or Distributor(s):
Canaccord Capital Corporation
Orion Securities Inc.
Promoter(s):
John R. Cullen
Project #804570

Issuer Name:
Charter Realty Holdings Ltd.
Principal Regulator - Alberta
Type and Date:
Final CPC Prospectus dated August 8, 2005
Mutual Reliance Review System Receipt dated August 18, 2005
Offering Price and Description:
$300,000.00 - 1,500,000 Common Shares Price: $0.20 per Common Share
Underwriter(s) or Distributor(s):
First Associates Investments Inc.
Promoter(s):
John F. Driscoll
Project #797867

Issuer Name:
Elliott & Page Money 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 Core Canadian Equity Fund
Elliott & Page Canadian Equity Fund
Elliott & Page Generation Wave Fund
Elliott & Page Sector Rotation Fund
Elliott & Page Canadian Growth Fund
Elliott & Page Growth Opportunities Fund
Elliott & Page Small Cap Value Fund
Elliott & Page American Growth Fund
Elliott & Page U.S. Mid-Cap Fund
E&P Manulife Tax-Managed Growth Fund
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 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
MIX U.S. Mid-Cap Value Class
Manulife Simplicity Conservative Portfolio
Manulife Simplicity Moderate Portfolio
Manulife Simplicity Balanced Portfolio
Manulife Simplicity Growth Portfolio
Manulife Simplicity Aggressive Portfolio
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated August 19, 2005
Mutual Reliance Review System Receipt dated August 23, 2005
Offering Price and Description:
Advisor Series, Sereis F, Series I, and Series D Securities
Underwriter(s) or Distributor(s):
Elliott & Page Limited
Elliott & Page Limited
MFC Global Investment Management, a division of Elliott & Page Limited
Promoter(s):
Elliott & Page Limited
Project #805218

Issuer Name:
iUnits S&P/TSX 60 Index Fund
iUnits S&P/TSX 60 Capped Index Fund
iUnits S&P/TSX MidCap Index Fund
iUnits S&P/TSX Capped Energy Index Fund
iUnits S&P/TSX Capped Financials Index Fund
iUnits S&P/TSX Capped Gold Index Fund
iUnits S&P/TSX Capped Information Technology Index Fund
iUnits S&P/TSX Capped REIT Index Fund
iUnits Government of Canada 5-Year Bond Fund
iUnits Canadian Bond Broad Market Index Fund
iUnits S&P 500 Index RSP Fund
iUnits MSCI International Equity Index RSP Fund
Principal Regulator - Ontario
Type and Date:
Final Prospectuses dated August 17, 2005
Mutual Reliance Review System Receipt dated August 18, 2005
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Barclays Global Investors Canada Limited
Promoter(s):
-
Project #805036

Issuer Name:
KJH Capital Preservation Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus dated August 18, 2005
Mutual Reliance Review System Receipt dated August 18, 2005
Offering Price and Description:
Mutual Fund Securities @ Net Asset Value
Underwriter(s) or Distributor(s):
K.J. Harrison & Partners Inc.
K.J. Harrison & Partners
Promoter(s):
K.J. Harrison & Partners Inc.
Project #806963

Issuer Name:
Masthead Resources Ltd.
Principal Regulator - Alberta
Type and Date:
Final CPC Prospectus dated August 8, 2005
Mutual Reliance Review System Receipt dated August 18, 2005
Offering Price and Description:
$300,000.00 1,500,000 Common Shares Price: $0.20 per Common Share
Underwriter(s) or Distributor(s):
First Associates Investments Inc.
Promoter(s):
John F. Driscoll
Project #797864

Issuer Name:
NSC Canadian Balanced Income Fund
NSC Canadian Equity Fund
NSC Global Balanced Fund
Type and Date:
Amendment #1 dated August 18, 2005 to Final Simplified Prospectuses and Annual Information Forms dated November 30, 2004
Receipted on August 19, 2005
Offering Price and Description:
Class A and I Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #699317

Issuer Name:
OFI Income Fund
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated August 22, 2005
Mutual Reliance Review System Receipt dated August 23, 2005
Offering Price and Description:
$117,842,000.00 - 11,784,200 Units - Price: $10.00 per Unit
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
CIBC World Markets Inc.
National Bank Financial Inc.
Canaccord Capital Corporation
First Associates Investments Inc.
Wellington West Capital Markets Inc.
Promoter(s):
OFI Holdings Ltd.
Project #806211

Issuer Name:
Primary Energy Recycling Corporation
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated August 16, 2005
Mutual Reliance Review System Receipt dated August 17, 2005
Offering Price and Description:
Initial Public Offering
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
CIBC World Markets Inc.
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
TD Securities Inc.
HSBC Securities (Canada) Inc.
Promoter(s):
Primary Energy Ventures LLC
Project #805912

Issuer Name:
Quest Capital Corp.
Principal Regulator - British Columbia
Type and Date:
Final Short Form Prospectus (NI 44-101) dated August 16, 2005
Mutual Reliance Review System Receipt dated August 17, 2005
Offering Price and Description:
$40,020,000.00 - 17,400,000 Common Shares
Underwriter(s) or Distributor(s):
Desjardins Securities Inc.
Canaccord Capital Corporation
First Associates Investments Inc.
Promoter(s):
-
Project #812819

