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The Ontario Securities Commission

OSC Bulletin

November 11, 2005

Volume 28, Issue 45

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

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Chapter 1

Notices / News Releases

1.1 Notices

1.1.1 Current Proceedings Before The Ontario Securities Commission

NOVEMBER 11, 2005

CURRENT PROCEEDINGS

BEFORE

ONTARIO SECURITIES COMMISSION

- -

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

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

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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	**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	**John Illidge, Patricia McLean, David Cathcart, Stafford Kelley and Devendranauth Misir** S. 127 & 127.1 K. Manarin in attendance for Staff Panel: TBA
November 21-25; 28; 30; December 1; 6-8, 2005 10:00 a.m. to 4:30 p.m.	**Andrew Currah, Colin Halanen, Joseph Damm, Nicholas Weir, Penny Currah and Warren Hawkins** s.127
November 29, 2005 2:30 p.m. to 4:30 p.m.	J. Waechter in attendance for Staff Panel: PMM/RWD/ST

November 14, 2005 10:00 a.m.	**Brian P. Verbeek** s.127 K. Manarin in attendance for Staff Panel: WSW/ST
November 14, 2005 10:00 a.m.	**Portus Alternative Asset Management Inc., Portus Asset Management Inc. Boaz Manor, Michael Mendelson, Michael Labanowich and John Ogg** s.127 & 127.1 M. MacKewn in attendance for Staff Panel: TBA
November 16, 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: SWJ/RWD/MTM
November 23 & 24, 2005 10:00 a.m.	**Firestar Capital Management Corp., Kamposse Financial Corp., Firestar Investment Management Group, Michael Ciavarella and Michael Mitton** s. 127 J. Cotte in attendance for Staff Panel: DLK/CSP
December 5, 2005 10:00 a.m.	**Richard Ochnik and 1464210 Ontario Inc.** s. 127 and 127.1 M. Britton in attendance for Staff Panel: PMM
December 12, 2005 10:00 a.m.	**Olympus United Group Inc.** s.127 M. MacKewn in attendance for Staff Panel: TBA
December 12, 2005 10:00 a.m.	**Norshield Asset Management (Canada) Ltd.** s.127 M. MacKewn in attendance for Staff Panel: TBA
December 16, 2005 10:00 a.m.	**Portus Alternative Asset Management Inc., and Boaz Manor** s. 127 M. MacKewn in attendance for Staff Panel: TBA
January 11, 2006 10:00 a.m.	**Jose L. Castaneda** s.127 T. Hodgson in attendance for Staff Panel: TBA
January 25, 2006 8:30 a.m.	**James Patrick Boyle, Lawrence Melnick and John Michael Malone** s. 127 and 127.1 Y. Chisholm in attendance for Staff Panel: TBA
10:00 a.m. February 6 to March 10, 2006 (except Tuesdays) April 10, 2006 to April 28, 2006 (except Tuesdays and not Good Friday April 14) May 1 to May 19; May 24 to May 26, 2006 (except Tuesdays) June 12 to June 30, 2006 (except Tuesdays)	**Philip Services Corp. *et al*** s. 127 K. Manarin in attendance for Staff Panel: PMM/RWD/DLK

March 2 & 3, 2006 **Christopher Freeman**

10:00 a.m. s. 127 and 127.1

P. Foy in attendance for Staff

Panel: TBA

April 3 to 7, 2006 **Momentas Corporation, Howard Rash, Alexander Funt, Suzanne**
10:00 a.m. **Morrison and Malcolm Rogers**

s. 127 and 127.1

P. Foy 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

1.2 Notices of Hearing

1.2.1 Andrew Currah, Colin Halanen, Joseph Damm, Nicholas Weir, Penny Currah and Warren Hawkins - s. 127

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

AND

ANDREW CURRAH, COLIN HALANEN,
JOSEPH DAMM, NICHOLAS WEIR,
PENNY CURRAH AND WARREN HAWKINS

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 Commission's offices on the 17th floor, 20 Queen Street West, Toronto, Ontario, commencing on Friday the 4th day of November, 2005 at 9:30 a.m., or as soon thereafter as the hearing can be held.

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

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

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

AND TAKE FURTHER NOTICE THAT, upon 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.

DATED at Toronto this 3rd day of November, 2005

"John Stevenson"
Secretary to the Commission

1.2.2 Fulcrum Financial Group Inc., Secured Life Ventures Inc., Zephyr Alternative Power Inc., Troy Van Dyk and William L. Rogers

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

AND

**IN THE MATTER OF
FULCRUM FINANCIAL GROUP INC.,
SECURED LIFE VENTURES INC.,
ZEPHYR ALTERNATIVE POWER INC.,
TROY VAN DYK AND WILLIAM L. ROGERS**

**NOTICE OF HEARING
Sections 127 and 127(1)**

TAKE NOTICE that the Ontario Securities Commission (the "Commission") will hold a hearing pursuant to section 127 of the *Securities Act*, at its offices at 20 Queen Street West, 17th Floor Hearing Room on Friday, the 18th day of November, 2005 at 2:30 p.m. or as soon thereafter as the hearing can be held:

TO CONSIDER whether, pursuant to s. 127 and s. 127.1 of the *Securities Act*, it is in the public interest for the Commission:

1) to extend the temporary order made November 3, 2005 until the conclusion of the hearing, pursuant to s. 127(7);

2) at the conclusion of the hearing, to make an order pursuant to paragraph 2 of s. 127(1) that trading in the securities of Fulcrum Financial Group Inc., Secured Life Ventures Inc. and Zephyr Alternative Power Inc. cease until further order by this Commission;

3) at the conclusion of the hearing, to make an order against Van Dyk and Rogers that:

   (a) Van Dyk and Rogers resign any positions they hold as director or officer of an issuer, pursuant to paragraph 7 of s. 127(1); and

   (b) Van Dyk and Rogers be prohibited from becoming or acting as officer or director of an issuer, pursuant to paragraph 8 of s. 127(1).

4) at the conclusion of the hearing, to make an order against any or all of the Respondents that:

   (a) trading in any securities of or by the Respondents cease permanently or for such period as is specified by the Commission, pursuant to paragraph 2 of s. 127(1);

   (b) any exemptions contained in Ontario securities law do not apply to the Respondents permanently or for such period as is specified by the Commission, pursuant to paragraph 3 of s. 127(1);

   (c) the Respondents be reprimanded, pursuant to paragraph 6 of s. 127(1);

   (d) the Respondents pay an administrative penalty for failing to comply with Ontario securities law, pursuant to paragraph 9 of s. 127(1);

   (e) the Respondents disgorge to the Commission any amounts obtained as a result of non-compliance with Ontario securities law, pursuant to paragraph 10 of s. 127(1); and

   (f) the Respondents be ordered to pay the costs of the Commission investigation and hearing, pursuant to s. 127.1.

5) to make such orders as the Commission considers appropriate.

BY REASON OF the allegations set out in the Statement of Allegations dated November 9, 2005 and such additional allegations as counsel may advise and the Commission may permit;

AND TAKE FURTHER NOTICE that any party to the proceedings 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.

DATED at Toronto this 9th day of November, 2005.

"John Stevenson"

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

AND

IN THE MATTER OF
FULCRUM FINANCIAL GROUP INC.,
SECURED LIFE VENTURES INC.,
ZEPHYR ALTERNATIVE POWER INC.,
TROY VAN DYK AND WILLIAM L. ROGERS

STATEMENT OF ALLEGATIONS
OF THE ONTARIO SECURITIES COMMISSION

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

Background

1. Fulcrum Financial Group Inc. ("Fulcrum") is an Ontario corporation incorporated in December 2004.

2. Fulcrum carries on business as an insurance agency licensed by the Financial Services Commission of Ontario (FSCO) and is not registered in any capacity with the Commission.

3. The President and sole Director of Fulcrum is Troy Van Dyk of Delaware, Ontario. He is an insurance agent licensed by FSCO. Van Dyk is not registered in any capacity with the Commission.

4. The Executive Vice-President of Fulcrum is William L. Rogers of London, Ontario. He is an insurance agent licensed by FSCO. Rogers is not currently registered with the Commission.

5. Fulcrum, Van Dyk, Rogers and other employees or agents of Fulcrum have been trading the following securities (collectively, the "Subject Securities"):

   (i) Secured Life Notes which are a combination of promissory notes and shares of Secured Life Ventures Inc., an Ontario corporation that invests in managing general agencies of insurance companies. The subscription agreement for Secured Life Ventures Inc. purports to provide an annual return on total amounts invested of 10% for 10 years.

   (ii) convertible debentures in Zephyr Alternative Power Inc., an Ontario corporation that manufactures wind turbines. The subscription agreement for Zephyr purports to provide an annual return of up to 10.25%.

   (iii) common shares in the operating business of Fulcrum.

6. The trades of the Subject Securities are trades of securities not previously issued, and are therefore distributions. No prospectus has been issued in respect of the Subject Securities.

7. Van Dyk and Rogers have made misleading representations to investors regarding the Subject Securities including representations regarding their future listing and future value.

Conduct Contrary to the Public Interest

8. Fulcrum and its representatives, which include Van Dyk and Rogers, have made misleading representations to investors, including representations regarding the future listing and future value of the Subject Securities, contrary to s. 38 of the *Securities Act* and contrary to the public interest.

9. Fulcrum and its representatives, which include Van Dyk and Rogers, purport to rely on the registration and prospectus exemptions contained in Rule 45-501 in circumstances where the exemptions contained therein are not available.

10. Fulcrum and its representatives are not registered to trade the Subject Securities, contrary to s. 25 of the *Securities Act* and contrary to the public interest.

11. No prospectus receipt has been issued to qualify the sale of the Subject Securities, contrary to s. 53 of the *Securities Act* and contrary to the public interest.

12. As President and sole Director of Fulcrum, Van Dyk has authorized, permitted or acquiesced in the breach of s. 25, s. 38 and s. 53 of the *Securities Act* by Fulcrum and its representatives and has engaged in conduct contrary to the public interest.

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

Dated at Toronto this 9th day of November, 2005.

1.3 News Releases

1.3.1 OSC Issues Cease Trade Order Against Fulcrum Financial Group Inc., Secured Life Ventures Inc., Zephyr Alternative Power Inc., Troy Van Dyk and William L. Rogers

FOR IMMEDIATE RELEASE
November 3, 2005

OSC ISSUES CEASE TRADE ORDER
AGAINST FULCRUM FINANCIAL GROUP INC.,
SECURED LIFE VENTURES INC.,
ZEPHYR ALTERNATIVE POWER INC.,
TROY VANDYK AND WILLIAM L. ROGERS

TORONTO – The Ontario Securities Commission (OSC) issued a temporary order today, November 3, 2005, cease trading the common shares of Fulcrum Financial Group Inc., Secured Life Ventures Inc. and Zephyr Alternative Power Inc. The Commission further ordered the removal of the exemptions contained in Ontario Securities law from Troy Van Dyk and William L. Rogers, until further order of the Commission. This matter will be returned before the Commission on November 18, 2005.

Copies of the Cease Trade Order are made available on the Commission's website (**www.osc.gov.on.ca**).

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

Eric Pelletier
Manager, Media Relations
416-595-8913

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

1.3.2 OSC Obtains Direction Freezing Certain Accounts

FOR IMMEDIATE RELEASE
November 7, 2005

OSC OBTAINS DIRECTION
FREEZING CERTAIN ACCOUNTS

TORONTO – The Ontario Securities Commission (OSC) announced today that on November 4, 2005, the Commission issued a Direction pursuant to section 126 of the Securities Act freezing accounts held at BMO Investorline in the name of John Cameron Fraleigh. In accordance with section 126(5) of the Act, the Commission will appear before the Ontario Court no later than November 14, 2005 to seek to continue the Direction. This Direction was obtained in relation to an OSC investigation into trading in securities of Placer Dome Inc.

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Eric Pelletier
Manager, Media Relations
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1-877-785-1555 (Toll Free)

1.3.3 OSC Obtains Direction Freezing Additional Accounts of John Cameron Fraleigh

FOR IMMEDIATE RELEASE
November 9, 2005

OSC OBTAINS DIRECTION FREEZING ADDITIONAL ACCOUNTS OF JOHN CAMERON FRALEIGH

TORONTO – The Ontario Securities Commission announced today that on November 8, 2005, the Commission issued a Direction pursuant to section 126 of the *Securities Act* freezing accounts held at Dundee Securities Corporation in the name of John Cameron Fraleigh or Boutraille Corporation. In accordance with section 126(5) of the Act, the Commission will appear before the Ontario Court no later than November 15, 2005 to seek to continue the Direction. This Direction was obtained in relation to an investigation into trading in securities of Placer Dome Inc.

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

Eric Pelletier
Manager, Media Relations
416-595-8913

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

1.3.4 OSC Commences Proceedings Against Fulcrum Financial Group Inc., Secured Life Ventures Inc., Zephyr Alternative Power Inc., Troy Van Dyk and William L. Rogers

FOR IMMEDIATE RELEASE
November 9, 2005

OSC COMMENCES PROCEEDINGS AGAINST FULCRUM FINANCIAL GROUP INC., SECURED LIFE VENTURES INC., ZEPHYR ALTERNATIVE POWER INC., TROY VAN DYK AND WILLIAM L. ROGERS

TORONTO – The Ontario Securities Commission (the "Commission") commenced proceedings today by Notice of Hearing and Statement of Allegations dated November 9, 2005 against Fulcrum Financial Group Inc., Secured Life Ventures Inc., Zephyr Alternative Power Inc., Troy Van Dyk and William L. Rogers.

Staff allege that Van Dyk and Rogers made misleading and prohibited representations to investors regarding the securities of the corporate respondents and have engaged in trading of these securities contrary to the registration and prospectus requirements of Ontario securities law.

This matter will be returned before the Commission on November 18, 2005 when Staff of the Commission will seek an order extending the temporary order of November 3, 2005, which cease traded the securities of the corporate respondents and removed the exemptions contained in Ontario Securities law from the individual respondents.

Copies of the Notice of Hearing, the Statement of Allegations and the Cease Trade Order are made available on the Commission's website (**www.osc.gov.on.ca**).

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

Eric Pelletier
Manager, Media Relations
416-595-8913

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 Andrew Currah, Colin Halanen, Joseph Damm, Nicholas Weir, Penny Currah and Warren Hawkins

FOR IMMEDIATE RELEASE
November 3, 2005

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

AND

IN THE MATTER OF
ANDREW CURRAH, COLIN HALANEN,
JOSEPH DAMM, NICHOLAS WEIR,
PENNY CURRAH AND WARREN HAWKINS

TORONTO – The Commission issued a Notice of Hearing today to consider whether it is in the public interest to approve the settlement agreement entered between Staff and Warren Hawkins on Friday, November 4, 2005 at 9:30 a.m.

A copy of the Notice of Hearing 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)

1.4.2 John Craig Dunn

FOR IMMEDIATE RELEASE
June 16, 2004

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

AND

IN THE MATTER OF
JOHN CRAIG DUNN

TORONTO – The Reasons of the Panel of the Commission in the above-noted matter was issued on June 15, 2004.

A copy of the Reasons is available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
DAISY ARANHA
A/SECRETARY

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

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

1.4.3 Fulcrum Financial Group Inc., Secured Life Ventures Inc., Zephyr Alternative Power Inc., Troy Van Dyk and William L. Rogers

FOR IMMEDIATE RELEASE
November 9, 2005

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

AND

IN THE MATTER OF
FULCRUM FINANCIAL GROUP INC.,
SECURED LIFE VENTURES INC.,
ZEPHYR ALTERNATIVE POWER INC.,
TROY VAN DYK and WILLIAM L. ROGERS

TORONTO – The Commission issued a Notice of Hearing with attached Statement of Allegations, in the above named matter, scheduling a hearing on November 18, 2005 at 2:30 p.m. or as soon thereafter as the hearing can be held.

A copy of the Notice of Hearing with Statement of Allegations 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)

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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1. Canadian Imperial Bank of Commerce - ss. 95-98, 100 and 104(2)(c)

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – issuer bid requirements - relief granted from the issuer bid requirements for an issuer purchasing and immediately cancelling all outstanding preferred share units that it previously issued – each unit consisted of a convertible share and a warrant granting holder right to acquire share of another class – option to convert has expired – 0.13% of holders have not converted their units - issuer does not know identity of holders of unconverted units – issuer granted relief to purchase outstanding units at original price – issuer must make public announcement of offer to purchase, treat all shareholders identically and keep the offer open for a minimum of one year.

Applicable Ontario Statutory Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 95-98, 100, 104(2)(c).

October 28, 2005

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

AND

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

AND

IN THE MATTER OF
CANADIAN IMPERIAL BANK OF COMMERCE
("CIBC" or the "Filer")

MRRS DECISION DOCUMENT

Background

The local securities regulatory authority or regulator (the "Decision Maker") in each of the Jurisdictions has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the "Legislation") that, in connection with the proposed purchase by the Filer of all of its outstanding Non-cumulative Class A Preferred Shares Series 28 (the "Series 28 Shares") by way of an issuer bid (the "Offer"), the Filer be exempt from the requirements in the Legislation, including sections 95 to 100 of the *Securities Act* (Ontario) (the "Act") and the related provisions set out in the regulations to the Act and the equivalent provisions of the securities legislation of each of the other Jurisdictions, relating to, among other things, commencement and delivery of an issuer bid circular and any notices of change or variation thereto, minimum deposit periods and withdrawal rights, take-up of and payment for securities tendered to an issuer bid, disclosure, restrictions upon purchases of securities, identical consideration and collateral benefits (collectively, the "Issuer Bid Requirements").

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

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

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

Interpretation

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

Representations

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

1. CIBC is a Schedule I Bank under the *Bank Act* (Canada). CIBC's head office is located in Toronto, Ontario.

2. CIBC is a reporting issuer, or the equivalent, in each of the provinces and territories of Canada.

3. CIBC is not, to its knowledge, in default of any applicable reporting obligations under the relevant Canadian securities laws.