Issuer Name:
Renaissance Canadian Dividend Income Fund
Renaissance Canadian Income Trust Fund II
Principal Regulator - Ontario
Type and Date:
Amendment #3 dated August 11, 2005 to Final Simplified Prospectuses and Annual Information Forms dated November 24, 2004
Mutual Reliance Review System Receipt dated August 17, 2005
Offering Price and Description:
Class A and F Units @ Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
CIBC Asset Management Inc.
Project #697495

Issuer Name:
Sentry Select Diversified Income Trust
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated August 19, 2005
Mutual Reliance Review System Receipt dated August 19, 2005
Offering Price and Description:
Rights to Subscribe for Units
Three Rights and @5.25 per Unit
Underwriter(s) or Distributor(s):
National Bank Financial Inc.
Promoter(s):
-
Project #816265

Issuer Name:
MSP FairLane Trust
Principal Jurisdiction - Ontario
Type and Date:
Preliminary Long Form Prospectus dated May 26th, 2005
Withdrawn on August 19th, 2005
Offering Price and Description:
$ * - * Units
Price: $10.00 per Unit
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
Scotia Capital Inc.
TD Securities Inc.
HSBC Securities (Canada) Inc.
Desjardins Securities Inc.
Canaccord Capital Corporation
Dundee Securities Corporation
Raymond James Ltd.
Wellington West Capital Inc.
First Associates Investments Inc.
Richardson Partners Financial Limited
Promoter(s):
Mackenzie Financial Corporation
Project #789566

Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
New Registration	Sarbit Advisory Services Inc.	Extra Provincial Investment Counsel and Portfolio Manager	August 15, 2005
New Registration	Global Alpha Capital Management Ltd.	Limited Market Dealer & Investment Counsel & Portfolio Manager Commodity Trading Manager	August 19, 2005
New Registration	Mak, Allen & Day Capital Partners Inc.	Limited Market Dealer	August 22, 2005
New Registration	Stanford Group Company	International Dealer	August 23, 2005

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Chapter 13

SRO Notices and Disciplinary Proceedings

13.1.1 MFDA News Release - MFDA Sets Date for Robin Andersen Hearing in Edmonton, Alberta

FOR IMMEDIATE RELEASE

MFDA SETS DATE FOR ROBIN ANDERSEN HEARING IN EDMONTON, ALBERTA

August 17, 2005 (Toronto, Ontario) - The Mutual Fund Dealers Association of Canada ("MFDA") commenced a disciplinary proceeding in respect of Robin Andersen by Notice of Hearing dated June 21, 2005.

As specified in the Notice of Hearing, the first appearance in this proceeding took place on Tuesday, August 16, 2005 at 10:00 a.m. (MST) by teleconference before a 3-member Hearing Panel of the Prairie Regional Council.

The date for the commencement of the hearing in this matter on the merits has been scheduled to take place before a Hearing Panel of the Prairie Regional Council on Wednesday, November 23, 2005 at 10:00 a.m. (Edmonton time) in the King Edward Room located at Manulife Place, 3rd Floor Conferencing Centre, 10180-101 Street, N.W. Edmonton, Alberta, or as soon thereafter as can be held.

The hearing will be open to the public, except as may be required for the protection of confidential matters.

A copy of the Notice of Hearing is available on the MFDA web site at www.mfda.ca.

The Mutual Fund Dealers Association of Canada is the self-regulatory organization for Canadian mutual fund dealers. The MFDA regulates the operations, standards of practice and business conduct of its 179 members and their approximately 70,000 representatives with a mandate to protect investors and the public interest.

For further information, please contact:

Gregory J. Ljubic
Corporate Secretary and Director of Regional Councils
(416) 943-5836 or gljubic@mfda.ca

13.1.2 Amendment to Recognition Order of TSX Group Inc. and TSX Inc. to Reflect Changes to the Definition of an Independent Director

AMENDMENT TO RECOGNITION ORDER OF TSX GROUP INC. AND TSX INC. TO REFLECT CHANGES TO THE DEFINITION OF AN INDEPENDENT DIRECTOR

On August 12, 2005, the Commission approved the following documents in connection with changes to the definition of an independent director in the recognition order of TSX Group Inc. (TSX Group) and TSX Inc. (TSX):

(a) An amended and restated recognition order for TSX Group and TSX (published in Chapter 2 of this Bulletin).

(b) Board standards on the independence of directors for TSX Group and TSX.

A copy of the board standards for TSX Group and TSX is attached.

TSX Group Inc.

Board of Directors Independence Standards

The Board of Directors has adopted these standards to determine whether individual members of the Board are independent from TSX Group Inc. These standards are derived from the rules of the Ontario Securities Commission and the Canadian Securities Administrators and the Recognition Order of TSX Group Inc. and TSX Inc. The Board will update these standards from time to time as required. These standards were reviewed and approved by the Board on July 26, 2005.

1. Composition

At least fifty per cent (50%) of members of the Board shall be independent within the meaning of and as required by Multilateral Instrument 52-110—Audit Committees ("MI 52-110"). In addition, TSX Group will take steps to ensure that each member of the Board is a fit and proper person and the past conduct of the member affords reasonable grounds for belief that the member will perform his or her duties with integrity.

2. Determination by Board

A director is considered independent only where the Board affirmatively determines that the director has no material relationship with TSX Group.[1] A "material relationship" is a relationship which could, in the view of the Board, reasonably interfere with the exercise of a director's independent judgement.[2] The Board shall make a determination concerning the independence of a director each year at the time the Board approves director nominees for inclusion in TSX Group's information circular. Where a director joins the Board mid-year, the Board will make a determination at that time.

3. General Independence Standards

In determining whether a director is independent, the following individuals are considered to have a material relationship with TSX Group and are therefore considered NOT to be independent:

(a) an individual who is, or has been within the last three years, an employee or executive officer[3] of TSX Group or any of its affiliates;

(b) an individual whose immediate family member[4] is, or has been within the last three years, an executive officer of TSX Group or any of its affiliates (past or present employment of the individual or immediate family member, on a part-time basis, as the chair or vice-chair of the board or any board committee does not disqualify the individual from being independent);

(c) an individual who:

(i) is a partner of a firm that is the internal or external auditor of TSX Group or any of its affiliates,

(ii) is an employee of that firm, or

(iii) was within the last three years a partner or employee of that firm and personally worked on the audit of TSX Group or any of its affiliates within that time;

(d) an individual whose spouse, minor child or stepchild, or child or stepchild who shares a home with the individual:

(i) is a partner of a firm that is the internal or external auditor of TSX Group or any of its affiliates,

(ii) is an employee of that firm and participates in its audit, assurance or tax compliance (but not tax planning) practice, or

(iii) was within the last three years a partner or employee of that firm and personally worked on the audit of TSX Group or any of its affiliates within that time;

(e) an individual who, or whose immediate family member, is or has been within the last three years, an executive officer of an entity if any of the current executive officers of TSX Group or its affiliates serves or served at that same time on the entity's compensation committee; and

(f) an individual who received, or whose immediate family member who is

[1] MI 52-110, section 1.4(1).

[2] MI 52-110, section 1.4(2).

[3] "Executive officer" means a chair, vice-chair, president, any vice-president in charge of a principal business unit, division or function (including sales, finance or production), any officer of the company or its subsidiaries who performs a policy-making function, or any other individual who performs a policy-making function.

[4] "Immediate family member" means an individual's spouse, parent, child, sibling, mother or father-in-law, son or daughter-in-law, brother or sister-in-law, and anyone (other than an employee of the individual or the individual's immediate family member) who shares the individual's home.

employed as an executive officer of TSX Group or any of its affiliates received, more than $75,000 in direct compensation from TSX Group or any of its affiliates during any 12 month period within the last three years (other than director or board committee fees and retirement plan payments or other deferred compensation for prior service, provided the compensation is not contingent in any way on continued service).

4. Additional TSX Group Independence Standards

In determining whether a director is independent, the following individuals are considered to have a material relationship with TSX Group and are therefore considered NOT to be independent:

(a) an individual who is an employee, associate (within the meaning of the *Securities Act* (Ontario)), or executive officer of an entity that is a Participating Organization[5]; and

(b) an individual who is an employee, associate (within the meaning of the *Securities Act* (Ontario)), or executive officer of an entity that has a Participating Organization as a significant affiliate[6], who is responsible for or is actively or significantly engaged in the day-to-day operations or activities of the Participating Organization.

5. Determination by the Board and Notice to the Ontario Securities Commission

(a) The Board may determine that an individual who is considered to have a material relationship under Section 4 is nonetheless independent, if the Board is satisfied that the material relationship under Section 4 will not, in the view of the Board, reasonably interfere with the exercise of the individual's independent judgment.

(b) If the Board makes the determination referred to in clause 5(a), TSX Group must disclose in a written statement in its management information circular delivered to shareholders in connection with its annual meeting of shareholders:

(i) the nature of the relationship of the individual with TSX Group; and

(ii) the explanation of the Board's determination as to why the individual should be considered independent.

(c) TSX Group will notify the Manager of Market Regulation for the Ontario Securities Commission in writing of the Board's intention to make the determination referred to in clause 5(a) as soon as practicable, and in any event no less than 15 business days before the written statement in clause 5(b) is made.

[5] A "Participating Organization" is an entity desiring access to the trading facilities of Toronto Stock Exchange whose application is accepted by Toronto Stock Exchange.

[6] A Participating Organization is a "significant affiliate" of another entity if the Participating Organization is an affiliate of that entity (as defined in the *Business Corporations Act* (Ontario)) and if the annual revenues of the Participating Organization for its most recently completed fiscal year represent more than 10% of the consolidated revenues of its group parent.

TSX Inc.

Board of Directors Independence Standards

The Board of Directors has adopted these standards to determine whether individual members of the Board are independent from TSX Inc. These standards are derived from the rules of the Ontario Securities Commission and the Canadian Securities Administrators and the Recognition Order of TSX Group Inc. and TSX Inc. The Board will update these standards from time to time as required. These standards were reviewed and approved by the Board on July 26, 2005.