4. The issued and outstanding capital of CIBC as of May 31, 2005 consists of (a) 338,126,410 Common Shares, (b) 12,000,000 Non-cumulative Class A Preferred Shares Series 18, (c) 8,000,000 Non-cumulative Class A Preferred Shares Series 19, (d) 4,000,000 Non-cumulative Class A Preferred Shares Series 20, (e) 8,000,000 Non-cumulative Class A Preferred Shares Series 21, (f)

4,000,000 Non-cumulative Class A Preferred Shares Series 22, (g) 16,000,000 Non-cumulative Class A Preferred Shares Series 23, (h) 16,000,000 Non-cumulative Class A Preferred Shares Series 24, (i) 16,000,000 Non-cumulative Class A Preferred Shares Series 25, (j) 10,000,000 Non-cumulative Class A Preferred Shares Series 26, (k) 12,000,000 Non-cumulative Class A Preferred Shares Series 27, (l) 17,658 Series 28 Shares, (m) 13,232,342 Non-cumulative Class A Preferred Shares Series 29 (the "Series 29 Shares") and (n) 16,000,000 Non-cumulative Class A Preferred Shares Series 30 (collectively, the "Preferred Shares").

5. CIBC's issued and outstanding Common Shares are listed on the Toronto Stock Exchange (the "TSX") and the New York Stock Exchange. Other than the Series 28 Shares, the Preferred Shares are listed on the TSX.

6. On June 17, 2004, CIBC completed a public offering of 13,250,000 Preferred Share Units (the "Units"), each Unit consisting of one Series 28 Share and one Non-cumulative Class A Preferred Share Series 29 Purchase Warrant (a "Warrant"), at $10.00 per Unit (the "Offering").

7. On June 17, 2004, the Units were listed on the TSX.

8. Each holder of a Series 28 Share had the right, to convert on each of November 1, 2004, February 1, 2005 or May 1, 2005, such Series 28 Share into 0.4 of a fully-paid and freely-tradeable Series 29 Share of CIBC, provided such holder concurrently exercised one Warrant. The concurrent exercise of one Warrant together with payment of the exercise price of $15.00 per Warrant entitled the holder to acquire 0.6 of a fully-paid and freely-tradeable Series 29 Share. A Series 28 Share could not be converted without the concurrent exercise of a Warrant and a Warrant could not be exercised without the concurrent conversion of a Series 28 Share. The Warrant was not separable from the related Series 28 Share forming the Unit. Consequently, the conversion of one Series 28 Share, the concurrent exercise of one Warrant and a payment of $15.00 entitled the holder of a Unit to receive one fully-paid and freely-tradeable Series 29 Share.

9. On November 1, 2004, February 1, 2005 and May 1, 2005, respectively, CIBC issued 11,731,227, 1,073,680 and 427,435, Series 29 Shares upon the conversion of an equal number of Series 28 Shares and exercise of an equal number of Warrants, respectively. As at May 1, 2005 greater than 99.8% of the Series 28 Shares had been converted, with the exercise of Warrants, into Series 29 Shares.

10. All conversion rights of the holders of Series 28 Shares that had not been exercised by 5:00 p.m. (Toronto time) on May 1, 2005 (the ''Expiry Time'') terminated and all Warrants that had not been exercised for any reason by the Expiry Time were void and of no effect.

11. CIBC disclosed the Expiry Time in the prospectus and made significant efforts to contact holders in advance of conversion dates by way of news releases, news paper advertisements and, at its own expense in connection with the final conversion event, through the use of a third-party solicitation firm.

12. As at May 1, 2005, 17,658 Series 28 Shares remained unconverted and issued and outstanding.

13. CDS & Co. is the registered holder of the Series 28 Shares. The identities of the beneficial holders of the Series 28 Shares are not, and have not generally been known to CIBC.

14. The Units were de-listed from trading on the TSX effective at the close of the TSX on April 29, 2005 and the Series 28 Shares that remained issued and outstanding did not qualify for, and were not listed on the TSX.

15. The holders of the Series 29 Shares are entitled to receive fixed non-cumulative preferential cash dividends payable quarterly, as and when declared by the board of directors of CIBC (the ''Board of Directors'') payable at a rate of $1.35 per Series 29 Share per annum (or 5.40% per $25.00 dollar initial share price). Since November 1, 2004, the holders of the Series 28 Shares have received fixed non-cumulative preferential cash dividends payable at a rate of $0.08 per Series 28 Share per annum (or 0.80% per $10.00 dollar initial share price). Prior to November 1, 2004, dividends were payable at a rate of $0.54 per Series 28 Share per annum (or 5.40% per $10.00 dollar initial share price).

16. Given the economics of the dividend rate change, and that the Units were trading above their par value of $10.00 per Unit immediately prior to the last conversion date, it would have been in the interest of the holders of Units to either exercise their conversion rights and Warrants or sell their Units in the market prior to the last conversion date. It can be presumed that there are extenuating circumstances resulting in the small number of remaining holders of Units (now holders of Series 28 Shares) failure to exercise their conversion rights or sell their Units.

17. Certain holders of Series 28 Shares have approached CIBC to request the conversion of their Series 28 Shares after the Expiry Time.

18. Subject to the provisions of the *Bank Act* (Canada), including, if required, the prior consent of the Superintendent of Financial Institutions (the "Superintendent"), on and after June 17, 2009, CIBC may, but is under no obligation to, redeem the Series 28 Shares in whole or in part by the payment in cash of a sum equal to the issue price per share, together with declared and unpaid dividends to the date fixed for redemption.

19. On June 2, 2005, the Board of Directors of CIBC authorized, subject to satisfying regulatory requirements, the purchase or redemption from time to time of some or all of the outstanding Series 28 Shares by paying a cash amount equal to $10.00 for each Series 28 Share plus all declared and unpaid dividends to and including the date of purchase or redemption. Any Series 28 Shares purchased by CIBC are to be immediately cancelled.

20. On June 22, 2005, the Superintendent approved the repurchase for cancellation of the Series 28 Shares prior to June 17, 2009.

21. The repurchase for cancellation of the Series 28 Shares will constitute an "issuer bid" under the Legislation. The exemptions from the Issuer Bid Requirements contained in the Legislation are not available in respect of the Offer.

22. Prior to making the Offer, CIBC will issue a public announcement, in French and English, in a national Canadian newspaper detailing the terms of the Offer (the "Public Announcement").

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 Offer is exempt from the Issuer Bid Requirements provided that the Filer issues the Public Announcement prior to making the Offer and not less than annually thereafter while the Offer remains outstanding.

"Suresh Thakrar"
Commissioner
Ontario Securities Commission

"Harold P. Hands"
Commissioner
Ontario Securities Commission

2.1.2 Camco Inc. - s. 83

Headnote

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

Ontario Statutes

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

November 1, 2005

Davies Ward Phillips & Vineberg LLP
44th Floor, 1 First Canadian Place
Toronto, ON M5X 1B1

Attn: Jennifer E. Pankratz

Dear Mrs. Pankratz:

Re: Camco Inc. (the "Applicant") – Application to Cease to be a Reporting Issuer under the securities legislation of Ontario, Alberta, Saskatchewan, Manitoba, Quebec, New Brunswick and Newfoundland and Labrador (collectively, the "Jurisdictions")

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

As the Applicant has represented to the Decision Makers that,

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

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

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

2.1.3 MDSI Mobile Data Solutions Inc. - s. 83

Headnote

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

Ontario Statutes

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

October 28, 2005

Davies Ward Phillips & Vineberg LLP
44th Floor
1 First Canadian Place
Toronto, ON M5X 1B1

Attn: Kerry L. O'Reilly

Dear Ms. O'Reilly,

Re: MDSI Mobile Data Solutions Inc. (the "Applicant") – Application to Cease to be a Reporting Issuer under the securities legislation of Alberta, Saskatchewan, Ontario, Québec, New Brunswick, Nova Scotia and Newfoundland and Labrador (the "Jurisdictions")

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

As the Applicant has represented to the Decision Makers that,

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

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

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

2.1.4 Dynamic Oil & Gas, Inc. - s. 83

Headnote

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

Ontario Statutes

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

November 4, 2005

Gowling Lafleur Henderson LLP
1400, 700 – 2nd Street S.W.
Calgary, Alberta
T2P 4V5

Attention: Mr. Bennett K. Wong

Dear Mr. Wong:

Re: Dynamic Oil & Gas, Inc. (the "Applicant") – Application to Cease to be a Reporting Issuer under the securities legislation of Ontario and New Brunswick (the "Jurisdictions")

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

As the Applicant has represented to the Decision Makers that,

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

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

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

"Charlie MacCready"
Assistant Manager, Corporate Finance
Ontario Securities Commission

2.1.5 Rigel Capital, LLC - s. 6.1(1) of MI 31-102 National Registration Database and s. 6.1 of Rule 13-502 Fees)

Headnote

Applicant seeking registration status as a international adviser in the category of investment counsel and portfolio manager exempted from the electronic funds transfer requirement pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 National Registration Database and activity fee contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 Fees waived in respect of this discretionary relief, subject to certain conditions.

Rules Cited

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

October 26, 2005

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

AND

IN THE MATTER OF
RIGEL CAPITAL, LLC

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

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

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

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

1. The Applicant is a limited liability company carrying on business in Seattle, Washington in the United States. The Applicant is not a reporting issuer in any province or territory in Canada. The Applicant is currently registered under

the Act as an international advisor in the categories of investment counsel and portfolio manager. The head office of the Applicant is in Seattle, Washington.

2. MI 31-102 requires that all registrants in Canada enrol with CDS INC. (**CDS**) and use the national registration database (**NRD**) to complete certain registration filings. As part of the enrolment process, registrants are required to open an account with a member of the Canadian Payments Association from which fees may be paid with respect to NRD by electronic pre-authorized debit (**electronic funds transfer** or, the **EFT Requirement)**.

3. The Applicant has encountered difficulties in setting up a Canadian based bank account for purposes of fulfilling the EFT Requirement.

4. The Applicant confirms that it is not registered in another category to which the EFT Requirement applies and that Ontario is the only jurisdiction in which it has applied for registration.

5. Staff of the Canadian Securities Administrators has indicated that, with respect to applications from international dealers and international advisers (or applicants in equivalent categories of registration) for relief from the EFT Requirement, it is prepared to recommend waiving the fee normally required to accompany applications for discretionary relief (the **Application Fee**).

6. For Ontario registrants, the requirement for payment of the Application Fee is set out in section 4.1 of Rule 13-502.

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

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

A. makes acceptable alternative arrangements with CDS for the payment of NRD fees;

B. pays its participation fee under the Act to the Commission by cheque, draft, money order or other acceptable means at the time of filing its application for annual renewal, which shall be no later than the first day of December in each year;

C. pays any applicable activity fees, or other fees that the Act requires it to pay to the Commission, by cheque, draft, money order or other acceptable means at the appropriate time; and

D. is not registered in any jurisdiction in another category to which the EFT Requirement applies;

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

Registration Database and section 6.1 of Rule 13-502 Fees) of the Director, pursuant to section 6.1 of Rule 13-502, that the Application Fee will be waived in respect of the application for this Decision.

“David M. Gilkes”

2.1.6 Millennium Wave Securities, LLC - s. 6.1(1) of MI 31-102 National Registration Database and s. 6.1 of Rule 13-502 Fees

Headnote

Applicant seeking registration status as a non-resident limited market dealer exempted from the electronic funds transfer requirement pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 - National Registration Database, and activity fee contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 - Fees waived in respect of this discretionary relief, subject to certain conditions.

Rules Cited

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

October 26, 2005

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

AND

IN THE MATTER OF
MILLENNIUM WAVE SECURITIES, LLC

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

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

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

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

1. The Applicant is organized under the laws of the State of Texas. The Applicant is not a reporting issuer in any province or territory in Canada. The Applicant is seeking registration in Ontario as a dealer in the category of limited market dealer. The Applicant's head office is in Arlington, Texas.

2. MI 31-102 requires that all registrants in Canada enrol with CDS INC. (**CDS**) and use the national registration database (**NRD**) to complete certain registration filings. As part of the enrolment process, registrants are required to open an account with a member of the Canadian Payments Association from which fees may be paid with respect to NRD by electronic pre-authorized debit (**electronic funds transfer** or, the **EFT Requirement**).

3. The Applicant has encountered difficulties in setting up a Canadian based bank account for purposes of fulfilling the EFT Requirement.

4. The Applicant confirms that it is not registered in another category to which the EFT Requirement applies and that Ontario is the only jurisdiction in which it has applied for registration.

5. Staff of the Canadian Securities Administrators has indicated that, with respect to applications from international dealers and international advisers (or applicants in equivalent categories of registration) for relief from the EFT Requirement, it is prepared to recommend waiving the fee normally required to accompany applications for discretionary relief (the **Application Fee**).

6. For Ontario registrants, the requirement for payment of the Application Fee is set out in section 4.1 of Rule 13-502.

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

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

A. makes acceptable alternative arrangements with CDS for the payment of NRD fees;

B. pays its participation fee under the Act to the Commission by cheque, draft, money order or other acceptable means at the time of filing its application for annual renewal, which shall be no later than the first day of December in each year;

C. pays any applicable activity fees, or other fees that the Act requires it to pay to the

Commission, by cheque, draft, money order or other acceptable means at the appropriate time; and

D. is not registered in any jurisdiction in another category to which the EFT Requirement applies;

PROVIDED THAT the Applicant submits a similar application in any other Canadian jurisdiction where it becomes registered;

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

"David M. Gilkes"

2.1.7 Royal Bank of Canada and RBC Capital Trust II - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – Trust permitted to issue non-convertible trust capital securities using a short form prospectus – Relief granted from eligibility requirements enabling an issuer to file a short form prospectus, subject to certain conditions – Relief also granted from certain disclosure requirements.

Applicable National Instruments

National Instrument 44-101 Short Form Prospectus Distributions and Form 44-101F3 Short Form Prospectus.

September 19, 2005

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

AND

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

AND

IN THE MATTER OF
ROYAL BANK OF CANADA
AND
RBC CAPITAL TRUST II

MRRS DECISION DOCUMENT

Background

The local securities regulatory authority or regulator (the "Decision Maker" and, collectively, the "Decision Makers") in each of the Jurisdictions has received an application (the "Application") from Royal Bank of Canada (the "Bank") and RBC Capital Trust II (the "Trust") (collectively, the "Filers") for a decision (the "Requested Relief"), pursuant to the securities legislation of the Jurisdictions (the "Legislation"), that:

A. the Trust be exempted from the following requirements of the Legislation in connection with offerings of non-convertible Trust Capital Securities (as defined herein):

(i) the requirements of Part 2 of National Instrument 44-101 ("NI 44-101"), which set forth the eligibility requirements to enable an issuer to file a prospectus in the form of a short form prospectus; and

(ii) the disclosure requirements in Item 7 (Earnings Coverage Ratios) and Item 12 (Documents Incorporated by Reference), with the exception of Item 12.1(1)2, of Form 44-101 F3 in respect of the Trust;

B. the Trust is qualified to file a prospectus in the form of a short form prospectus in accordance with NI 44-101; and

C. the Application and this MRRS decision document be held in confidence by the Decision Makers, subject to certain conditions.

Under the Mutual Reliance Review System for Exemptive Relief Applications:

(a) the Autorité des marchés financiers du Québec is the principal regulator for this application; and

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

Interpretation

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

Representations

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

The Bank

1. The Bank is a Schedule I Bank under the *Bank Act* (Canada) and such act is its charter and governs its operations. The head office of the Bank is located in Montreal, Quebec.

2. The authorized share capital of the Bank consists of an unlimited number of: (i) common shares ("Bank Common Shares"); (ii) an unlimited number of First Preferred Shares without nominal or par value that may be issued for a maximum aggregate consideration of $10 billion; and (iii) an unlimited number of Second Preferred Shares without nominal or par value that may be issued for a maximum aggregate consideration of $5 billion (collectively, the "Bank Preferred Shares").

3. The Bank Common Shares are listed on the Toronto Stock Exchange, the New York Stock Exchange and the Swiss Exchange.

4. The Bank is a reporting issuer in each province and territory of Canada that provides for a reporting issuer regime and is not, to its knowledge, in default of any requirement thereof. The Bank is qualified to use the short form prospectus system provided under NI 44-101.

The Trust

5. The Trust is an open-end trust established under the laws of the Province of Ontario pursuant to a declaration of trust made as of June 23, 2003 of the Royal Trust Company (the "Trustee"), as amended and restated and supplemented from time to time (the "Declaration of Trust"). In July, 2003, the Trust completed a public offering of $900 million of Trust Capital Securities – Series 2013 (the "RBC TruCS – Series 2013"). The Trust is proposing to offer a second series of trust capital securities ("Trust Capital Securities") to the public pursuant to a prospectus (the "Offering"). Upon completion of the Offering, the authorized capital of the Trust will consist of: (i) an unlimited number of RBC TruCS – Series 2013; (ii) an unlimited number of Trust Capital Securities – Series 2015 (the "RBC TruCS – Series 2015"); and (iii) an unlimited number of special trust securities (the "Special Trust Securities").

6. The Trust is a reporting issuer in each province of Canada that provides for a reporting issuer regime and is not, to its knowledge, in default of any requirement thereof. The head office of the Trust is located in Toronto, Ontario.

7. All of the Special Trust Securities of the Trust are held by the Bank (the Special Trust Securities and the Trust Capital Securities being collectively referred to herein as the "Trust Securities"). The Trust may, from time to time, issue further series of Trust Capital Securities having terms substantially similar to the RBC TruCS – Series 2013 and the RBC TruCS – Series 2015.

8. The RBC TruCS – Series 2015 will be non-voting securities of the Trust (except in limited circumstances where holders can vote if changes to the terms of the RBC TruCS – Series 2015 are made), which have the attributes described

below under "RBC TruCS – Series 2015"). The Special Trust Securities are voting securities of the Trust.

9. The Trust was established for the purpose of effecting offerings of Trust Securities in order to provide the Bank with a cost effective means of raising capital for Canadian financial institutions regulatory purposes by means of: (i) creating and selling the Trust Securities; and (ii) acquiring and holding assets which, on completion of the Offering, will consist primarily of senior deposit notes issued by the Bank (the "Bank Deposit Notes") acquired by the Trust with the proceeds of the offerings of the Trust Capital Securities. The Bank Deposit Notes will generate income for distribution to holders of the Trust Securities. The Trust does not, and will not, carry on any operating activity other than in connection with the Offering of the RBC TruCS – Series 2015 and any future offerings.

RBC TruCS – Series 2015

10. Holders of RBC TruCS – Series 2015 will be entitled to receive fixed, semi-annual non-cumulative distributions (each, an "Indicated Yield") on the basis described below (the "Distributions"). Each semi-annual payment date for the Indicated Yield in respect of the RBC TruCS – Series 2015 (a "Distribution Date") will be either a "Regular Distribution Date" or a "Distribution Diversion Date". A Distribution Date will be a "Distribution Diversion Date", with the result that the Indicated Yield will not be paid in respect of the RBC TruCS – Series 2015 but, instead, the Trust will pay the net distributable funds of the Trust to the Bank as holder of the Special Trust Securities if: (i) the Bank has failed in the period to be described in the prospectus for the Offering (the "Prospectus") to declare regular dividends on the Bank preferred shares of any series ("Bank Preferred Shares"); or (ii) no Bank Preferred Shares are then outstanding and the Bank has failed in the period described in the Prospectus to declare regular dividends on the Bank common shares (the "Bank Common Shares"). In all other cases, a Distribution Date will be a Regular Distribution Date, in which case holders of RBC TruCS – Series 2015 will be entitled to receive the Indicated Yield and the Bank, as holder of the Special Trust Securities, will be entitled to receive the net distributable income, if any, of the Trust remaining after payment of the Indicated Yield. The Bank Preferred Shares and the Bank Common Shares are hereinafter collectively referred to as the "Bank Dividend Restricted Shares".

11. Under a Share Exchange Agreement to be entered into among the Bank, the Trust and a party acting as Exchange Trustee (the "Series 2015 Share Exchange Agreement"), the Bank will agree, for the benefit of holders of RBC TruCS – Series 2015, that in the event that the Trust fails on any Regular Distribution Date to pay the Indicated Yield on the RBC TruCS – Series 2015 in full, the Bank will not pay dividends on the Bank Dividend Restricted Shares until a specified period of time has elapsed, unless the Trust first pays such Indicated Yield (or the unpaid portion thereof) to holders of RBC TruCS – Series 2015. Accordingly, it is in the interest of the Bank to ensure, to the extent within its control, that the Trust complies with its obligation to pay the Indicated Yield on each Regular Distribution Date.

12. Pursuant to the terms of the RBC TruCS – Series 2015 and the Series 2015 Share Exchange Agreement, the RBC TruCS – Series 2015 may be exchanged, at the option of the holder, for newly issued First Preferred Shares Series Y of the Bank ("Bank Preferred Shares Series Y"). The RBC TruCS – Series 2015 will be automatically exchanged, without the consent of the holder, for newly issued First Preferred Shares Series X of the Bank ("Bank Preferred Shares Series X") upon the occurrence of certain stated events relating to the solvency of the Bank or actions taken by the Superintendent of Financial Institutions in respect of the Bank.

13. Neither the Bank Preferred Shares Series Y nor the Bank Preferred Shares Series X are convertible into Bank Common Shares.

14. The Trust may, subject to regulatory approval, on December 31, 2010 and on any Distribution Date thereafter, redeem the RBC TruCS – Series 2015. The price payable in respect of any such redemption will include an early redemption compensation component (such price being the "Early Redemption Price") in the event of a redemption of RBC TruCS – Series 2015 prior to

December 31, 2015 (the "Early Redemption Date"). The price payable in all other cases will be $1,000 per RBC TruCS – Series 2015 together with any unpaid Indicated Yield thereon (the "Redemption Price").

15. The Bank has covenanted under the Series 2015 Share Exchange Agreement, that the Bank will maintain direct ownership of 100% of the outstanding Special Trust Securities. Subject to regulatory approval, the RBC TruCS – Series 2015 will constitute Tier I Capital of the Bank.

16. As long as any RBC TruCS – Series 2015 are outstanding and are held by any person other than the Bank, the Trust may only be terminated with the approval of the Bank as holder of the Special Trust Securities and with the approval of the Superintendent: (i) upon the occurrence of a Special Event (as defined in the Prospectus) prior to December 31, 2010; or (ii) for any reason on December 31, 2010 or any other Distribution Date thereafter. Holders of each series of outstanding Trust Securities will rank *pari passu* in the distribution of the property of the Trust in the event of a termination of the Trust after the discharge of any creditor claims. As long as any RBC TruCS – Series 2015 are outstanding and held by any person other than the Bank, the Bank will not approve the termination of the Trust unless the Trust has sufficient funds to pay the Early Redemption Price in the case of a termination prior to the Early Redemption Date, or the Redemption Price in the case of a termination at any other time.

17. As set forth in the Declaration of Trust, the RBC TruCS – Series 2015 are non-voting except in limited circumstances and Special Trust Securities entitle the holder thereof to vote.

18. Except to the extent that Distributions are payable to holders of RBC TruCS – Series 2015, and other than in the event of a termination of the Trust (as set forth in the Declaration of Trust), holders of RBC TruCS – Series 2015 have no claim or entitlement to the income of the Trust or its assets.

19. Pursuant to an administration agreement entered into between the Trustee and the Bank, as amended and restated, the Trustee has delegated to the Bank certain of its obligations in relation to the administration of the Trust. The Bank, as administrative agent, provides advice and counsel with respect to the administration of the day-to-day operations of the Trust and other matters as may be requested by the Trustee from time to time.

20. The Trust may from time to time, issue further series of Trust Capital Securities, the proceeds of which would be used to acquire additional Bank Deposit Notes.

21. On August 18, 2003, the Decision Makers granted an MRRS Decision Document to the Bank and the Trust (the "Continuous Disclosure Relief") exempting the Trust from most of the continuous disclosure requirements under the Legislation upon certain conditions, including that the Bank provide its financial statements to holders of Trust Capital Securities and file its financial statements and Annual Information Form ("AIF") on the Trust's SEDAR profile.

22. It is expected that the RBC TruCS – Series 2015 will receive an approved rating from an approved rating organization, as defined in NI 44-101.

23. At the time of the filing of any prospectus in connection with offerings of Trust Capital Securities (including the Offering):

    (i) the Trust Capital Securities will be non-convertible within the meaning of NI 44-101;

    (ii) the prospectus will be prepared in accordance with the short form prospectus requirements of NI 44-101, except as varied by this Decision or as permitted by the Legislation;

    (iii) the Trust will comply with all of the filing requirements and procedures set out in NI 44-101 except as varied by this Decision or as permitted by the Legislation;

    (iv) the prospectus will incorporate by reference the documents that would be required to be incorporated by reference under Item 12 of Form 44-101F3 if the Bank were the issuer of such securities;

(v) the Bank will satisfy the basic eligibility requirements of NI 44-101;

(vi) the prospectus disclosure required by Item 12 (other than Item 12.1(1)2) of Form 44-101F3 of NI 44-101 ("Form 44-101F3") in respect of the Trust will be addressed by incorporating by reference the Bank's public disclosure documents referred to in paragraph 23(iv) above; and

(vii) the Continuous Disclosure Relief, as amended, supplemented or replaced from time to time, is in effect.

Decision

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

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

(i) the Trust and the Bank, as applicable, comply with paragraph 23 above;

(ii) the Bank remains the direct or indirect beneficial owner of all of the outstanding Special Trust Securities;

(iii) the Bank, as holder of the Special Trust Securities, will not propose changes to the terms and conditions of any outstanding Trust Capital Securities offered and sold pursuant to a short form prospectus of the Trust filed under this decision that would result in such Trust Capital Securities being exchangeable for securities other than preferred shares of the Bank;

(iv) the Trust is not required to, and does not, file its own AIF and annual financial statements in a Jurisdiction;

(v) the Trust has minimal operations independent of the Bank;

(vi) the Trust issues a news release and files a material change report in accordance with Part 7 of the NI 51-102, as amended, supplemented or replaced from time to time, in respect of any material change in the affairs of the Trust that is not also a material change in the affairs of the Bank; and

(vii) if the Trust files a preliminary short form prospectus more than 90 days after the end of the most recently completed financial year end of the Bank, the Bank has filed audited financial statements for that year.

The further decision of the Decision Makers under the Legislation is that the Application and this decision shall be held in confidence by the Decision Makers until the earlier of the date that a preliminary short form prospectus is filed in respect of the offering of RBC TruCS -Series 2015 and October 15, 2005.

"Josée Deslauriers"
Director of Capital Markets
Autorité des marchés financiers

"Anne-Marie Beaudoin"
Director of Secretariat
Autorité des marchés financiers

2.1.8 Inco Limited - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – issuer take-over bid circular incorporates by reference issuer's annual information form – annual information form contains information with respect to issuer's material properties – issuer has not filed technical reports in support of disclosure contained in annual information form – material information previously contained in disclosure document filed before February 1, 2001 – issuer exempt from requirement to file a technical report in connection with technical disclosure contained or incorporated by reference in the take-over bid circular

Ontario Rules Cited

National Instrument 43-101 - Standards of Disclosure for Mineral Projects, ss. 4.2(1)9 and 9.1(1).

October 21, 2005

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

AND

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

AND

IN THE MATTER OF
INCO LIMITED
(the "FILER")

MRRS DECISION DOCUMENT

Background

The local securities regulatory authority or regulator (the "Decision Maker") in each of the Jurisdictions has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the "Legislation") for an exemption from the requirements under subsection 4.2(1)9 of National Instrument 43-101 *Standards of Disclosure for Mineral Projects* ("NI 43-101") to file current technical reports to support information relating to the Sudbury Mines, the Manitoba Mines and the PT Inco Properties (each as defined below) incorporated by reference into a take-over bid circular being prepared by the Filer in connection with an intended offer by the Filer to acquire all of the outstanding common shares of Falconbridge Limited (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:

The Filer

1. The Filer was incorporated in 1916 under the laws of Canada, succeeding a business established in 1902. In 1979, the Filer was continued by articles of continuance under the Canada Business Corporations Act and is governed by that Act. The Filer's registered and principal offices are located in Toronto, Ontario.

2. The Filer is a mining and metals company, and has interests, or entitlements in respect of, the following properties:

   (a) mines in operation in the Sudbury area of Ontario, which consist of the Copper Cliff North, Copper Cliff South, Creighton, Garson, Gertrude, McCreedy/Coleman and Stobie mines (collectively, the "Sudbury Mines");

   (b) mines in operation in the Thompson area of Manitoba, which consist of the Birchtree and the Thompson mines (collectively, the "Manitoba Mines");

   (c) properties on the island of Sulawesi, Indonesia (the "PT Inco Properties"), held by PT International Nickel Indonesia Tbk, an approximately 61% owned subsidiary of the Filer;

   (d) the Voisey's Bay nickel-copper-cobalt project in the Province of Newfoundland and Labrador, Canada ("Voisey's Bay"); and

   (e) the Goro nickel-cobalt project in the French overseas territorial community of

New Caledonia in which the Filer holds approximately a 70% interest ("Goro").

3. The Filer is a reporting issuer or its equivalent under the Legislation and the Filer is eligible to use the short form prospectus system established by National Instrument 44-101 – *Short Form Prospectus Distributions* ("NI 44-101").

4. The Filer files periodic reports with the U.S. Securities and Exchange Commission pursuant to the requirements of the U.S. Securities Exchange Act of 1934, as amended. the Filer's common shares are listed on the Toronto Stock Exchange and the New York Stock Exchange.

5. The authorized share capital of the Filer consists of an unlimited number of common shares and 45 million preferred shares issuable in series, each series consisting of such number of shares and having such provisions attached thereto as may be determined by the board of directors of the Filer, subject to a maximum aggregate issue price of Cdn.$1,500 million (or the equivalent in other currencies). As of October 6, 2005, there were 189,494,165 common shares and no preferred shares of the Filer issued and outstanding.

Falconbridge

6. Falconbridge Limited ("Falconbridge") is the continuing corporation resulting from the amalgamation under the *Business Corporations Act* (Ontario) of Noranda Inc. and Falconbridge on June 30, 2005. Its registered and head offices are located in Toronto, Ontario.

7. Falconbridge is a leading international copper and nickel producer with investments in fully integrated zinc and aluminium assets.

8. Falconbridge is a reporting issuer or its equivalent under the Legislation.

9. Falconbridge files periodic reports with the U.S. Securities and Exchange Commission pursuant to the requirements of the U.S. Securities Exchange Act of 1934, as amended. Falconbridge's common shares are listed on the Toronto Stock Exchange and the New York Stock Exchange.

10. The authorized capital of Falconbridge consists of an unlimited number of common shares, an unlimited number of Preferred Shares issuable in series, an unlimited number of Junior Preference Shares issuable in series and an unlimited number of Participating Shares issuable in series. As of October 10, 2005, there were issued and outstanding approximately: (i) 369,224,340 common shares; (ii) 3,246,057 Preferred Shares, Series F; (iii) 8,753,943 Preferred Shares, Series G; (iv) 6,000,000 Preferred Shares, Series H; (v) 89,835 Preferred Shares, Series 1; (vi) 4,787,283 Preferred Shares, Series 2; and (vii) 3,122,822 Preferred Shares, Series 3; (viii) 11,999,899 Junior Preference Shares, Series 1; (viii) 11,999,899 Junior Preference Shares, Series 2; and (ix) 5,999,903 Junior Preference Shares, Series 3. As of October 10, 2005, there were options to acquire an aggregate of 8,350,869 common shares outstanding under the Falconbridge's stock option plans. In addition, Falconbridge has issued Cdn.$150,000,000 aggregate principal amount of convertible debentures due April 30, 2007.

The Offer

11. The Filer has agreed to make an offer by way of formal take-over bid (the "Offer") to acquire all of the outstanding common shares of Falconbridge in accordance with, and subject to the terms and conditions of, a Support Agreement dated October 10, 2005 between the Filer and Falconbridge. As consideration, the Filer intends offer holders of the Falconbridge common shares either: (i) Cdn.$34 in cash; or, in the alternative (ii) 0.6713 of a common share of the Filer and Cdn.$0.05 in cash, for each common share of Falconbridge tendered to the Offer, subject to proration as will be described in the Offer.

12. The Filer intends to commence the Offer by mailing an offer and take-over bid circular containing the terms of the Offer and related information (collectively, the "Take-Over Bid Circular") to its shareholders on or about October 21, 2005. The Take-Over Bid Circular will incorporate by reference a number of documents previously filed by the Filer in each Jurisdiction, including its annual report on Form 10-K for the year ended December 31, 2004, filed in satisfaction of its requirement to file an annual information form (the "AIF").

13. The disclosure in the Take-Over Bid Circular regarding the mining projects on the Filer's material properties will be incorporated by reference from the Filer's current AIF. No technical reports in respect of Sudbury Mines, the Manitoba Mines or the PT Inco Properties were required with respect to the disclosure contained in the AIF, on the basis that no material information was included concerning mining projects on material properties that had not been contained in a disclosure document filed before February 1, 2001 (as provided by section 4.2(1)6(a) of NI 43-101). Similarly, no technical report requirement would exist in the event that the Filer wished to use this disclosure in connection with a short-form prospectus offering in Canada of common shares of the Filer (as provided by section 4.2(1)2(a) of NI 43-101).

14. The Filer has filed in each Jurisdiction a technical report, effective as of August 31, 2003, in respect

of Voisey's Bay that complies with the requirements of NI 43-101 (the "Voisey's Bay Report"), and there has been no material change relating to the information contained in the Voisey's Bay Report since its effective date.

15. The Filer has filed in each Jurisdiction a technical report, effective as of March 20, 2003, in respect of Goro that complies with the requirements of NI 43-101 (the "Goro Report"), and there has been no material change relating to the information contained in the Goro Report since its effective date.

16. Concurrently with filing the Take-Over Bid Circular in each Jurisdiction, the Filer will file the Certificates of Qualified Persons and Consents of Qualified Persons required by sections 8.1 and 8.3 of NI 43-101, respectively, as they pertain to the Voisey's Bay Report and the Goro Report.

17. The Filer has not filed technical reports in respect of the Sudbury Mines, the Manitoba Mines and the PT Inco Properties. The material information concerning mining projects in respect of each of the Sudbury Mines, the Manitoba Mines and the PT Inco Properties, which will be included in or incorporated by reference into the Take-Over Bid Circular, was previously contained in disclosure documents filed in each of the Jurisdictions before February 1, 2001.

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 is that the Requested Relief is granted.

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

2.1.9 Sargold Resource Corporation - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – Relief granted from the requirement to file financial statements with a business acquisition report that have been audited in accordance with either Canadian or United States generally accepted auditing standards; financial statements audited in accordance with Australian generally accepted auditing standards.

Rules Cited

National Instrument 52-107 – Acceptable Accounting Principles, Auditing Standards and Foreign Currency.
National Instrument 51-102 – Continuous Disclosure Obligations.

Citation: Sargold Resource Corporation, 2005 ABASC 808

October 4, 2005

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

AND

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

AND

IN THE MATTER OF
SARGOLD RESOURCE CORPORATION
(THE FILER)

MRRS DECISION DOCUMENT

Background

The local securities regulatory authority or regulator (the Decision Maker) in each of the Jurisdictions has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) in connection with the preparation and filing of a business acquisition report relating to a significant acquisition recently completed by the Filer (the Acquisition) that the Filer not be required to re-audit, in accordance with Canadian Generally Accepted Auditing Standards (GAAS) the annual financial statements for the acquired business, which are presently audited in accordance with Australian GAAS (the Requested Relief).