1. Composition

At least fifty per cent (50%) of members of the Board shall be independent within the meaning of and as required by Multilateral Instrument 52-110—Audit Committees ("MI 52-110"). In addition, TSX Inc. will take steps to ensure that each member of the Board is a fit and proper person and the past conduct of the member affords reasonable grounds for belief that the member will perform his or her duties with integrity.

2. Determination by Board

A director is considered independent only where the Board affirmatively determines that the director has no material relationship with TSX Inc.[1] A "material relationship" is a relationship which could, in the view of the Board, reasonably interfere with the exercise of a director's independent judgement.[2] The Board shall make a determination concerning the independence of a director each year at the time the Board approves director nominees for inclusion in TSX Group's information circular. Where a director joins the Board mid-year, the Board will make a determination at that time.

3. General Independence Standards

In determining whether a director is independent, the following individuals are considered to have a material relationship with TSX Inc. and are therefore considered NOT to be independent:

(a) an individual who is, or has been within the last three years, an employee or executive officer[3] of TSX Inc. or any of its affiliates;

(b) an individual whose immediate family member[4] is, or has been within the last three years, an executive officer of TSX Inc. or any of its affiliates (past or present employment of the individual or immediate family member, on a part-time basis, as the chair or vice-chair of the board or any board committee does not disqualify the individual from being independent);

(c) an individual who:

(i) is a partner of a firm that is the internal or external auditor of TSX Inc. or any of its affiliates,

(ii) is an employee of that firm, or

(iii) was within the last three years a partner or employee of that firm and personally worked on the audit of TSX Inc. or any of its affiliates within that time;

(d) an individual whose spouse, minor child or stepchild, or child or stepchild who shares a home with the individual:

(i) is a partner of a firm that is the internal or external auditor of TSX Inc. or any of its affiliates,

(ii) is an employee of that firm and participates in its audit, assurance or tax compliance (but not tax planning) practice, or

(iii) was within the last three years a partner or employee of that firm and personally worked on the audit of TSX Inc. or any of its affiliates within that time;

(e) an individual who, or whose immediate family member, is or has been within the last three years, an executive officer of an entity if any of the current executive officers of TSX Inc. or its affiliates serves or served at that same time on the entity's compensation committee; and

(f) an individual who received, or whose immediate family member who is employed as an executive officer of TSX Inc. or any of its affiliates received, more

[1] MI 52-110, section 1.4(1).

[2] MI 52-110, section 1.4(2).

[3] "Executive officer" means a chair, vice-chair, president, any vice-president in charge of a principal business unit, division or function (including sales, finance or production), any officer of the company or its subsidiaries who performs a policy-making function, or any other individual who performs a policy-making function.

[4] "Immediate family member" means an individual's spouse, parent, child, sibling, mother or father-in-law, son or daughter-in-law, brother or sister-in-law, and anyone (other than an employee of the individual or the individual's immediate family member) who shares the individual's home.

than $75,000 in direct compensation from TSX Inc. or any of its affiliates during any 12 month period within the last three years (other than director or board committee fees and retirement plan payments or other deferred compensation for prior service, provided the compensation is not contingent in any way on continued service).

4. Additional TSX Inc. Independence Standards

In determining whether a director is independent, the following individuals are considered to have a material relationship with TSX Inc. and are therefore considered NOT to be independent:

(a) an individual who is an employee, associate (within the meaning of the Securities Act (Ontario)), or executive officer of an entity that is a Participating Organization[5]; and

(b) an individual who is an employee, associate (within the meaning of the Securities Act (Ontario)), or executive officer of an entity that has a Participating Organization as a significant affiliate[6], who is responsible for or is actively or significantly engaged in the day-to-day operations or activities of the Participating Organization.

5. Determination by the Board and Notice to the Ontario Securities Commission

(a) The Board may determine that an individual who is considered to have a material relationship under Section 4 is nonetheless independent, if the Board is satisfied that the material relationship under Section 4 will not, in the view of the Board, reasonably interfere with the exercise of the individual's independent judgment.

(b) If the Board makes the determination referred to in clause 5(a), TSX Group must disclose in a written statement in its management information circular delivered to shareholders in connection with its annual meeting of shareholders:

(i) the nature of the relationship of the individual with TSX Inc.; and

(ii) the explanation of the Board's determination as to why the individual should be considered independent.

(c) TSX Inc. will notify the Manager of Market Regulation for the Ontario Securities Commission in writing of the Board's intention to make the determination referred to in clause 5(a) as soon as practicable, and in any event no less than 15 business days before the written statement in clause 5(b) is made.

[5] A "Participating Organization" is an entity desiring access to the trading facilities of Toronto Stock Exchange whose application is accepted by Toronto Stock Exchange.

[6] A Participating Organization is a "significant affiliate" of another entity if the Participating Organization is an affiliate of that entity (as defined in the *Business Corporations Act* (Ontario)) and if the annual revenues of the Participating Organization for its most recently completed fiscal year represent more than 10% of the consolidated revenues of its group parent.