Under the Mutual Reliance Review System for Exemptive Relief Applications:

(a) the Alberta 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 upon the following facts represented by the Filer:

1. The Filer was incorporated under the laws of Canada on May 25, 1998 and its head office is located at Suite 400 – 837 West Hastings Street, Vancouver, British Columbia, Canada, V6C 3N6. The Filer's registered office is located at Suite 2300 – 1055 Dunsmuir Street, Vancouver, British Columbia, Canada V7X 1J1. The Filer's financial year-end is December 31. The Filer is a "venture issuer" within the meaning of National Instrument 51-102 (NI 51-102).

2. The Filer is engaged in the acquisition, exploration and development of mineral resources, primarily on the Island of Sardinia, Italy.

3. The authorized capital of the Filer at the date hereof consists of an unlimited number of Class A Common Shares, an unlimited number of Class B Common Shares, and an unlimited number of Preferred Shares, of which 34,394,296 Class A Common Shares are issued and outstanding. The Class A Common Shares of the Filer are listed and posted for trading on the TSX Venture Exchange, Inc. (TSXV).

4. The Filer is a reporting issuer in the provinces of British Columbia, Alberta, Saskatchewan, Ontario and Quebec and is not currently in default of the securities legislation in any of these jurisdictions other than with respect to the requirement to file a business acquisition report under section 8.2 of NI 51-102 on or before January 3, 2005 in the provinces of Alberta, Saskatchewan, Ontario and Quebec.

5, Gold Mines of Sardinia Plc is a public corporation limited by shares and formed under the laws of England and Wales on July 5, 2000 (GMS PLC). The shares of GMS PLC trade on the Alternative Investment Market of the London Stock Exchange.

6. Prior to March 2, 2004, GMS PLC held:

   (a) all of the outstanding shares of Medoro Resources Ltd. (MRL), a corporation incorporated under the laws of the Yukon Territory on November 14, 2003;and

   (b) all of the ordinary shares of Gold Mines of Sardinia Pty. Limited (GMS), a proprietary company limited by shares and formed under the laws of Australia on May 8, 1987.

7. GMS indirectly holds 90% of the shares of Sardinia Gold Mining S.p.A. ("SGM"), a corporation formed under the laws of Italy. SGM holds a former operating mine and certain mineral tenures and associated rights located on the island of Sardinia, Italy.

8. Prior to March 2, 2004, Full Riches Investments Ltd. (Full Riches) was a public company incorporated under the laws of British Columbia on December 1, 1980 and was listed on the NEX board of the TSXV.

9. On March 2, 2004, Full Riches, MRL and GMC PLC underwent a corporate reorganization and business combination pursuant to which, *inter alia*:

   (a) GMS PLC transferred all of the shares of GMS to MRL;

   (b) Full Riches and MRL amalgamated to form Medoro Resources Ltd. (Medoro), a corporation subsisting under the laws of the Yukon Territory;

   (c) the former shareholders of Full Riches (as a group) received approximately 50% of the shares of Medoro and the shareholders of GMS PLC (as a group) received approximately 50% of the shares of Medoro; and

   (d) the common shares of Medoro were listed and posted for trading on the TSXV.

10. On September 8, 2004, the Filer announced an agreement to acquire of all of the issued and outstanding shares of GMS from Medoro. The Acquisition of the shares of GMS closed on October 20, 2004.

11. At the time of its acquisition by the Filer, GMS was not a reporting issuer in any jurisdiction and its securities were not listed on any stock exchange, although it was wholly owned by Medoro, whose common shares are listed and posted for trading on the TSXV.

12. The financial year-end of both Medoro and GMS is December 31. On November 15, 2004, Medoro filed its interim financial statements for the three and eleven month periods ended September 30, 2004 which include, on a consolidated basis, the

accounts of GMS and SGM, expressed in Canadian dollars and under Canadian GAAP;

13. GMS is a "foreign issuer", as defined in NI 52-107, as it is incorporated under the laws of a foreign jurisdiction (Australia) and, although in excess of 50% of its voting securities are owned by a resident of Canada (initially Medoro, and now the Filer), its directors, officers and assets are outside of Canada and it is not administered principally in Canada. However, GMS is also not a "designated foreign issuer" as defined in NI 52-107, as in excess of 10% of its equity securities are owned by residents of Canada (initially Medoro, and now the Filer).

14. The financial statements of GMS to date have been prepared and audited according to generally accepted accounting principles (GAAP) and GAAS in Australia.

15. The Acquisition constitutes a "significant acquisition" of the Filer for the purposes of NI 51-102 requiring the Filer to file a business acquisition report on or before January 3, 2005 pursuant to section 8.2 of NI 51-102.

16. Pursuant to section 8.4 of NI 51-102, the business acquisition report must be accompanied by certain financial statements of GMS. NI 52-107 sets out the GAAP and GAAS permitted to be used in the preparation and auditing of financial statements required top be filed under NI 51-102. The GAAP and GAAS used in the preparation and auditing of GMS's financial statements do not comply with the standards set out in NI 52-107.

17. The Filer has obtained an auditors' report from Ernst & Young Australia (the Auditors' Report), the auditors of GMS, which is accompanied by a statement by the auditor (the Statement) that:

    (a) describes the material differences in the form and content of the Auditors' Report prepared in accordance with Australian GAAS as compared to an auditors' report prepared in accordance with Canadian GAAS (Canadian GAAS); and

    (b) indicates that the Auditors' Report prepared in accordance with Canadian GAAS would not contain a reservation.

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 be granted, provided that:

(a) the Filer otherwise files a business acquisition report in respect of the Acquisition in accordance with Part 8 of NI 51-102, including the financial statements required thereunder; and

(b) the Filer files financial statements of GMS audited in accordance with Australian GAAS, which financial statements will include the Auditors' Report, the Statement and a reconciliation to Canadian GAAP of the statements for the most recently completed year end and for the most recently completed interim period of GMS, as required by subsections 6.1(4) of NI 52-107.

"Fred Snell" FCA
Acting Director, Capital Markets

2.2 Orders

2.2.1 Jones Collombin Investment Counsel Inc. - ss. 74(1), 83 and 144(1) of the Act and s. 213(3)(b) of the LCTA

Headnote

Relief from the dealer registration and prospectus requirements in the Securities Act (Ontario) to permit the distribution of related pooled fund units to fully managed accounts on an exempt basis subject to certain conditions. Mutual fund deemed to have ceased to be a reporting issuer. Approval under the Loan and Trust Corporations Act (Ontario) for the mutual fund manager to act as trustee for its pooled funds.

Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 25, 53, 74(1), 83, 144.
Loan and Trust Corporations Act, R.S.O. 1990, c. L.25, as am., s. 213(3)(b).

Rules Cited

OSC Rule 45-501 – Exempt Distributions.
National Instrument 45-106 – Prospectus and Registration Exemptions.
National Instrument 81-102 - Mutual Funds.

October 6, 2005

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

AND

IN THE MATTER OF
THE LOAN AND TRUST CORPORATIONS ACT,
R.S.O. 1990, c.L25, AS AMENDED (the "LTCA")

AND

IN THE MATTER OF
JONES COLLOMBIN INVESTMENT COUNSEL INC.
("JCIC")

RULING AND ORDER
(Subsections 74(1) and 144(1), Section 83
of the Act and Paragraph 213(3)(b) of the LTCA)

WHEREAS on July 5, 2005, the Ontario Securities Commission ("Commission") made a ruling pursuant to subsection 74(1) of the Act ("Original Ruling") in the form of a Mutual Reliance Review System Decision Document that the requirements of section 25 should not apply in respect of any trades in shares or units of a mutual fund ("JCIC Fund") that is managed by JCIC that are made by JCIC to a Managed Account (as defined below);

AND WHEREAS the Original Ruling also granted relief from the registration requirements under the *Securities Act* (Alberta) (the "Alberta Act");

AND WHEREAS JCIC wishes to vary the Original Ruling to:

(a) grant relief from the prospectus requirements of section 53 of the Act with respect to the distribution of units or shares of JCIC Funds to Managed Accounts;

(b) delete references to the Alberta Act;

(c) grant relief to permit Jones Collombin Balanced Fund to be deemed to have ceased to be a reporting issuer for the purposes of the Act with effect as of and from October 8, 2005; and

(d) approve, pursuant to the authority conferred by clause 213(3)(b) of the LTCA, that JCIC act as trustee of JCIC Funds.

(e) **AND WHEREAS** in order to so vary the Original Ruling, JCIC has made an application to the Commission ("Application") pursuant to subsections 144(1), 74(1) and 83 of the Act and paragraph 213(3)(b) of the *Loan and Trust Corporations Act* (Ontario) ("LTCA") for an order revoking the Original Ruling and restating the Original Ruling as set out below;

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

AND UPON JCIC having represented to the Commission as follows:

1. JCIC is a corporation incorporated under the *Business Corporations Act* (Ontario) which conducts active portfolio management operations (the "Portfolio Management Operations") offering services to a large and diversified client base.

2. JCIC currently has assets under management of approximately $627 million.

3. JCIC's Portfolio Management Operations are designed to provide services to the following distinct business segments:

(a) Private clients – high net worth individuals who access JCIC's portfolio management services by establishing and maintaining segregated individually managed accounts.

(b) Institutional clients – corporations, institutions, endowments and foundations which have their assets managed in segregated individually managed accounts.

4. JCIC conducts its Portfolio Management Operations in accordance with adviser registrations which it maintains with each of the securities regulatory authorities in Ontario, British Columbia, Alberta and Quebec.

5. In Ontario, JCIC is registered under the Act as an adviser in the categories of investment counsel and portfolio manager and as a dealer in the category of limited market dealer.

6. JCIC's Portfolio Management Operations are devoted to providing discretionary portfolio management services to investment portfolio accounts ("Managed Accounts") of clients, under which JCIC, pursuant to a written agreement made between JCIC and each client, makes investment decisions for the client's Managed Account and has full discretionary authority to trade in securities for the Managed Account without obtaining the specified consent of the client to the trade.

7. In order to afford Managed Account access to individuals who would not generally be considered to have sufficient assets to warrant the establishment of a Managed Account due to related cost and asset diversification considerations ("Smaller Accounts"), JCIC sought and obtained the Original Ruling which was an exemption from the dealer registration requirements of the Act and the Alberta Act to permit it to distribute units of prospectus qualified mutual funds managed by JCIC ("JCIC Funds") to Managed Accounts.

8. Currently, there is one such JCIC Fund, namely, Jones Collombin Balanced Fund, which is a reporting issuer in Ontario, Alberta and British Columbia.

9. JCIC sought and obtained the Original Ruling in Ontario because JCIC was not considered to be an accredited investor as regards a JCIC Fund for purposes of the accredited investor exemption that was then available pursuant to Ontario Securities Commission ("OSC") Rule 45-501 *Exempt Distributions* ("OSC Rule 45-501"). In section 1.1 of OSC Rule 45-501, the term "accredited investor" was defined to include "(x) … a fully managed account if it is acquiring a security that is not a security of a mutual fund or non-redeemable investment fund". As a result of this definition, a distribution of units or shares of a JCIC Fund to a Managed Account in Ontario was not exempt from the dealer registration and prospectus requirements of the Act because a Managed Account was not an accredited investor for purposes of OSC Rule 45-501 when it acquired such units or shares. The Original Ruling was obtained in Alberta because Alberta did not have a dealer registration or prospectus exemption for managed accounts when JCIC became registered as an adviser in Alberta and this continued to be the case until Multilateral Instrument 45-103 Capital Raising Exemptions ("MI 45-103") became effective on June 30, 2005. Implementation of MI 45-103 caused the Original Ruling to terminate on June 30, 2005 as regards the exemption that it granted from the dealer registration requirement of the Alberta Act.

10. On September 14, 2005, National Instrument 45-106 *Prospectus and Registration Exemptions* ("NI 45-106") became effective. NI 45-106 characterizes registered portfolio managers as accredited investors without qualification in all jurisdictions other than Ontario. In Ontario, a portfolio manager continues to be characterized as an accredited investor only when it is purchasing a security that is not an investment fund. Ontario continues to refrain from characterizing a portfolio manager as an accredited investor when it is purchasing the securities of an investment fund due to recent events concerning hedge funds.

11. The only costs that are incurred by a JCIC Fund are expenses associated with its ongoing administration. JCIC Funds pay no management fees and no fees or commissions in relation to the distribution of their units or shares. The only management fees that are paid by a Managed Account that holds the units or shares of a JCIC Fund are paid directly to JCIC pursuant to the discretionary investment management agreement that is entered into between JCIC and every Managed Account.

12. JCIC does not distribute the units or shares of JCIC Funds, and it does not offer its investment management services, through any third parties. Accordingly, neither JCIC nor any JCIC Fund pays any fees or commissions for the sale of JCIC's investment management services or the units or shares of a JCIC Fund.

13. The one currently existing JCIC Fund is not, and future JCIC Funds will not be, hedge funds because they are designed to provide Smaller Accounts with access to an investment portfolio that is managed in the same way in which JCIC manages its other Managed Accounts.

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

IT IS ORDERED, pursuant to subsection 144(1) of the Act, and with respect to Ontario only, that the Original Ruling is revoked in respect of future distributions of units or shares of JCIC Funds to Managed Accounts; and

IT IS RULED, pursuant to subsections 74(1) and 144(1) of the Act that sections 25 and 53 of the Act shall not apply to a distribution of the units or shares of a JCIC Fund that is made by JCIC, through its officers and employees acting on its behalf (each a "JCIC Representative"), to Managed Accounts,

PROVIDED THAT:

(a) JCIC is at the time of the trade, registered under the Act as an advisor in the category of "portfolio manager";

(b) JCIC is, at the time of the trade, registered under the Act as a dealer in the category of "limited market dealer" and the trade is made on behalf of JCIC by a JCIC Representative who is, at the time of the trade, either (i) registered under Act to act on behalf of JCIC as an adviser in the category of "portfolio manager", or (ii) acting under the direction of such a person and is himself or herself registered under the Act to trade on behalf of JCIC pursuant to its limited market dealer registration;

(c) the JCIC Fund is organized or created under the laws of Canada or the laws of a Province of Canada;

(d) the JCIC Fund meets the definition of mutual fund as defined in the Act; and

(e) the JCIC Fund is in compliance with Part 2 Investments and Part 6 Custodianship of Portfolio Assets of National Instrument 81-102 Mutual Funds;

and this Ruling shall terminate one year after the coming into force, subsequent to the date of this Ruling of a rule or other regulation under the Act that relates, in whole or in part, to any trading by persons or companies that are registered under the Act as portfolio managers, in securities of a mutual fund, to an account of a client, in respect of which the person or company has full discretionary authority to trade in securities for the account, without obtaining the specific consent of the client to the trade, but does not include any rule or regulation that is specifically identified by the Commission as not applicable for these purposes.

IT IS HEREBY ORDERED pursuant to section 83 of the Act that Jones Collombin Balanced Fund is deemed to have ceased to be a reporting issuer for the purposes of the Act with effect as of and from October 8, 2005.

IT IS HEREBY APPROVED pursuant to the authority conferred by clause 213(3)(b) of the LTCA that JCIC act as trustee of JCIC Funds.

"Paul Moore"
Vice Chair
Ontario Securities Commission

"Paul Bates"
Commissioner
Ontario Securities Commission

2.2.2 Fulcrum Financial Group Inc., Secured Life Ventures Inc., Zephyr Alternative Power Inc., Troy Van Dyk and William L. Rogers - ss, 127(1), 127(5)

November 3, 2005

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

AND

IN THE MATTER OF
FULCRUM FINANCIAL GROUP INC., SECURED LIFE VENTURES INC., ZEPHYR ALTERNATIVE POWER INC., TROY VAN DYK and WILLIAM L. ROGERS

TEMPORARY ORDER
Subsection 127(1) & 127(5)

WHEREAS it appears to the Commission:

1. Fulcrum Financial Group Inc. ("Fulcrum") is an Ontario corporation that was incorporated in December 2004.

2. Fulcrum carries on business as an insurance agency licensed by the Financial Services Commission of Ontario (FSCO) and is not registered in any capacity with the Commission.

3. The President and sole Director of Fulcrum is Troy Van Dyk of Delaware, Ontario. He is an insurance agent licensed by FSCO. Van Dyk is not registered in any capacity with the Commission.

4. The Executive Vice-President of Fulcrum is William L. Rogers of London, Ontario. He is an insurance agent licensed by FSCO. Rogers is not currently registered with the Commission.

5. Fulcrum, Van Dyk, Rogers and other employees or agents of Fulcrum have been trading the following securities (collectively, the "Subject Securities"):

   (a) Secured Life Notes which are a combination of promissory notes and shares of Secured Life Ventures Inc., an Ontario corporation that invests in managing general agencies of insurance companies. The subscription agreement for Secured Life Ventures Inc. purports to provide an annual return on total amounts invested of 10% for 10 years.

   (b) convertible debentures in Zephyr Alternative Power Inc., an Ontario corporation that manufactures wind turbines. The subscription agreement for Zephyr purports to provide an annual return of up to 10.25%.

   (c) common shares in the operating business of Fulcrum.

6. The trades of the Subject Securities are trades of securities not previously issued, and are therefore distributions.

7. Van Dyk and Rogers have made misleading representations to investors regarding the Subject Securities including representations regarding their future listing and future value, contrary to s. 38 of the *Securities Act*.

8. Fulcrum and its representatives rely on the exemptions contained in Rule 45-501 in circumstances where the conditions of the Rule have not been satisfied.

9. Fulcrum and its representatives are not registered to trade the Subject Securities, contrary to s. 25 of the *Securities Act*.

10. No prospectus has been receipted for any of the Subject Securities, contrary to s.53 of the *Securities Act*.

AND WHEREAS the Commission is of the opinion that the time required to conclude a hearing could be prejudicial to the public interest;

AND WHEREAS By Commission Order made November 1, 2005 pursuant to section 3.5(3) of the Act, any one of W. David Wilson, Susan Wolburgh Jenah and Paul M. Moore, acting alone, is authorized to make orders under section 127 of the *Securities Act;*

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

IT IS ORDERED pursuant to subsection 127(1), paragraph 2, of the *Securities Act* that all trading in the following securities shall cease:

   (i) Secured Life Ventures Inc.

   (ii) Zephyr Alternative Power Inc.

   (iii) Fulcrum Financial Group Inc.

IT IS FURTHER ORDERED pursuant to subsection 127(1), paragraph 3, of the *Securities Act* that the exemptions contained in Ontario securities law do not apply to Troy Van Dyk and William L. Rogers.

IT IS FURTHER ORDERED that pursuant to subsection 127(6) of the *Securities Act* this order shall take effect immediately and shall expire on the fifteenth day after its making unless extended by order of the Commission.

"Paul Moore"

2.2.3 Foccini International Inc. - s. 144

Headnote

Cease trade order revoked where the issuer has remedied its default in respect of disclosure requirements under the Act.

Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 127(1)2, 127(5), 127(8), 144.

November 3, 2005

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

AND

IN THE MATTER OF
FOCCINI INTERNATIONAL INC.

ORDER
(Section 144)

WHEREAS the securities of **Foccini International Inc.** (the "**Corporation**") currently are subject to an order (the "**Temporary Order**") made by the Director on behalf of the Ontario Securities Commission (the "**Commission**"), pursuant to paragraph 2 of subsections 127(1) and 127(5) of the Act on the 4th day of July, 2005 as extended by a further order (the "**Permanent Order**") of the Director, made on the 15th day of July, 2005 on behalf of the Commission pursuant to subsection 127(1) of the Act, that trading in the securities of the Corporation cease until the Permanent Order, is revoked by a further Order of Revocation;

AND WHEREAS the Issuer has applied to the Ontario Securities Commission (the Commission) for revocation of the Cease Trade Order pursuant to section 144 of the Act.

AND WHEREAS the Corporation has represented to the Director that:

1. The name of the Corporation is Foccini International Inc.

2. The Corporation was incorporated by certificate of incorporation issued pursuant to the provisions of the *Business Corporations Act* (Ontario) on March 4, 1983 and is a reporting issuer in the Provinces of Ontario, British Columbia, and Alberta.

3. The authorized capital of the Corporation consists of an unlimited number of common shares of which 47,588,602 common shares are issued and outstanding as fully paid and non-assessable.

4. The Cease Trade Order was issued as a result of the Corporation's failure to file its annual financial statements for the year ended December 31, 2004 (the"2004 Financial Statements") as required by the Act.

5. On October 3, 2005, the Corporation filed its December 31, 2004 annual financial statements and the interim financial statements for the three-month ended March 31, 2005 and the six-month period ended June 30, 2005. The Corporation has now brought its Continuous Disclosure filings up to date.

6. Except for the Cease Trade Order, the Corporation is not otherwise in default of any of the requirements of the Act or Regulation.

AND WHEREAS the undersigned is satisfied that the Corporation has remedied its default in respect of the filing requirements and is of the opinion that it would not be prejudicial to the public interest to revoke the Temporary Order as extended by the Permanent Order;

NOW THEREFORE IT IS ORDERED pursuant to section 144 of the Act that the Temporary Order and Permanent Order be and they are hereby revoked.

"John Hughes"
Corporate Finance
Ontario Securities Commission

2.2.4 The Medipattern Corporation - 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 and Alberta - Issuer's securities trade on the TSX Venture Exchange - Issuer recently completing a qualifying transaction pursuant to Policy 2.4 - Capital Pool Companies of the TSX Venture Exchange - Issuer having a significant connection to Ontario – Continuous disclosure obligations in British Columbia and Alberta substantially the same as those in Ontario.

Applicable Ontario Statutory Provisions

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

November 3, 2005

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

AND

IN THE MATTER OF
THE MEDIPATTERN CORPORATION

ORDER
(Subsection 83.1(1))

UPON the application of The Medipattern Corporation (the "**Applicant**") for an order pursuant to subsection 83.1(1) of the Act deeming the Applicant 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 Applicant representing to the Commission and the Director under the Act as follows:

1. The Applicant is a corporation amalgamated under the *Business Corporations Act* (Ontario)(the "**OBCA**").

2. The Applicant (formerly Skoobins Resources Inc. ("**Skoobins**"), a predecessor amalgamating corporation incorporated under the *Alberta Business Corporations Act* on May 22, 2002) has been a reporting issuer in the province of Alberta since May 7, 2003, the date on which it received a final receipt from the Alberta Securities Commission for the filing of a capital pool company ("**CPC**") prospectus.

3. The Applicant became a reporting issuer in the province of British Columbia automatically on July 30, 2003, the date on which its common shares were listed and began trading on the TSX Venture Exchange ("**TSX Venture**").

4. The Applicant is not currently a reporting issuer or the equivalent in any jurisdiction in Canada other than Alberta and British Columbia.

5. The Applicant's head and registered office is currently in Toronto, Ontario.

6. The authorized capital of the Applicant consists of unlimited common shares and an unlimited number of preferred shares issuable in series. As of October 11, 2005, no preferred shares and 31,953,089 common shares were issued and outstanding.

7. The trading of the common shares of the Applicant (then known as Skoobins) was halted on TSX Venture on November 8, 2004 pending receipt and review of acceptable documentation regarding the Applicant's proposed "**Qualifying Transaction**" pursuant to Policy 2.4 – *Capital Pool Companies* of TSX Venture.

8. Trading in Skoobin's common shares on TSX Venture resumed on November 26, 2004, following the issuance of a news release by Skoobins on November 23, 2004, announcing the proposed Qualifying Transaction in which Skoobins would amalgamate with The Medipattern Corporation ("**Medipattern**", then a private issuer which was incorporated in 1999 under the OBCA) to form the Applicant as the amalgamated corporation (the "**Amalgamation**").

9. Skoobins distributed a management information circular dated March 22, 2005 (the "**Circular**") to the holders of its common shares with respect to an annual and special meeting of shareholders of Skoobins held on April 19, 2005 (the "**Meeting**"). The Circular:

   (a) was prepared in connection with the Qualifying Transaction;

   (b) contained the prospectus level disclosure required by section 14.2 of Form 51-102F5 – *Information Circular* under National Instrument 51-102 – *Continuous Disclosure Obligations* concerning the Qualifying Transaction; and

   (c) complied with the policies and requirements of TSX Venture in respect of the Qualifying Transaction.

10. At the Meeting, the shareholders of Skoobins approved the Amalgamation by special resolution.

11. Effective April 21, 2005, Skoobins continued under the OBCA.

12. Effective April 22, 2005, Skoobins amalgamated with Medipattern pursuant to the OBCA and the amalgamated corporation continued under the

name "The Medipattern Corporation". Following the Amalgamation, the Applicant (continuing as the amalgamated corporation) remained a reporting issuer in British Columbia and Alberta pursuant to applicable securities legislation.

13. For accounting purposes, the Amalgamation was treated as a reverse take-over, with Medipattern the reverse take-over acquirer. The year-end of the amalgamated corporation is June 30, the same as that of Medipattern.

14. On May 6, 2005 the common shares of the Applicant commenced trading on the TSX Venture under the symbol "**MKI**".

15. As of May 6, 2005, the Applicant was no longer considered to be a CPC by TSX Venture. Following the Amalgamation, the Applicant carried on the business of a medical imaging software company (which was the business previously carried on by Medipattern).

16. The Applicant has determined that it has a significant connection to Ontario since its mind and management are principally located in Ontario and it has registered holders and beneficial owners of its common shares resident in Ontario who beneficially own more than 10% of the number of issued and outstanding common shares of the Applicant.

17. The Applicant is not on the list of defaulting reporting issuers maintained pursuant to the *Securities Act* (Alberta) (the "**Alberta Act**") or pursuant to *Securities Act* (British Columbia) (the "**British Columbia Act**"). The Applicant is up to date in the filing of its financial statements and other continuous disclosure documents required under the Alberta Act and the British Columbia Act.

18. The continuous disclosure requirements of the Alberta Act and the British Columbia Act are substantially the same as the requirements under the Act.

19. The continuous disclosure materials filed by the Applicant under the Alberta Act and the British Columbia Act are available on the System for Electronic Document Analysis and Retrieval ("**SEDAR**").

20. The Applicant's securities are not traded on any stock exchange or trading or quotation system other than TSX Venture.

21. The Applicant is not in default of any of the rules, regulations or policies of TSX Venture.

22. Neither the Applicant nor any of its officers or directors, nor to the knowledge of the Applicant, its officers and directors, any of its controlling shareholders, has:

    (a) been subject to any penalties or sanctions imposed by a court relating to Canadian securities legislation or by a Canadian securities regulatory authority,

    (b) entered into a settlement agreement with a Canadian securities regulatory authority, or

    (c) been subject to any other penalties or sanctions imposed by a court or regulatory body that would be likely to be considered important to a reasonable investor making an investment decision.

23. Neither the Applicant nor any of its officers and directors nor, to the knowledge of Applicant, its officers and directors, any of its controlling shareholders, 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 10 years.

24. None of the officers or directors of the Applicant, nor to the knowledge of the Applicant, its officers and directors, any of its controlling shareholders, is or has been at the time of such event an officer or director of any other issuer which is or has been subject to:

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

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

25. The Applicant will remit all participation fees due and payable by it pursuant to Ontario Securities Commission Rule 13-502 - *Fees* by no later than two business days from the date hereof.

26. The Applicant will amend its filer profile on SEDAR to indicate that it is a reporting issuer in Ontario by not later than one business day from the date hereof.

AND UPON the Director under the Act 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 Applicant be deemed a reporting issuer for the purposes of Ontario securities law.

"Iva Vranic"
Manager, Corporate Finance
Ontario Securities Commission

2.2.5 Goodman & Company, Investment Counsel Ltd. - s. 121(2)(a)(ii)

Headnote

One time trade of securities between mutual funds in the same family of funds that are not reporting issuers to implement fund merger is exempted from the conflict of interest restrictions in section 118(2)(b).

Statutes Cited:

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 118(2)(b), 121(2)(a)(ii).

November 8, 2005

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

AND

**IN THE MATTER OF
GOODMAN & COMPANY,
INVESTMENT COUNSEL LTD.**

**ORDER
(clause 121(2)(a)(ii))**

WHEREAS the Ontario Securities Commission has received an application (the "Application") from Goodman & Company, Investment Counsel Ltd. ("Goodman") for an order pursuant to clause 121(2)(a)(ii) of the *Securities Act* (Ontario) (the "*Securities Act*") for relief from the prohibition in paragraph 118(2)(b) of the *Securities Act* in connection with the merger (the "Merger") of Dynamic Equity Hedge Fund into Dynamic Alpha Performance Fund (each, a "Fund" and collectively, the "Funds");

AND WHEREAS it has been represented by Goodman that:

1. Each Fund is a "mutual fund in Ontario" as defined in the *Securities Act*.

2. Each Fund was established as a trust and Goodman is the trustee, manager and portfolio manager of each Fund.

3. Each Fund offers its units in all of the Provinces and Territories of Canada pursuant to applicable prospectus exemptions.

4. The Funds are not offered by way of prospectus and are neither "reporting issuers" nor subject to National Instrument 81-102.

5. The approval of the unitholders of Dynamic Equity Hedge Fund (the "Terminating Fund") and Dynamic Alpha Performance Fund (the "Continuing Fund") is not required by the Funds'

constating documents or offering documents or under applicable securities laws in order to effect the Merger.

6. The Merger will be advantageous for investors because, among other reasons:

   (a) investors in the Continuing Fund will enjoy increased economies of scale and potentially lower management expenses borne indirectly by investors as part of a larger Fund; and

   (b) investors will benefit from becoming investors in a larger Fund which will be better able to maintain a diversified, well-managed portfolio with a smaller proportion of assets set aside to fund redemptions.

7. The Terminating Fund and the Continuing Fund have the same fee structures and valuation procedures.

8. The assets of the Terminating Fund will be transferred to the Continuing Fund at a value determined in accordance with the valuation procedures set out in the constating documents of the Terminating Fund and the Continuing Fund. The Continuing Fund will then issue units of the Continuing Fund to the Terminating Fund having an aggregate net asset value equal to the value of the assets transferred. Because the transfer of assets will take place at a value determined by common valuation procedures and the issue of units will be based upon the net asset value of the assets received by the Continuing Fund, Goodman believes that there will be no conflict of interest for Goodman to effect the Merger.

9. Units of the Funds are redeemable weekly at their respective net asset values. Unitholders of the Terminating Fund will be given sufficient notice of the Merger to allow them to redeem their units prior to the Merger, should they wish to do so. A letter dated November 7, 2005 (which date is at least 30 days prior to the date of the Merger) was sent to the unitholders of the Terminating Fund notifying the unitholders of the Merger.

10. Goodman expects to implement the Merger on or about December 9, 2005, and in any event no later than December 31, 2005.

11. In the opinion of Goodman, the Merger will not adversely affect unitholders of the Terminating Fund or the Continuing Fund.

12. In the absence of this order, Goodman would be prohibited from purchasing and selling the securities of the Terminating Fund in connection with the Merger.

AND WHEREAS the Commission is satisfied that the test contained in the legislation that provides the Commission with the jurisdiction to make the Order has been met;

IT IS ORDERED pursuant to clause 121(2)(a)(ii) that paragraph 118(2)(b) of the *Securities Act* shall not apply so as to prevent the sale of the assets of the Terminating Fund to the Continuing Fund in connection with the Merger provided that the Merger is completed no later than December 31, 2005.

"Paul M. Moore"

"Carol S. Perry"

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Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 OSC Decisions, Orders and Rulings

3.1.1 Patrick Fraser Kenyon Pierrepont Lett, Milehouse, Investment Management Limited, Pierrepont Trading Inc., BMO Nesbitt Burns Inc., John Steven Hawkyard and John Craig Dunn

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

AND

IN THE MATTER OF
PATRICK FRASER KENYON PIERREPONT LETT,
MILEHOUSE INVESTMENT MANAGEMENT LIMITED,
PIERREPONT TRADING INC., BMO NESBITT BURNS INC.,
JOHN STEVEN HAWKYARD AND JOHN CRAIG DUNN

IN THE MATTER OF
JOHN CRAIG DUNN

HEADNOTE

Conduct Contrary to the Public Interest – Misleading Representations – Proof of Funds Letters - Public Interest Jurisdiction – Registrant – Branch Manager of Registered Dealer

From July 1986 to February 2002, Dunn was a registrant and a branch manager of a registered dealer. From January 1996 to October 1999, he provided or caused others to provide Patrick Fraser Kenyon Pierrepont Lett ("Lett") with letters that contained misleading representations (referred to as the "Proof of Funds Letters") regarding the accounts of Milehouse and Pierrepont at Nesbitt. These letters were intended to be relied on by third parties and intended to mislead the reader into believing three things: (1) that there were funds in the account; (2) that the money would be held in the Nesbitt account for a specified period of time, where in fact there was no such facility; and (3) the monies in the account belonged to the account holder and were of a non criminal origin, when appropriate steps were not taken to ensure this assertion was true. Seven investors deposited $21 million dollars into the Lett accounts during the period in question.

The panel held that the respondent's actions, in preparing and signing such letters and causing others to prepare and sign these letters, were contrary to the public interest. The panel ordered: (1) pursuant to clause 1 of subsection 127(1) of the Act, Dunn's registration be terminated for a period of 10 years and that Dunn be prohibited permanently from having a supervisory or managerial role with a registrant; (2) pursuant to clause 8 of subsection 127(1) of the Act, Dunn be permanently prohibited from becoming or acting as a director or officer of a registrant; (3) pursuant to clause 6 of subsection 127(1), Dunn is reprimanded; and (4) pursuant to subsection 127.1(2) of the Act, Dunn shall pay the costs of Staff's investigation and the hearing in the amount of $126,938.50.

Hearing Dates: May 10, 12, 13, 2004.

Panel:	**Wendell S. Wigle, Q.C.**	**Commissioner (Chair of the Panel)**
	Paul K. Bates	**Commissioner**
Counsel:	**Karen Manarin**	**For Staff of the Ontario Securities Commission**

REASONS

[1] This hearing, held on May 10, 12, and 13, 2004, involved the Respondent John Craig Dunn ("Dunn") , the proceedings against the other Respondents having already been heard.

[2] At the outset of the hearing, Commissioner Davis recused himself from the Panel in that he had sat on two prior settlement hearings in this matter and two of the witnesses to be called had testified before him on those hearings. This hearing proceeded before Commissioners Wigle and Bates who constituted a quorum under section 2(11) of the Ontario *Securities Act* (the Act).

[3] From July 1986 to February 2002, Dunn was the Branch Manager of the BMO Nesbitt Burns Inc (Nesbitt) branch located at 1 Robert Speck Parkway, Mississauga, Ontario and from October 1994 to October 2002 was registered under the Act as a trading officer with Nesbitt. A branch of the Bank of Montreal (BMO) was located across the hall at the same address. All references to Nesbitt and BMO will be with respect to the branch locations at the same address.

[4] In the Amended Statement of Allegations (“Allegations”), it is alleged that Dunn between January 1996 and October 1999 provided or caused others to provide Patrick Fraser Kenyon Pierrepont Lett ("Lett") with letters that contained inaccurate representations (referred to as the "Proof of Funds Letters") regarding the accounts of Milehouse Investment Management Limited ("Milehouse") and Pierrepont Trading Inc. ("Pierrepont") at Nesbitt, which are referred to collectively as the "Lett Accounts" and that Dunn's actions, which included preparing and signing such letters and causing others to prepare and sign these letters, were contrary to the pubic interest.

[5] Dunn, although he received notice of this hearing, did not attend or defend against the allegations.

Facts

[6] The hearing was conducted pursuant to Section 15 of the *Statutory Powers Procedures Act*, R.S.O. 1990, c. S.22, as amended (the "*SPPA*").

[7] The following individuals appeared under summons and testified at the hearing.