13.1.3 MFDA News Release - MFDA Hearing Panel Issues Decision and Reasons respecting Raymond Brown-John Disciplinary Hearing

FOR IMMEDIATE RELEASE

MFDA HEARING PANEL ISSUES DECISION AND REASONS RESPECTING RAYMOND BROWN-JOHN DISCIPLINARY HEARING

August 23, 2005 (Toronto, Ontario) - A Hearing Panel of the Pacific Regional Council of the Mutual Fund Dealers Association of Canada ("MFDA") has issued its Decision and Reasons in connection with the disciplinary hearing held in Vancouver, British Columbia on June 7, 2005 in respect of Raymond Brown-John.

The Hearing Panel found that the four allegations set out by MFDA staff in the Notice of Hearing dated January 21, 2005, summarized below, had been established:

Allegation #1: Between December 1999 and February 2003, Brown-John failed to deal fairly, honestly and in good faith with two of his clients by misappropriating from them a total amount of $83,000, more or less, contrary to MFDA Rule 2.1.1.

Allegation #2: Between May 2001 and February 2003, Brown-John preferred his own interests to those of one of his clients and failed to exercise responsible business judgment influenced only by the best interest of his client by recommending that the client redeem certain mutual fund investments in the total amount of $67,000 and lend the proceeds to him in the form of an unsecured personal loan, which loan Brown-John subsequently failed to repay, contrary to MFDA Rule 2.1.4.

Allegation #3: Commencing on or about July 31, 2003, Brown-John failed to comply with requests from the MFDA to provide documents and information to the MFDA for the purpose of investigating a complaint made against Brown-John by a client, contrary to section 22.1 of MFDA By-law No. 1.

Allegation #4: Commencing on or about September 22, 2003, Brown-John failed to carry out an agreement with the MFDA made on August 20, 2003 to provide the MFDA with copies of certain financial account statements on or before September 22, 2003, thereby engaging the jurisdiction of the Regional Council to impose a penalty on him pursuant to section 24.1.1(g) of MFDA By-law No. 1.

The following is a summary of the Hearing Panel Orders:

1. A permanent prohibition on the authority of Raymond Brown-John to conduct securities related business in any form or capacity;

2. A fine in the aggregate amount of $185,000; and

3. Costs in the amount of $10,000

A copy of the Decision and Reasons and Order is available on the MFDA website at www.mfda.ca.

The Mutual Fund Dealers Association of Canada is the self-regulatory organization for Canadian mutual fund dealers. The MFDA regulates the operations, standards of practice and business conduct of its 179 members and their approximately 70,000 representatives with a mandate to protect investors and the public interest.

For further information, please contact:

Shaun Devlin
Vice-President, Enforcement
(416) 943-4672 or sdevlin@mfda.ca

13.1.4 Summary of Comments Received - TSX Market-On-Close Proposed Rule Amendments

TSX MARKET ON CLOSE ("MOC") PROPOSED RULE AMENDMENTS – SUMMARY OF COMMENTS RECEIVED

Comments Received from:

1. Scotia Capital ("Scotia")
2. TD Newcrest ("TD")
3. BMO Nesbitt Burns ("BMO")
4. BC Investment Management Corporation ("BCIMC")
5. Market Regulation Services Inc. ("RS")
6. Etrade Canada ("Etrade")

Category	Commentator	Comment	TSX Response
Reduce Volatility Parameters	Scotia, TD, BMO, BCIMC,RS, Etrade	All commentators were supportive of this proposed change. One commentator conditionally agreed to the proposed change as long as the proposed revision of the "failed" MOC process is implemented as well. One commentator went further to say "we caution that this solution may need to be revisited as the MOC universe is broadened to include less liquid issues. Because investor confidence in the MOC process will be eroded by a proliferation of "failed" MOC sessions, it may be necessary to make adjustments to the parameters used. For example, it may prove appropriate to introduce tiered parameters to manage a more heterogeneous group of MOC securities. We suggest that the proposed solution be reviewed after six to twelve months and adjusted if necessary."	Comments acknowledged. TSX will continue to monitor the incidences of "failed" MOC securities. We agree that it is possible volatility parameters may need to be adjusted for certain securities. If warranted, TSX is not opposed to adjusting volatility parameters for certain groups of, or individual, securities, where the change will result in a better closing procedure for those securities.
Increase Price Movement Extension Period	Scotia, TD, BMO, BCIMC,RS, Etrade	All commentators were supportive of this proposed change. The majority of commentators indicated that the 10 minute window would provide adequate time to market participants in their efforts to source liquidity, yet still leave sufficient time for an extended trading session. One commentator raised a concern as to the effect of a delayed closing when a security potentially can trade in other markets	Comments acknowledged. TSX is of the opinion that a single transition time between trading sessions is consistent with current market practices. It provides market participants with defined trading parameters through out the day. The commentator's concern about trading in other markets or news events is valid, however, this was the case prior to MOC and is still the case with non-MOC securities. TSX does not believe the extended PME will have a negative effect on the marketplace.