1. John Hawkyard (Hawkyard) was the Branch Manger of the adjoining BMO and in April 1997 joined the Nesbitt branch across the hall, where Dunn was the Branch Manager;

2. Rose Indovina (Indovina) was employed by the same branch of the BMO;

3. Dan Swiaty (Swiaty) was employed at the same branch of the BMO.

4. Andreas Kiedrowski (Kiedrowski) was employed as a co-branch manager of the Nesbitt branch;

5. Lett opened accounts on behalf of his companies Milehouse and Pierrepont at the Nesbitt branch and the BMO branch. Dunn was the Investment Advisor for the accounts located at the Nesbitt branch; and

6. Lorne Switzer – Switzer, was at all material times, the Vice-President of Retail Compliance at Nesbitt.

Brian Clarkin, an Assistant Manger of Investigation in the Enforcement Branch of the Ontario Securities Commission, also gave evidence.

Overview and Background

[8] The following documents were marked exhibits at the hearing.

Exhibit No. 1	Factum.
Exhibit No. 2-7	Documents, volumes 1-6
Exhibit No. 8	Chart entitled "In the Matter of John Craig Dunn, Account Balances at Issuance of Proof of Funds Letters".
Exhibit No. 9	Settlement agreement between Andreas Kiedrowski and Investment Dealers Association.
Exhibit No. 10	Affidavit of Mr. Lett sworn May 11, 2001 with attachments A to H.
Exhibit No. 11	Booklet containing excerpt of IDA transcript dated April 28, 2004 and Mr. Kiedrowski's settlement agreement.
Exhibit "A"	(for identification) Bundle of documents: Letter from Grace Hession, acting Secretary, OSC, May 7; letter faxed to OSC from Mr. Dunn May 7; Notice of Intention to Act; and copy of Hrappstead case.

The following evidence was called and we find as fact that:

[9] Lett is an individual residing in Ontario and is, and was between January 1996 and October 1999, the President, a Director, and the directing mind of Milehouse and Pierrepont .

[10] Nesbitt is registered as a Broker/Investment Dealer under the Act.

[11] Hawkyard was registered under the Act from October 1989 to April 1997 as a salesperson of BMO Investment Management Limited, a dealer in the category of Mutual Fund Dealer. From March 1996 to April 1997, Hawkyard was the Manager of the BMO – Private Banking Services Branch, located at 1 Robert Speck Parkway. In April 1997, Hawkyard moved across the hall to Nesbitt and, from November 1997 to August 2002, was registered under the Act as a salesperson of Nesbitt, at the branch managed by Dunn.

[12] During the time period of November 11, 1995 to May 4, 1998, Lett opened three accounts in the name of Milehouse and one account in the name of Pierrepont at the Nesbitt office managed by Dunn. Two of the accounts were margin accounts, while the other two accounts were cash accounts.

[13] Dunn introduced Lett to Hawkyard as a client with substantial net worth who was intending to embark upon a high yield program; Lett and Hawkyard had a business relationship; Lett and Dunn had both a personal and a business relationship (Lett described it as a business and friendly relationship: "I used to see John socially at different things and we certainly knew each other. He had been to our offices a number of times. He would be at golf tournaments."); and Lett also opened accounts in the name of Pierrepont in January and April 1997, and an account in the name of Milehouse in May 1998 at the BMO branch.

[14] Between April 1996 and February 1999, seven investors deposited approximately US$21 million into the Milehouse accounts at Nesbitt or the BMO branch at Robert Speck Parkway for the purposes of investing in a trading program, as follows:

NAME	DESCRIPTION	AMOUNT INVESTED
Constantin Nasses	A resident of Monaco who was charged with insider trading in the United States in 1986 but has failed to respond to the charges.	US $8,000,000
V.A. Velarde	A resident of Virginia who, in June of 1999, was charged by the Securities and Exchange Commission with aiding and abetting two lawyers in a prime bank scheme. This individual settled the charges.	US $5,200,000
Lenzburg Capital Corp.	An Alberta corporation who was later subject to a freeze order obtained by the Alberta Securities Commission, for failing to return funds to investors, as required pursuant to the terms set out in a Settlement Agreement.	US $4,500,000
Greater Ministries International Inc. ("GMI")	A Florida corporation purportedly involved in evangelical missionary work. In 2001, the founder of this organization was convicted of fraud and conspiracy.	US $1,525,000
Dr. Dana	A resident of New York.	US $1,000,000
Dr. Hoppenstein	A resident of New York.	US $1,000,000
Bruce Houran	A resident of Florida.	US $ 250,000
Total:		US $21,475,000

[15] Lett did not create or devise the high yield program but received documentation from third parties which purported to describe the high yield program, and which introduced the investors to the program. The high yield program had the following general characteristics: it was to include the purchase on margin of a bank guarantee or debenture, issued by a foreign bank, through Lett's companies' accounts at Nesbitt. The proceeds from the purchase were to be directed to a third party who was represented as having access to a high yield program. The high yield program was supposed to involve the purchase and sale

of medium term bank notes. The bank notes were to be purchased at a substantial discount based upon a commitment issued by the United States Treasury Department. Substantial profits were to be earned because of the ability of the commitment holder to purchase at a discount. A portion of the profits on the subsequent sale of the bank notes were represented to be used for projects associated with the United States government (i.e., an American foreign policy initiative) or for humanitarian purposes. The balance of the profits would be left in the hands of the commitment holder. According to some of the documents, profits in the range of 100% to 480% would be earned by the commitment holder which would be shared with the respondents and the parties who would have provided funds in the first instance.

[16] According to the Affidavit of Lett (Exhibit 10, attachment G), three investors involved in the matter, Constantin Nasses, Dr. James Dana, and Dr. Reuben Hoppenstein have "[t]o date, made no net recovery."

The Proof of Funds Letters

[17] Between April 1996 and June 1999, Dunn provided and caused others to provide Lett with proof of funds letters regarding the accounts of Milehouse and Pierrepont at Nesbitt. The Proof of Funds Letters are as follows:

Date	On Letterhead of	Under Signature of
April 2, 1996	Bank of Montreal	Hawkyard
April 17, 1996	Bank of Montreal	Hawkyard
May 15, 1996	Nesbitt Burns	Dunn & Kiedrowski
May 23, 1996	Nesbitt Burns	Dunn & Kiedrowski
June 10, 1996	Nesbitt Burns	Dunn
July 23, 1996	Nesbitt Burns	Dunn
September 19, 1996	No letterhead	Hawkyard & Indovina
December 18, 1996	No letterhead	Hawkyard & Indovina
January 16, 1997	Bank of Montreal	Hawkyard & Indovina
January 16, 1997	Bank of Montreal	Hawkyard & Indovina
April 7, 1997	Bank of Montreal	Hawkyard & Indovina
April 29, 1997	Bank of Montreal	Indovina
July 17, 1997	Bank of Montreal	Indovina
August 25, 1997	Bank of Montreal	Indovina
October 23, 1997	No letterhead	Indovina
November 20, 1997	Bank of Montreal	Indovina
December 2, 1997	Bank of Montreal	Hawkyard & Indovina
March 31, 1998	Bank of Montreal	Hawkyard & Indovina
April 6, 1998	Bank of Montreal	Hawkyard & Indovina
June 16, 1998	Bank of Montreal	Indovina
November 19, 1998	Bank of Montreal	Dunn & Swiaty
December 9, 1998	Bank of Montreal	Dunn & Swiaty
March 9, 1999	Nesbitt Burns	Dunn & Kiedrowski
April 16, 1999	Nesbitt Burns	Dunn & Kiedrowski
April 19, 1999	Nesbitt Burns	Dunn & Kiedrowski
June 3, 1999	No letterhead	Dunn & Kiedrowski

[18] All the Proof of Funds Letters were signed except for the letters dated September 19, 1996, December 18, 1996 and June 3, 1999.

[19] In 1996, Dunn communicated with the head office of Nesbitt and sought verification that the margin required for the types of instruments that Lett was attempting to purchase was 4%. In addition, Dunn communicated with other members of Nesbitt and discussed the method for clearing this type of instrument for Lett.

[20] Hawkyard testified that Dunn advised him that these types of investments required only a 4% or 5% margin. Dunn had advised Lett that the margin required was 10%.

[21] Lett requested Proof of Funds Letters regarding the accounts of Milehouse and Pierrepont at Nesbitt, explaining to Dunn that they were a necessary component of the high yield trading program and that they would be provided to a third party.

[22] Several of the Proof of Funds Letters were on the letterhead of the BMO; Lett told Dunn that the BMO was more widely recognizable in Europe than Nesbitt; Lett also explained that the letters were considered stale after 30 days and a new letter would then be required; On two occasions, November 19, 1998 and December 9, 1998, Dunn signed on BMO letterhead, even though he was never employed by the BMO. Dunn, in signing the letters, noted on the signature line that he was the Branch Manager of Nesbitt. Hawkyard as well signed on BMO letterhead on two occasions when he was employed as a registrant at

Nesbitt (letters dated December 2, 1997 and April 6, 1998). Hawkyard, in signing the letters, noted on the signature line that he was employed by Nesbitt. Hawkyard testified as to how he viewed the Proof of Funds letters that contained his signature and the circumstances in which he signed them by saying that when all of the Proof of Funds letters were put together in "a nice tidy binder, I mean, it honestly makes me look like a fool".

[23] Switzer testified that he considered Dunn and Hawkyard signing on Bank of Montreal letterhead, while they were employed by Nesbitt, to be a violation of Nesbitt's policies and procedures.

[24] Lett's affidavit, in addition to the testimony of Kiedrowski, Hawkyard, Indovina, Swaity, Switzer, and Exhibit 2 are relied on by staff to demonstrate that all of the Proof of Funds Letters were prepared and signed by Dunn or Hawkyard and in some instances, signed or co-signed by Indovina, Swiaty and Kiedrowski.

[25] Lett's affidavit, the testimony of Kiedrowski, Hawkyard, Indovina, Exhibit 3 and Exhibit 2 confirm that Lett provided wording for the Proof of Funds Letters that included the following: that a specified amount of funds was in the account; that the funds would be held for a specified period of time and a confirmation of the legitimacy of the source of the funds; and Lett discussed the wording to be used in the letters with Dunn and Hawkyard. Hawkyard testified that Lett did not want the letters to reflect that the transaction was being done on margin.

[26] Lett's affidavit and the testimony of Hawkyard and Kiedrowski establish that Lett initially approached Dunn about the Proof of Funds Letters. Dunn and Lett then approached Hawkyard to also provide these letters to Lett. Dunn was Lett's primary contact, and Lett would tell him what he wanted in the letter. Both of them or Dunn alone would meet with Hawkyard to discuss what Hawkyard was willing to put in the letter. Lett discussed the wording to be used in the letters with Dunn and Hawkyard based upon templates provided to him by third parties. Lett, Dunn and Hawkyard would negotiate the wording and Dunn and Hawkyard would decide what they were comfortable signing. Later, Lett dealt directly with Hawkyard, but Hawkyard and Dunn would continue to discuss the contents of the letters.

[27] Indovina testified that on a few occasions, Dunn approached her directly and asked her to sign the letters. She testified that she would take direction from Dunn, with respect to signing the Proof of Funds letters, approximately 30% of the time. The remaining 70% of the time, she signed at the direction of Hawkyard, who was her direct superior. She further explained that Dunn would likely have approached Hawkyard to obtain her signature. Indovina has never spoken to Lett about the Proof of Funds Letters.

[28] Indovina testified that she never questioned the contents of the Proof of Funds Letters as Dunn and Hawkyard were managers and she trusted that if they asked her something to sign, it would be correct.

[29] Based on Exhibit 3 and the testimony of Hawkyard, Dunn was aware of the funds that were deposited into the account and those that were withdrawn.

[30] Hawkyard testified that prior to signing a letter, he would ensure that there was the required 10% margin in the Lett Accounts. He would rely on an oral communication from Dunn, who was the Investment Advisor of the accounts, that there were sufficient funds in the Lett Accounts at Nesbitt. Hawkyard also relied on his knowledge of what was in the Lett Accounts at BMO.

[31] A bank guarantee or debenture was never purchased and Lett was never able to access the high yield program.

The Balance of Funds in the Accounts

[32] Staff submits that the documents, as summarized in the evidence of Brian Clarkin, demonstrates that the "amount referenced" in the Proof of Funds letters was not contained in the "account referenced", even if all the balances contained in all the Milehouse and Pierrepont accounts (i.e., the accounts at Nesbitt and the BMO) are considered, the referenced funds were not in the accounts.

The Freeze Orders

[33] In April of 1998, the Alberta Securities Commission ("ASC") issued an Order to Freeze Property in the Milehouse account at Nesbitt. The ASC was concerned with respect to $4.5 million (US) that was deposited by Lenzburg Capital Corporation into account #420-07197-24 at Nesbitt held in the name of Milehouse. On April 22, 1998, the Ontario Securities Commission issued a similar direction.

[34] In May 1998, when the ASC issued a freeze order, Nesbitt became aware that Lett was depositing funds from some of the Investors into the Milehouse account. Switzer testified that he was asked to do a review of the account. At that time, Dunn advised Switzer that Lett's accountant had advised him that not all of the funds in the Lett Accounts belonged to Lett.

[35] At that time, Switzer became aware that Dunn, by letter dated March 24 1998, had agreed in writing to terms and conditions with respect to funds deposited by Lenzburg Capital and Constantin Nasses into the Milehouse account. In particular, the Letter of Irrevocable Account Instruction confirmed that Constantin Nasses had deposited US $1.5 million and Lenzburg had deposited US $4.5 million into the Lett accounts. Switzer testified that this confirmed that there were funds in the Milehouse account that were not Milehouse's funds.

[36] According to item 5 of the Letter of Irrevocable Account Instruction contained in Exhibit 3, the funds were to remain credited to the Milehouse account at Nesbitt for one year. Switzer testified that at that time, Nesbitt did not have a mechanism to hold funds. Therefore, Dunn had agreed to condition that required Nesbitt to hold funds, which was something they could not do. Eventually, Lett transferred all the funds out of the Milehouse account, except those that had been deposited by Lenzburg, in accordance with the freeze orders.

[37] Switzer's testimony in addition to Exhibit 3, established that in May 1998, he recommended that the Lett accounts be closed, however, Dunn intervened, and Switzer's superiors decided to keep the Lett Accounts open.

[38] Switzer also testified that in May 1998, he placed restrictions on Dunn and his actions in relation to the Lett Accounts. First, Dunn was told that Lett could not deposit any funds into the Milehouse account unless Lett's lawyer confirmed in writing that the funds belonged to Lett or Milehouse. Second, Dunn was told not to sign any letters unless the letter was approved by Compliance or the legal department. In spite of the restrictions, Dunn continued to prepare, sign and cause others to sign Proof of Funds Letters. Seven letters were prepared post-May 1998, five of which were signed by Dunn. In addition, in March of 1999, funds were deposited into the Milehouse account without the required lawyer's letter, thus breaching another restriction.

[39] In August of 1999, the Lett Accounts were closed.

[40] Switzer reviewed the Proof of Funds letters and testified that based on the wording in the letters, he would have expected that the account referenced in the letter contained the full amount referenced.

[41] Switzer also reviewed the wording in the Proof of Funds letters that attested to the legitimacy of the funds. He said he would have expected Dunn to do due diligence regarding where the money had come from and how it had gotten into the account. Switzer was not aware of any due diligence conducted by Dunn.

[42] Switzer also reviewed the wording contained in the letters indicating that the funds would be held for a period of time and confirmed that Nesbitt had no facility for holding funds.

Issues for Determination

[43] Pursuant to the Commission's public interest jurisdiction under sections 127(1) and 127.1 of the Act, the Commission may consider whether Dunn's conduct was contrary to the public interest.

[44] A determination as to whether Dunn's conduct was contrary to the public interest includes consideration of the following factors, having regard to the Amended Statement of Allegations and evidence in this matter:

a) The Commission is guided by the general purposes of the Act, being the regulation of the securities industry in Ontario and Section 1.1 of the Act. Section 1.1 of the Act animates the Commission's public interest jurisdiction under the Act[1]; and

b) The Commission's role in preserving the integrity of the Ontario capital markets and protecting the investing public through the exercise of a protective and preventative role towards the integrity of Ontario's capital markets.

Position of Staff

[45] Staff asserts that between January 1996 and October 1999, Dunn provided or caused others to provide to Lett, letters that contained inaccurate representations. The inaccurate representations concerned the accounts of Milehouse and Pierrepont at Nesbitt. Lett was a client of John Dunn's, Dunn was the investment advisor of Lett. Lett is the directing mind of two companies, namely Milehouse and Pierrepont.

[46] These letters were intended to be relied on by third parties and intended to misled the reader into believing three things: (1) that there were funds in the account; (2) that the money would be held in the Nesbitt account for a specified period of

[1] Section 1.1 of the Act states that purposes of the Act are, (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.

time, where in fact there was no such facility; and (3) the monies in the account belonged to the account holder and were of a non criminal origin, when appropriate steps were not taken to ensure this assertion was true.

[47] Seven investors deposited $21 million dollars into the Lett accounts during the period in question.

[48] A crucial component of the high yield trading program Lett sought to participate in was the proof of fund letters which the respondent, Dunn, was involved in.

[49] Dunn's actions, which include preparing and signing the letters and causing others to prepare and sign the letters, is conduct contrary to the public interest.

Position of Respondent

[50] Dunn did not defend and did not attend the hearing.

[51] Dunn's counsel informed staff on April 21, 2004 that Dunn would not be defending and not attending in this hearing.

[52] On May 7th, 2004, Dunn submitted a letter dated May 7, 2004 to the Secretary of the Commission in which he requested the letter to be filed with the members of the panel.

[53] Staff submitted the decision of the British Columbia Securities Commission, *Hrappstead*, *Re*; [1999] 15 B.C.S.C.W.S. 13 *("Hrappstead*"), as guidance regarding the weight to be attributed to the letter from Dunn to the Panel. The respondent in *Hrappstead* elected not to appear before the British Columbia Securities Commission, and instead submitted an affidavit. The British Colombia Securities Commission then admitted the affidavit on the basis that it was relevant. However, because Hrappstead chose not to appear, the panel gave no weight to the affidavit because it contradicted *viva voce* evidence produced at the hearing, provided no opportunity for cross-examination, and no opportunity for the panel to view the demeanor of the respondent. Those factors were considered by the Panel in *Hrappstead* to be important in determining credibility and the weight to be attached to the evidence in light of the circumstances.