Revise Failed MOC Procedures	Scotia, TD, BMO, BCIMC,RS, Etrade	All commentators were supportive of this proposed change. Two commentators indicated that this change should be implemented in conjunction with the proposed reduction in volatility parameters.	Comments acknowledged.

Broadcast ICCP at 3:50pm	Scotia	Scotia does not support the indicative calculated closing price or the phase-in approach to rolling out new eligible securities. Scotia believes that the ICCP opens the door to stock price misrepresentation and increased volatility towards the close. Scotia believes that the 20-minute window (after the MOC imbalance is broadcast) allows ample time for dissemination to all market participants, thereby reducing the amount of reactionary capital at the close. According to Scotia, the change to an ICCP at 3:50 raises two main questions: "If the ICCP is not disseminated until 3:50 what incentive is there for liquidity providers to offset the imbalances early? Will they not wait until after 3:50 to deploy capital, thereby only increasing the volatility closer to the close?" "Is the ICCP a true estimate of the closing price or could offsetting orders be cancelled during the last 10 minutes of trading, thereby completely changing the ICCP? How would other market participants be made aware that these significant offsetting orders were cancelled?" Scotia provided additional comments as follows, "As a supplier of reactionary liquidity, we may want to wait until we see the ICCP at 3:50 before entering our orders into the offsetting MOC book. Should we see a significant ICCP at that time, we would then begin deploying our capital to take advantage of those parameters. This may have the impact of moving the volatility spike from 3:40 to 3:50 (10 minutes closer to the close), or creating a new volatility spike at 3:50 in addition to the 3:40 spike (thereby increasing volatility again prior to the close). We do not feel that this additional spike is necessary or healthy for our marketplace. Moreover, what happens to the ICCP if we enter a significant offsetting order at 3:41 but then cancel the order at 3:51 due to market conditions or we simply change our mind? Would the ICCP then be totally misrepresentative of the closing price – especially if other market participants do not see a large	The current MOC system spreads the end of day volatility surrounding the close over a 20 minute period rather than the last minute of trading. The introduction of an ICCP is intended to alert market participants of unusual price movements going into the close and allow the market to efficiently manage the price movement. Scotia raises an interesting point as to the disincentive to enter offsetting MOC orders prior to knowledge of the ICCP. Market participants may delay responding to a MOC imbalance until the ICCP is known, therefore narrowing the time in which volatility is managed. However, those participants that respond to the initial MOC imbalance broadcast will have priority in the MOC book. This lends itself to an effective strategy of layering the MOC book at various price points on receipt of the 3:40pm imbalance message and then eliminating orders that are not reflective of the 3:50pm ICCP broadcast, thereby maintaining priority. Scotia's comments about opening the door to stock price misrepresentation and increased volatility towards the close would be more worrisome if the ICCP were broadcast multiple times and with great frequency.

		move in the ICCP and cancel their offsetting orders as well? As result, we feel that the current MOC facility provides more time for reactionary capital to enter the marketplace (wit h no incentive to wait an additional 10 minutes) therefore reducing volatility at the close; in addition, by not introducing a price parameter into MOC facility, the TSX would avoid any potential misrepresentation or manipulation of that price to the marketplace."	
ICCP	TD	TD supports the publication of the ICCP at 3:50pm, and that the ICCP will prevent situations like trading in Molsons (MOL.A) on December 7th. (After the TSX published a 10,300 sell imbalance at 3:40pm MOL.A traded down over 6% between the last sale at 4:00pm and the close at 4:05pm.) TD believes the ICCP will attract the attention of liquidity providers to situations whereby an innocuous MOC imbalance may result in a severe price dislocation as simply a result of lack of orders in the TSX continuous order book. TD believes that regulatory scrutiny should be enough to discourage any gaming related to an ICCP. RS currently monitors MOC trading to ensure that market participants are not entering aggressively priced offsetting limit orders after 3:40pm that effectively cancel a previously entered MOC order by the same participant. If an MOC order is entered in error and not noticed until after 3:40pm, the offending participant must contact RS to determine what their alternatives are in the marketplace to offset (effectively cancelling) the MOC order entered in error. TD wants RS to monitor cancellation of offsetting limit orders in either the continuous or MOC book following the broadcast of the ICCP, which should minimize gaming.	TSX agrees that the ICCP will attract the attention of liquidity providers in certain situations. In a way, TSX already provides an ICCP under special circumstances. That is, at 4:00pm, if the CCP has exceeded the PME volatility parameter, a broadcast message is sent to the trading community displaying an indicative CCP and the VWAP reference price. This provides participants with a frame of reference in responding to an irregular price movement. TSX also wants the MOC process to minimize gaming. We have advised RS of TD's request.
ICCP	BMO	BMO is in favour of the publication of an ICCP. BMO agrees that disclosure of the ICCP should help to avoid unexpected surprises at the close that could have been avoided by the addition of liquidity to the MOC market before the close.	Comment acknowledged.

		BMO advises that publication of the ICCP only once during the trading session may not prove to be the optimal solution, particularly as the universe of MOC stocks is broadened to include less liquid issues. BMO proposes that a review be undertaken six to twelve months after the ICCP is introduced, to determine if the ICCP should be published earlier and more than once.	TSX will monitor the MOC procedure after the introduction of the ICCP to, among other things, determine whether an earlier or a more frequent publication of the ICCP would be beneficial to the marketplace.
ICCP	BCIMC	An ICCP would be extremely helpful as an early warning system on potentially large price movements. Most large buy/sell imbalances are noticed, but small imbalances that have a large price change are not necessarily noticed. A ten minute window is ample time to react and potentially serve as a source of liquidity.	Comment acknowledged.
ICCP	RS	RS suggests that it may be appropriate to specifically study the effect of disclosure of the ICCP on market integrity in the Regular Session during the period immediately following the implementation of the proposed amendments.	Immediately after the implementation of the ICCP, TSX will study the impact of the ICCP. Specifically, at the request of RS, TSX will compare by security, the closing price against both the ICCP and the quote at 3:50 pm. TSX will conduct this study for a number of months and will report to RS on any apparent trending.
Eligible Securities	Scotia	A phased-in approach to adding eligible securities to the MOC Book creates confusion by market participants as to which securities are eligible on which date. All S&P/TSX Composite Index constituents must be added to the MOC book simultaneously rather than phased-in. By phasing-in securities, market participants (especially foreign participants) may not be fully aware which securities are eligible on various dates, thereby increasing confusion surrounding our MOC facility. Many Scotia clients found the phased-in approach of the new symbol extensions to be confusing and increased overall technology costs as updates had to happen twice a week for several weeks.	Comment acknowledged. However, the rollout of securities to the S&P/TSX Composite Index involves 180-200 securities. This is a large number of securities to process in a single evening. Each symbol must be manually enabled for MOC eligibility by TSX Trading Services. MOC eligibility is then picked up by the trading engine in the overnight batch for next day. A finalized deployment schedule is being developed and will be communicated when available.

Eligible Securities	TD	TD supports the proposal to phase-in the existing S&P/TSX Composite Members into the MOC facility. The phase-in should be done in a staged fashion, similar to how the existing MOC facility was rolled out for the S&P/TSX 60 stocks. Income Trusts that will be included in the S&P/TSX Composite Index (as per the recent announcement by S&P) should also be added to the MOC facility prior to being added to the Composite Index. TD also supports including constituents of international indices and maintaining flexibility for other special requests from time to time.	Comment acknowledged. As per current practice with the S&P/TSX 60 Index, TSX will make symbols MOC eligible in response to notices from S&P.
Eligible Securities	RS	RS agrees that any securities to be added to the MOC Book must be liquid in the context of prevailing market conditions. In RS's recent proposed amendments to UMIR respecting restrictions and prohibitions on trading during certain securities transactions, including distributions, amalgamations, issuer bids and takeover bids and the corresponding proposed OSC Rule 48-501, RS and the OSC have utilized a definition of a "highly-liquid security". To qualify, the security must have traded for a particular period, in total, on one or more marketplaces as reported on a consolidated market display (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. In the alternative, the security may be subject to Regulation M of the United States Securities and Exchange Commission and is considered to be an "actively-traded security" under that regulation. As part of its commitment to assist market participants, RS has agreed to maintain and make publicly available a list of securities which meet the trade value and transaction tests under the definition of "highly-liquid" securities. RS suggests that TSX consider the adoption of the "highly-liquid security" standard. This would provide a consistent test across various regulatory and marketplace requirements.	Comment acknowledged. As stated by RS, the TSX's inclusion criteria for symbols outside the S&P/TSX 60 INDEX and Composite indices are very similar to their proposed definition of a highly-liquid security. TSX will use the RS/OSC definition of a "highly liquid security".

General Question	BCIMC	BCIMC asks if an analysis has been done by TSX about whether the MOC facility has served to dampen closing volatility compared to the old system and whether more stocks should be added to the MOC system if volatility has not been reduced.	TSX is currently engaged in a study of the effects of MOC on end of day volatility for the S&P/TSX 60 INDEX.
General Question	BCIMC	BCIMC asks if an analysis has been done by TSX about: (i) intraday volatility of stocks outside of the S&P/TSX 60 Index but in the Composite index; and (ii) income trust volatility, and if so, whether the 5% and 10% volatility bands are acceptable.	TSX has performed analysis on certain securities in the S&P/TSX Composite Index. Our analysis shows that 5% and 10% parameters will be effective. We believe that these parameters will be particularly effective in conjunction with the introduction of the extended PME and introduction of the ICCP. We have not done analysis on income trusts.
General Question	BCIMC	BCIMC asks about the situation where a stock that trades at $2 and a moves to $2.25 or $1.75. This is outside the volatility band but is not a large dollar value change.	A $.25 swing in a $2.00 stock is considerable (12.5%) and should have attention drawn to it in order to allow market participants to react appropriately. The dollar value of the price movement is amplified by the volume of MOC orders that will trade at that price. A similar example can be seen if we inflate the numbers, i.e. a $2.50 swing on a $20.00 stock would and should equal attract attention.
General Comment - Offsetting MOC Orders	RS	RS understands that Participants and Access Persons may be entering Limit MOC Orders for the purposes of correcting erroneous Market MOC Orders or moderating the size and price risks that they have incurred by entering Market MOC Orders during the Regular Session. Market MOC Orders that are in the MOC Book at 3:40 are used to calculate the imbalance. As such, there is a market integrity risk in allowing Participants and Access Persons to enter off-setting Limit MOC Orders to in effect cancel Market MOC Orders that contributed to imbalance calculation. These orders may render the imbalance broadcast meaningless and may amount to wash trading or other manipulative or deceptive activities under UMIR.	If RS decides that an order should be cancelled, RS must contact TSX Trading Services to cancel the order. If RS requires a MOC imbalance to be recalculated because of either a cancelled order, or an off-setting MOC Limit Order, TSX Trading Services must be notified and it TSX will then manually recalculate the MOC imbalance and will send it out via a STAMP message to all traders and also to data vendors for distribution. The general message will be supplemented with a press release in order to reach more participants.