[54] This panel accepted Dunn's letter of May 7, 2004 as filed and marked it for identification purposes; but reserved on the issue of the weight, if any, that would be attributed to the letter.

Degree of Proof Required

[55] The appropriate standard of proof to be applied in this case is "clear and convincing proof based upon cogent evidence". This standard of proof is appropriate since the potential consequence of an order that could be imposed by the Commission in this matter, and as requested by staff, would interfere with Dunn's ability to earn a livelihood in the securities industry.

[56] "Clear and convincing proof based upon cogent evidence" is a higher standard of proof than the "balance of probabilities" standard.

[57] Further, requiring proof that is "clear and convincing proof based upon cogent evidence" has been accepted as necessary to make findings involving discipline or affecting one's ability to earn a livelihood.

[58] This is such a hearing and our decision could impact Dunn's ability to earn a livelihood in the securities industry. We will make our decision herein based upon the standard of clear and convincing proof based upon cogent evidence.

Analysis

Dunn's Letter of May 7, 2004:

[59] Regarding Dunn's letter of May 7, 2004, marked for identification purposes, we find that we cannot consider it as evidence in this proceeding. The letter is not an affidavit. We did read the letter, giving careful consideration to all of the concerns raised by Dunn, including his present circumstances; however, even so, we do not attribute any weight to the letter, particularly in view of the very clear evidence before us.

The Proof of Funds Letters

[60] Twenty six Proof of Funds Letters were filed with us. These letters were intended to be relied on by third parties and mislead a reader that there was sufficient money in the account to buy the debentures; that the money would be held in the account for a specified period of time, when in fact no such facility to ensure this existed; and that the monies in the account belonged to the account holder and were of non-criminal origin, when nothing was done to ensure this was true.

[61] In the affidavit of Lett, at paragraph 14, he agrees the Proof of Funds Letters were a part of a high yield investment program, which was never actually launched. The high yield investment program resulted in the loss of investor funds.

Misrepresentations Contained in the Proof of Funds Letters

[62] The Proof of Funds Letters contained numerous misrepresentations and the Proof of Funds Letters, in general, misrepresented the funds that were actually contained in the Lett Accounts.

[63] A plain reading of the letters indicated that the accounts contained the full dollar amount referenced in the letter and did not indicate that the referenced accounts were to make a purchase on margin. Switzer, a senior member of compliance within the securities industry, stated that these letters misstated the funds in the account. Hawkyard, testified that Lett did not want the letters to reflect that the transaction was being done on margin.

Inability to "Hold" Funds in Nesbitt Account

[64] Some of the Proof of Funds Letters indicate that the money would be “held” in the Lett Accounts. Switzer and Kiedrowski testified that at the time that the Proof of Funds Letters were written, Nesbitt was not able to place a "hold" on the funds in the Lett Accounts.

Legitimacy of Funds

[65] The Proof of Funds Letters attempted to serve to confirm the legitimacy of Lett's financial ability to fulfil the high yield trading program. The wording contained in the Proof of Funds letters included phrases such as “clean, clear and of non-criminal origin”, as demonstrated in Dunn's letter of February 23, 1999. Switzer testified that there was no evidence of due diligence by Dunn or any other signatories to the letters to confirm the legitimacy of the funds.

[66] Tab 1 through 11, and tab 13 through 27 of Exhibit 2 contains various Proof of Funds letters, each letter referencing a dollar amount available for the specific proposed transaction. Exhibit 8, a chart by which staff summarized the date of the letter, account referenced, the letterhead the proof of funds letter was printed on, the signature contained on the letter, the amount referenced in the letter in US$, the balance that was actually in the reference account in US$, and the total in Nesbitt and BMO accounts in US$. The total balance of funds contained in the Lett Accounts were included in the summary since Hawkyard and Swaity testified that they would have considered the total balance of funds contained in all of the Lett Accounts. As a result of a review of these various proof of funds letters in combination with the evidence contained in Exhibit 8 (demonstrating the actual balance contained in the referenced accounts and the total balance in the Nesbitt and BMO accounts), that the representation in the letters are inaccurate as the amount referenced in the proof of funds letters was less than the actual balance in the referenced account, or the total in the Nesbitt and Bank of Montreal accounts.

Registrants

[67] Dunn's conduct must be considered in the context that Dunn was a registrant and a branch manager of a registered dealer. Staff argued that the requirement that an individual be registered in order to trade in securities is an essential element of the regulatory framework put in place to achieve the purposes of the Act.

[68] In *Brosseau v. Alberta Securities Commission*, (1989), 57 D.L.R. (4th) 458 at 467 (S.C.C.) ("*Brosseau*"), L'Heureux-Dube J. acknowledged that "Securities Acts in general can be said to be aimed at regulating the market and protecting the general public."

[69] Pursuant to section 25 of the Act, a person or company is prohibited from trading in a security unless the person is registered. The requirement that individuals and companies be registered to trade in securities is an essential element of the regulatory framework put in place to achieve the purposes of the Act. Through the registration process, the Commission attempts to ensure that those who engage in trading activities meet the necessary proficiency requirements, are of good character and satisfy the appropriate ethical standards.

[70] The Supreme Court of Canada in *Gregory & Co. v. Quebec (Securities Commission),* [1961] S.C.R. 584 pp. 4-5, which sets out the following:

> The paramount object of the Act is to ensure that persons who, in the province, carry on the business of trading in securities or acting as investment counsel, shall be honest and of good repute and, in this way, to protect the public, in the province or elsewhere, from being defrauded as a result of certain activities initiated in the province by persons who therein carry on such a business. For the attainment of this object, trading in securities is defined in s. 14; registration is provided in s. 16 as a requisite to trade in securities ...

> The Act Respecting Securities, 3-4 Elizabeth II, c.11, is not marketing legislation within the meaning attending the legislation considered in these cases. In order to protect the public against fraud, it provides for the establishment and operation of a control and supervision over the conduct, in the Province of Quebec, of person engaged, therein, in carrying on the business of trading in securities [emphasis added]

[71] Registration serves an important gate-keeping mechanism which ensures that only properly qualified and suitable individuals are permitted to be registrants. The investing public must be entitled to expect and rely on the fact that any one who acts as an advisor has satisfied the necessary proficiency and good character requirements.

Branch Managers

[72] Staff argued that as a Branch Manager, Dunn was responsible for supervising and setting an example for other employees. The Commission considered a similar situation in the context of a s. 26 application in *Re Charko* (1991), 15 O.S.C.B. 3989 at p. 7 ("*Re Charko*"). In refusing Charko's application for registration, the Commission stated that,

> As a senior employee of McConnell in 1987 and 1988, Charko had a duty, which he failed to properly discharge, to ensure that his activities and those of his subordinates were in compliance with the Act. Because of Charko's participation in these contraventions and his failure to discharge his compliance duties as a senior employee of McConnell, I find the Applicant to be unsuitable for registration.

[73] Staff submitted that that branch managers are in a supervisory position and, therefore, are held to a higher duty than other registrants. Investment Dealer's Association Regulation 1300.2 requires that a branch manager be designated for each member and states that the branch manager shall "ensure that the handling of client business is within the bounds of ethical conduct, consistent with just and equitable principles of trade and not detrimental to the interest of the securities industry." Staff submits that this Regulation indicates the heightened responsibility of the branch manager, and note that the IDA Regulations mandated the minimum standards that must be adhered to.

[74] It was submitted that the higher duty required of branch managers is also reflected in the fact that branch managers are required to pass the Branch Managers Course offered by the Canadian Securities Institute.

[75] Dunn's conduct was particularly egregious as he was a registrant and a branch manager during the period when he signed these letters or caused others to sign them. The branch manager holds a crucial role in compliance in the securities industry.

[76] In *Re Mills* (2000), 23 O.S.C.B. 6623, p.25, 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.

Proof of Funds Letters

[77] We find that Dunn was the Investment Advisor of the Lett accounts, and that Dunn confirmed the funds on deposit for Hawkyard and Swiaty.

[78] Switzer testified that Dunn's remuneration was commission-based and could have included a component based on the branch's production. We find , based on Kiedrowski's testimony, that Dunn indicated to Kiedrowski there would be prospect of large commissions in the future as a result of all of the work being done for Lett.

[79] Based on this evidence, we find that Dunn, in signing the Proof of Funds Letters and causing others to sign them, engaged in a course of conduct that was designed to assist Lett in accessing the high yield trading program. Dunn did not verify with anyone at the Nesbitt head office whether the Proof of Funds Letters were appropriate. In May of 1998, Dunn was told by Switzer that he was to refrain from sending out any further correspondence with respect to the Lett Accounts. Despite Switzer's instructions, Dunn signed five Proof of Funds Letters and caused two other letters to be drafted.

[80] Dunn signed two letters on BMO letterhead. According to the testimony of Switzer, this was not proper given the fact that he was not employed by the BMO. In addition, Hawkyard, while a registrant at the branch that was managed by Dunn, also signed two Proof of Funds Letters on Bank of Montreal letterhead, all attempting to confirm funds in the account of Lett, Dunn's client. We find that Dunn acted contrary to the public interest in permitting this to occur.

[81] Based on the documentary and testamentary evidence, we find that there is clear and convincing proof that the respondent, Dunn, provided or caused others to provide Lett with proof of funds letters that contained inaccurate representations concerning the Lett accounts at Nesbitt. We find that Dunn's conduct constitutes conduct contrary to the public interest.

[82] We find that the proof of funds letters were intended to mislead the reader into believing that there were funds in the account; that the money would be held in the Nesbitt account for a specified period of time, where in fact there was no such facility; and that the monies in the account belonged to the account holder and were of a non criminal origin, when in fact, appropriate steps were not taken by Dunn to ensure this assertion was true.

Sanctions

[83] Staff informed the panel, providing a copy of the decision of the IDA panel, that on April 28, 2004, the District Council of the IDA found that Dunn had failed to exercise sufficient supervision and was unable to give unbiased advice with respect to Tee-Comm stock because he had both a business and a personal relationship with Tee-Comm's President and CEO; Tee-Comm had provided Dunn on at least two occasions with free flights to Las Vegas; and Dunn personally held stock in Tee-Comm. Dunn personally benefited from referring clients to and ensuring they kept Tee-Comm stock in their portfolio.

[84] On the same date, the IDA imposed the following penalty with respect to Dunn: a total fine of $100,000; a permanent ban on Dunn acting in any supervisory position with any member of the Association; as a condition of reapproval in any capacity, Dunn must rewrite and pass the examinations based on the Conduct and Practices Handbook for the securities industry professionals and a prohibition on any reapproval prior to the payment of the fines and costs of the investigation, which were affixed at $15,000.

[85] Staff submits that the Commission must consider Dunn's prior regulatory misconduct in determining the appropriate sanction.

The Purposes of the Act

[86] In considering sanctions in this case, the Commission must be guided by the purposes of the Act.

[87] The purposes of this Act under section 1.1 of the Act are:

1) to provide protection to investors from unfair, improper or fraudulent practices; and

2) to foster fair and efficient capital markets and confidence in capital markets.

[88] In *Pezim* v. *British Columbia (Superintendent of Brokers)*, 114 D.L.R. (4th) 385 (S.C.C.) at 406 ("*Pezim*") the Supreme Court of Canada held that the "primary goal of securities legislation is the protection of the investing public".

[89] In *Committee for Equal Treatment of Asbestos Minority Shareholders* v. *Ontario (Securities Commission)* (2001), 199 D.L.R. (4th) 577 (S.C.C.) at 590-591 *("Re Asbestos")*, the Supreme Court of Canada discussed the nature of the Commission's public interest jurisdiction under s. 127 of the Act. The Supreme Court noted that section 127 of the Act granted the Commission "an unrestricted discretion to attach terms and conditions to any order made under section 127(1)". The Court also emphasized that section 127 is a regulatory provision, and agreed that the "purpose of the Commission's public interest jurisdiction is neither remedial nor punitive; it is protective and preventive, intended to be exercised to prevent likely future harm to Ontario's capital markets." The Commission's role is to "remove from the capital markets those whose past conduct is so abusive as to warrant apprehension of future conduct detrimental to the integrity of the capital markets."

[90] The Divisional Court in *Gordon Capital Corp.* v. *Ontario Securities Commission*, [1991] O.J. No. 934 ("*Gordon Capital*"), has commented upon what "the public interest" means as regards to the Commission. In so commenting, the Court stated:

> There is no definition of "the public interest" in the Act. It is the function and duty of the OSC to form an opinion, according to the exigencies of the individual cases that come before it, as to the public interest and, in so doing, the OSC is given wide powers of discretion.
>
> The scope of the OSC's discretion in defining "the public interest" standard under subsection 26(1) is limited only by the general purpose of the Act, being the regulation of the securities industry in Ontario, and the broad power of the OSC thereunder to preserve the integrity of the Ontario capital markets and protect the investing public.

[91] The role of the Commission in making orders in the public interest is found *In the matter of Mithras Management Ltd. et al* (1990), 12 O.S.C.B. 1600, at 1610 *("Mithras Management"):*

> [T]he role of this Commission is to protect the public interest by removing from the capital markets - wholly or partially, permanently or temporarily as the circumstances may warrant - those whose conduct in the past leads us to conclude that their conduct in the future may well be detrimental to the integrity of those capital markets. We are not here to punish past conduct; that is the role of the courts, particularly under section 118 [now 122] of the Act. We are here to restrain, as best we can, future conduct that is likely to be prejudicial to the public interest in having capital markets that are both fair and efficient. In so doing, we must, of necessity, look to past conduct as a guide to what we believe a person's future conduct might reasonably be expected to be; we are not prescient, after all.

[92] In determining the nature and duration of the sanctions, the Commission in *Belteco Holdings Inc.* (1998), 21 O.S.C.B. 7743*,* at 7746; and *M.C.J.C. Holdings and Michael Cowpland* (2002), O.S.C.B. 1133, at 1136, has considered a number of factors which may be summarized as follows:

a) the seriousness of the allegations proved;

b) the respondent's experience in the marketplace;

c) the level of the respondent's activity in the marketplace;

d) whether or not there has been a recognition of the seriousness of the improprieties;

e) the restraint of future conduct that is likely to be prejudicial to the public interest (with reference to past conduct);

f) whether or not the sanctions imposed may serve to deter not only those involved in the case being considered, but any like-minded people from engaging in similar abuses of the capital markets;

g) any mitigating factors;

h) the size of any profit (or loss avoided) from the illegal conduct;

i) the reputation and prestige of the respondent; and

j) the remorse of the respondent.

[93] Regarding the Commission's ability to take general deterrence into account, the Commission stated In *Re Dornford* (1998), 21 O.S.C.B. 7499 at p. 7351 (*"Dornford"*):

> In our view, taking into account general deterrence, in the case before us, would not be for the purpose of punishing Dornford, as argued by Mr. Douglas, but rather for a prophylactic purpose, the future protection of the marketplace not only from actions by Mr. Dornford but also from breaches of trust by others. Although *Mithras* speaks of deterring future improper conduct of a respondent, it does note that the Commission is "here to restrain, as best we can, future conduct that is likely to be prejudicial to the public interest in having capital markets that are both fair and efficient." It seems to us that *Warnes* does not in any way indicate that general deterrence can be taken into account for punitive purposes, but rather, in the securities law context, that it can be taken into account in determining what is necessary to restrain conduct by others that is likely to be prejudicial to the public interest in having capital markets that are fair and efficient.

[94] In *Re Cartaway Resources Corp.,* [2004] S.C.C. 26 at para 64 ("*Cartaway*"), a recent decision of the Supreme Court of Canada, the Supreme Court of Canada held as follows with respect to the issue of general deterrence:

> The weight given to general deterrence will vary from case to case and is a matter within the discretion of the Commission. Protecting the public interest will require different remedial emphasis according to the circumstances. Courts should review the order globally to determine whether it is reasonable. No one factor should be considered in isolation because to do so would skew the textured and nuanced evaluation conducted by the Commission in crafting an order in the public interest. Nevertheless, unreasonable weight given to a particular factor, including general deterrence, will render the order itself unreasonable. [Emphasis added]

[95] In *Deloitte & Touche v. Ontario Securities Commission*, (Ont. C.A.), [2002] O.J. No. 2350 at p. 11 ("*Deloitte*"), the Court of Appeal noted that it was "open to the Commission to recalibrate the public interest inquiry to reflect the current policies of the

Commission." In the context of the imposition of sanctions, this recognizes that while the law and policy to be applied in considering the propriety of the conduct engaged in is the law and policy which governed at the time of that conduct, the order to be made, if any, is to be responsive to the current policies of the Commission and should be reflective of the current public interest.

[96] Having regard to staff's submissions and the case law, the restraint of future conduct that is likely to be prejudicial to the public interest must be considered in determining the appropriate sanctions in this matter. Accordingly, we will consider, when determining the sanctions, Dunn's prior misconduct which lead to the IDA investigation and the District Council's findings that he had violated the IDA's By-laws, Policies and Regulations.

[97] In determining the sanctions in the instant case, the Commission will carefully consider and weigh all relevant factors, including the following:

(i) At the time of his involvement in this matter, Dunn was a registrant and a Branch Manager. Dunn, with Lett, convinced other employees to sign the misleading Proof of Funds Letters;

(ii) The Proof of Funds Letters provided by Dunn and the other Nesbitt and Bank of Montreal employees were a necessary component of the high yield program, which resulted in John Hawkyard and BMO Nesbitt Burns being named as respondents in this matter;

(iii) Dunn engaged in conduct which provided misleading information, and intended to benefit in the form of commissions resulting from the high yield trading program;

(iv) Dunn's past conduct, including findings by the IDA District Council that he failed to adequately supervise client accounts and provided improper and biased advice to clients in order to benefit personally;

(v) When Nesbitt's compliance department became aware of Dunn's involvement in this matter, Dunn was advised that he was not to sign any further letters for Dunn without first seeking the approval of the legal department. Dunn did not comply with this request and signed four Proof of Funds Letters and caused two other letters to be drafted;

(vi) Dunn signed two letters on Bank of Montreal letterhead. Dunn has never been employed by the Bank of Montreal; and,

(vii) The Proof of Funds Letters were a component of a high yield investment program, which was never actually accessed, and which resulted in the loss of investor funds.