		Currently, as stated in Market Integrity Notice 2004-021, RS is addressing off-setting orders intended to correct erroneous Market MOC Orders by requiring that they be entered only with the consent of RS. Under these circumstances, RS will issue a public notice to the effect that the broadcast imbalance should be adjusted. We would suggest that the consideration be given by the TSX to the appropriate means of allowing Participants and Access Person to correct erroneous Market MOC Orders or to moderate size and price risks after 3:40 p.m. To support market integrity, RS wants to ensure that information disclosed to the market participants is accurate and timely. The mechanism by which RS will ensure market integrity in the MOC Facility would be revised if the MOC Facility provided updated information on the impact of off-setting orders or the cancellation of orders.	

Chapter 25

Other Information

25.1 Consents

25.1.1 Magindustries Corp. - ss. 4(b) of the Regulation

Headnote

Consent given to OBCA corporation to continue under the Canada Business Corporations Act

Applicable Ontario Statutory Provisions

Business Corporations Act, R.S.O. 1990, c. B.16, as am., s. 181
Securities Act, R.S.O. 1990, c. S.5, as am.

Ontario Regulations

Regulation made under the Business Corporations Act, Reg. 289/00, as am., s. 4(b)

August 23, 2005

IN THE MATTER OF
THE REGULATIONS MADE UNDER
THE BUSINESS CORPORATIONS ACT, R.S.O. 1990,
c.B-16, AS AMENDED (the OBCA)
ONTARIO REG. 289/00 (the Regulation)

AND

IN THE MATTER OF
MAGINDUSTRIES CORP. (the Filer)

CONSENT
(Subsection 4(b) of the Regulation)

Background

The Filer has applied to the Ontario Securities Commission (the Commission) requesting a consent of the Commission for the Filer to continue into another jurisdiction (the Continuance) under subsection 4(b) of the Regulation.

Representations

The Filer has represented to the Commission that:

1. The Filer proposes to make an application (the Application for Continuance) to the Director under the OBCA pursuant to section 181 of the OBCA for authorization to continue under the *Canada Business Corporations Act*, R.S.C. 1985, c. C-44 (the CBCA).

2. The Filer is a reporting issuer within the meaning of the *Securities Act* (Ontario) (the Act), and a reporting issuer or its equivalent in British Columbia and Alberta.

3. The Filer is not in default of any requirements of the Act or the regulations or rules promulgated thereunder or the applicable securities legislation in any other jurisdiction.

4. The Filer is an offering corporation under the provisions of the OBCA.

5. Under subsection 4(b) of the Regulation, where the corporation is an offering corporation, the Application for Continuance must be accompanied by the consent of the Commission.

6. The Filer is a corporation existing under the OBCA by virtue of its Certificate of Amalgamation effective October 23, 1997 and its registered office is located at Suite 1200, 95 Wellington Street West, Toronto, Ontario M5H 2Z9.

7. The authorized capital of the Filer consists of an unlimited number of common shares, of which 92,460,248 were outstanding as at August 5, 2005.

8. The Filer's issued and outstanding common shares are listed for trading on the TSX Venture Exchange.

9. The Filer is not a party to any proceeding or to the best of its knowledge, information and belief, any pending proceeding under the Act.

10. Following the Continuance, the Filer currently intends to continue to be a reporting issuer in Ontario and in the other jurisdictions where it is a reporting issuer.

11. The Filer's Continuance under the provisions of the CBCA is to be approved at an annual and special meeting of shareholders of the Filer to be held on September 23, 2005.

12. The Continuance is proposed to be made in order for the Filer to conduct its business and affairs in accordance with the provisions of the CBCA. The Continuance under the CBCA has been proposed as the Filer believes the CBCA has more flexible provisions with respect to board and committee residency requirements, location of registered office, shareholder proposal, proxy solicitation and other business aspects of a corporation.

13. The material rights, duties and obligations of a corporation existing under the CBCA are substantially similar to those of a corporation governed by the OBCA.

Consent

The Commission is satisfied that granting this consent would not be prejudicial to the public interest.

The Commission consents to the Continuance of the Filer as a corporation under the CBCA.

"Wendell S. Wigle"
Commissioner
Ontario Securities Commission

"Robert L. Shirriff"
Commissioner
Ontario Securities Commission

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