[98] Effective sanctions are warranted in order to protect investors and maintain confidence in the capital markets. Sanctions must be proportionate to the respondent and his misconduct, and fashioned to ensure that the potential for Dunn to engage in similar conduct in the future is minimized. The sanctions must deter Dunn and others from engaging in the same or similar conduct in the future.

Sanctions

[99] We find that it has been established, on the evidence, that the respondent, Dunn, engaged in conduct that is contrary to the public interest.

[100] We consider Staff's proposed sanctions to be extremely fair to Dunn. We would not consider sanctions of any less to be sufficient or appropriate in this matter. Dunn had a gatekeeper role in his position at Nesbitt and as a registered investment advisor. Dunn failed in his gatekeeper role, not just passively, but indeed, actively facilitated the provision to Lett of the Proof of Funds letters containing inaccurate representations concerning the accounts of Milehouse and Pierrepont at Nesbitt. Dunn has not acknowledged his egregious conduct or demonstrated any remorse in this matter, not even in his letter to the Commission dated May 7th, 2004.

[101] Staff asks that Dunn pay to the Commission $126,938.50 as the costs of the investigation and of the hearing, pursuant to section 127.1 of the Act.

[102] Section 127.1 of the Act gives the Commission the discretion to order a person to pay the costs of an investigation and a hearing if the Commission is satisfied that the person has not complied with the Act or has not acted in the public interest.

[103] Counsel for Staff has provided an evidentiary basis for the calculations. The bill of costs that is submitted is in the amount of $126,938.50. The bill of costs set out a description of the work engaged in by litigation counsel and the lead investigator.

[104] Accordingly, and based upon all of the above considerations, it is ordered that the following sanctions will be imposed:

- pursuant to clause 1 of subsection 127(1) of the Act, Dunn's registration be terminated for a period of 10 years and that Dunn be prohibited permanently from having a supervisory or managerial role with a registrant;
- pursuant to clause 8 of subsection 127(1) of the Act, Dunn be permanently prohibited from becoming or acting as a director or officer of a registrant;
- pursuant to clause 6 of subsection 127(1), Dunn is hereby reprimanded; and
- pursuant to subsection 127.1(2) of the Act, Dunn shall pay the costs of Staff's investigation and the hearing in the amount of $126,938.50.

Dated at Toronto this 15th day of June, 2004.

“Wendell S. Wigle”

“Paul K. Bates”

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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
Aztek Resource Development Inc.	03 Nov 05	15 Nov 05		
Foccini International Inc.	04 Jul 05	15 Jul 05	15 Jul 05	03 Nov 05
Green Environmental Technologies Inc.	08 Nov 05	18 Nov 05		
PacRim Resources Ltd.	03 Nov 05	15 Nov 05		
Wastecorp. International Investments Inc.	08 Nov 05	21 Nov 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
Toxin Alert Inc.	07 Nov 05	18 Nov 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
ACE/Security Laminates Corporation	06 Sept 05	19 Sept 05	19 Sept 05		
Argus Corporation Limited	25 May 04	03 Jun 04	03 Jun 04		
Canadex Resources Limited	04 Oct 05	17 Oct 05	17 Oct 05		
Fareport Capital Inc.	13 Sept 05	26 Sept 05	26 Sept 05		
Hip Interactive Corp.	04 Jul 05	15 Jul 05	15 Jul 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		
Straight Forward Marketing Corporation	02 Nov 05	15 Nov 05			
Toxin Alert Inc.	07 Nov 05	18 Nov 05			

Company Name	Date of Order or Temporary Order	Date of Hearing	Date of Extending Order	Date of Lapse/ Expire	Date of Issuer Temporary Order
Xplore Technologies Corp.	04 Jul 05	15 Jul 05	15 Jul 05		

Chapter 7

Insider Reporting

This chapter is available in the print version of the OSC Bulletin, as well as as in Carswell's internet service SecuritiesScource (see www.carswell.com).

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

To obtain Insider Reporting information, please visit the SEDI website (www.sedi.ca).

Chapter 8

Notice of Exempt Financings

REPORTS OF TRADES SUBMITTED ON FORM 45-501F1

Transaction Date	# of Purchasers	Issuer/Security	Total Pur. Price ($)	# of Securities Distributed
10/06/2005	1	Activant Solutions Inc. - Notes	585,350.00	5,000.00
10/24/2005	1	Alexandria Minerals Corporation - Units	22,500.00	150,000.00
10/21/2005	29	Amarillo Gold Corporation - Units	2,280,000.00	9,120,000.00
10/18/2005	9	Argento Plata Metals Limited - Common Shares	4,577,522.62	10,172,272.00
10/27/2005	1	Caldwell New York Limited Partnership II - Limited Partnership Units	12,285,000.00	1,312,500.00
10/18/2005	2	Carbiz Inc. - Debentures	747,398.94	747,399.00
10/27/2005	2	CEP Investors in Vuela, L.P. - Limited Partnership Interest	731,596.10	2.00
10/20/2005	4	Commander Resources Ltd. - Flow-Through Shares	960,027.25	2,742,935.00
10/06/2005	1	Consolidated Spire Ventures Ltd. - Units	17,500.00	100,000.00
10/17/2005	37	Diamond Castle Partners IV, L.P. - Limited Partnership Interest	480,379,386.93	407,135,678.39
10/27/2005	2	Discovery Air Investments, L.P. - Limited Partnership Interest	29,547,463.36	2.00
10/20/2005	79	E4 Energy Inc. - Common Shares	20,175,300.00	4,791,000.00
10/18/2005	12	Echo Energy Canada Inc. - Common Shares	497,000.00	397,600.00
10/28/2005	21	Eurocontrol Technics Inc. - Units	1,500,000.00	6,000,000.00
10/21/2005 to 11/01/2005	34	First Leaside Fund - Units	132,982.23	132,982.00
11/05/0250	76	Flagship Energy Inc. - Common Shares	20,009,000.00	3,638,000.00
09/30/2005	9	Flatiron Trust - Trust Units	1,323,000.00	943.00
10/21/2005	1	FNX Mining Company Inc. - Common Shares	300,000,000.00	20,500,000.00
10/01/2004 to 09/30/2005	136	Franklin Templeton Balanced Income Pooled Portfolio - Units	39,228,844.88	3,526,311.59
10/01/2004 to 09/30/2005	50	Franklin Templeton Capital Preservation Pooled Portfolio - Units	12,480,462.04	1,102,106.96
10/01/2004 to 09/30/2005	283	Franklin Templeton Domestic Balanced Growth Pooled Portfolio - Units	62,390,746.98	5,260,751.88
10/01/2004 to 09/30/2005	139	Franklin Templeton Domestic Growth Pooled Portfolio - Units	28,464,039.16	2,458,874.82

Transaction Date	# of Purchasers	Issuer/Security	Total Pur. Price ($)	# of Securities Distributed
10/01/2005 to 09/30/2005	16	Franklin Templeton Domestic Maximum Growth Pooled Portfolio - Units	3,435,512.05	300,327.00
10/01/2004 to 09/30/2005	49	Franklin Templeton Global Balanced Growth Pooled Portfolio - Units	9,053,501.78	793,688.00
10/01/2004 to 09/30/2005	50	Franklin Templeton Global Growth Pooled Portfolio - Units	6,984,151.39	609,249.00
10/01/2004 to 09/30/2005	4	Franklin Templeton Global Maximum Growth Pooled Portfolio - Units	831,089.92	74,119.00
10/01/2005 to 09/30/2005	8	Franklin Templeton International Balanced Growth Pooled Portfolio - Units	1,336,435.00	120,528.00
10/01/2004 to 09/30/2005	4	Franklin Templeton International Growth Pooled Portfolio - Units	640,389.79	55,846.84
10/01/2004 to 09/30/2005	15	Franklin Templeton International Maximum Growth Pooled Portfolio - Units	4,394,443.24	360,586.00
10/25/2005	33	Full Metal Minerals Ltd. - Units	3,000,000.00	3,750,000.00
10/24/2005 to 10/28/2005	26	General Motors Acceptance Corporation of Canada, Limited - Notes	5,145,773.56	51,457.74
10/20/2005	1	Global Alumina Corporation - Common Shares	58,835,000.00	25,000,000.00
10/19/2005	1	GMO Developed World Equity Investment Fund PLC - Units	85,928.83	3,140.00
10/19/2005	1	GMO Developed World Stock Fund - Units	12,959,360.00	558,963.00
10/21/2005	1	Gold Port Resources Ltd. - Units	15,000.00	50,000.00
10/26/2005 to 11/04/2005	11	Guardian Exploration Inc. - Units	329,999.40	733,332.00
10/26/2005	5	IG Realty Investments Inc. - Common Shares	1,144,584.35	9,737.00
10/14/2005 to 10/24/2005	9	IMAGIN Diagnostic Centres, Inc. - Preferred Shares	75,500.00	37,750.00
10/14/2005	22	International Uranium Corporation - Common Shares	45,000,000.00	6,000,000.00
10/28/2005	13	Investeco Private Equity Fund II, L.P. - Limited Partnership Units	2,440,000.00	2,440.00
10/25/2005	66	IROC Systems Corp. - Common Shares	9,900,000.00	3,600,000.00
10/21/2005	1	Kuhne + Nagel International Ltd. - Common Shares	14,845,050.00	55,000.00
10/31/2005	11	LaSalle Canadian Income & Growth Fund II Limited Partnership - Limited Partnership Units	170,000,000.00	1,700,000.00
10/17/2005	5	Menika Mining Ltd. - Common Shares	49,979.00	499,790.00
11/05/0130 to 10/14/2005	69	Metamedia Capital Corp - Common Shares	1,145,888.00	1,145,888.00
10/28/2005	28	Mondial Energy Inc. - Common Shares	1,060,000.00	960,000.00
11/01/2005	2	MyTEGO, Inc. - Common Shares	50,000.00	500,000.00

Transaction Date	# of Purchasers	Issuer/Security	Total Pur. Price ($)	# of Securities Distributed
10/31/2005	1	NewStep Networks Inc. - Preferred Shares	299,415.10	434,615.00
10/31/2005	1	Newstep Networks (U.S.) Inc. - Stock Option	0.51	434,615.00
10/28/2005	16	North American Tungsten Corporation Ltd. - Common Shares	5,008,500.00	4,770,000.00
10/25/2005	2	Oban Trust - Notes	20,000,000.00	20,000,000.00
10/21/2005	6	Pacifica Resources Ltd. - Flow-Through Shares	1,675,000.00	4,500,000.00
11/05/0130	50	Paladin Resources Ltd. - Common Shares	68,950,000.00	35,000,000.00
10/31/2005	4	Paramax Resources Ltd. - Common Shares	88,000.00	1,100,000.00
10/21/2005	3	Pennant Energy Inc. - Common Shares	15,635.00	62,540.00
09/22/2005	39	Permission Marketing Solutions Inc. - Receipts	1,782,000.00	3,564,000.00
10/20/2005	88	Petrobank Energy and Resources Ltd. - Common Shares	38,600,000.00	4,000,000.00
10/28/2005	1	Petroflow Energy Ltd. - Common Shares	24,000.00	300,000.00
10/16/2005	29	Plasma Environmental Technologies Inc. - Common Shares	235,930.00	2,949,125.00
10/16/2005	4	Plasma Environmental Technologies Inc. - Units	74,280.00	928,500.00
10/28/2005 to 10/31/2005	1	Premiere Canadian Mortgage Corp. - Common Shares	31,000.00	31,000.00
10/14/2005	1	Rainy River Resources Ltd. - Units	3,000.00	5,000.00
10/28/2005	29	Red Dragon Resources Corp. - Units	3,006,000.00	5,009,999.00
10/21/2005	11	Response Biomedical Corp. - Debentures	1,579,000.00	1,579.00
10/26/2005	10	Rhone 2005 Oil & Gas Strategic Limited Partnership - Limited Partnership Units	825,000.00	30,000.00
10/21/2005	55	Richards Oil & Gas Limited - Flow-Through Shares	864,769.95	1,041,200.00
10/24/2005	2	Rimon Therapeutics Ltd. - Preferred Shares	65,000.00	13,000.00
10/27/2005	21	Rutter Inc. - Common Shares	5,000,000.05	5,882,353.00
07/15/2005	1	Solicore, Inc. - Stock Option	724,320.00	606,060.00
10/25/2005	1	Southwestern Resources Corp. - Common Shares	5,200,000.00	400,000.00
10/25/2005	18	Sparkle Income Fund - Trust Units	70.00	6,998,850.00
10/25/2005	24	Sparkle Income Fund - Trust Units	2,972,088.00	4,245,840.00
10/21/2005	1	Sydney Resource Corporation - Common Shares	500,000.00	2,500,000.00
10/14/2005	41	Sydney Resource Corporation - Flow-Through Shares	1,000,000.00	4,000,000.00
11/03/2005	3	Symbium Corporation - Debentures	750,000.00	3.00
08/25/2005 to 09/30/2005	3	Tangarine Concepts Corporation - Warrants	50,000.00	20,000.00
10/18/2005	1	Targa Resources Inc. and Targa Resources Finance Corporation - Notes	589,550.00	500,000.00

Transaction Date	# of Purchasers	Issuer/Security	Total Pur. Price ($)	# of Securities Distributed
10/26/2005	1	Target Exploration & Mining Corp. - Units	10,000.00	40,000.00
10/25/2005	4	TD Security Inc. - Stock Option	8,296,499.41	30,072,171.00
09/19/2005	1	Texas Gas & Oil Inc. - Warrants	50,000.00	50,000.00
10/17/2005	1	The Tokyo Star Bank Limited - Common Shares	88,339.20	88,339.20
10/21/2005	221	Titan Uranium Inc. - Units	3,000,000.00	3,000,000.00
10/28/2005	2	USPF II Direct Feeder, L.P. - Limited Partnership Interest	17,656,500.00	17,656,500.00
10/19/2005	60	Valiant Energy Inc. - Flow-Through Shares	6,000,500.00	1,091,000.00
10/24/2005	16	Vault Minerals Inc. - Common Shares	625,000.00	2,020,000.00
10/24/2005	1	Wellspring Capital Partners IV, L.P. - Limited Partnership Interest	118,750,000.00	0.00
10/12/2005	11	Western Keltic Mines Inc. - Flow-Through Shares	1,052,500.00	4,210,000.00
10/12/2005	7	Western Keltic Mines Inc. - Non Flow-Through Shares	300,000.00	1,500,000.00
10/25/2005	25	Williams Creek Explorations Limited - Units	554,000.00	1,846,667.00
10/21/2005	36	Yukon Zinc Corporation - Flow-Through Shares	13,035,660.00	21,421,500.00
10/25/2005	12	Y.H. Properties II Ltd. - Limited Partnership Units	3,775,000.00	3,775.00

Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:
BCE Inc.
Principal Regulator - Quebec
Type and Date:
Preliminary Short Form Shelf Prospectus dated November 4, 2005
Mutual Reliance Review System Receipt dated November 4, 2005
Offering Price and Description:
$1,000,000,000.00 - Debt Securities (Unsecured)
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #849952

Issuer Name:
Black Panther Resources Ltd.
Principal Regulator - Alberta
Type and Date:
Preliminary Prospectus dated November 2, 2005
Mutual Reliance Review System Receipt dated November 3, 2005
Offering Price and Description:
Minimum of 2,300,000 Units and a Maximum of 4,000,000 Units Price: $0.30 per Unit Minimum of 2,300,000 Flow-Through Shares and a Maximum of 4,000,000 Flow-Through Shares issued pursuant the Income Tax Act Price: $0.35 per Flow-Through Share
Underwriter(s) or Distributor(s):
Emerging Equities Inc.
Promoter(s):
Joseph Sefel
Katherine Sefel
David I.P. Freeman
Project #849160

Issuer Name:
Canadian Satellite Radio Holdings Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated November 4, 2005
Mutual Reliance Review System Receipt dated November 4, 2005
Offering Price and Description:
$ * - * Class A Subordinate Voting Shares Price: $ * per Subordinate Voting Shares
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
Genuity Capital Markets G.P.
Promoter(s):
Canadian Satellite Radio Investment Inc.
Project #849719

Issuer Name:
CO2 Solution inc.
Principal Regulator - Quebec
Type and Date:
Preliminary Prospectus dated November 4, 2005
Mutual Reliance Review System Receipt dated November 7, 2005
Offering Price and Description:
$ 7,000,000.00 - • Units (maximum offering); $3,000,000, • Units (minimum offering) Price: $ * per Unit
Underwriter(s) or Distributor(s):
Desjardins Securities Inc.
Promoter(s):
Rejean Blais
Project #849988

Issuer Name:
Duke Energy Income Fund
Principal Regulator - Alberta
Type and Date:
Preliminary Prospectus dated November 3, 2005
Mutual Reliance Review System Receipt dated November 4, 2005
Offering Price and Description:
$ * - * Units Price: $10.00 per Unit
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
TD Securities Inc.
Canaccord Capital Corporation
Clarus Securities Inc.
Promoter(s):
WestCoast Energy Inc.
Project #849636

Issuer Name:
Elliott & Page Strategic Income Fund
Manulife Simplicity Income Portfolio
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectuses dated November 1, 2005
Mutual Reliance Review System Receipt dated November 3, 2005
Offering Price and Description:
Advisor Series, Series F and Series I Securities
Underwriter(s) or Distributor(s):
Elliott & Page Limited
Elliott & Page Limited
Promoter(s):
Elliott & Page Limited
Project #848202

Issuer Name:
Enterra Energy Trust
Principal Regulator - Alberta
Type and Date:
Amended and Restated Preliminary Short Form Shelf Prospectus dated November 7, 2005
Mutual Reliance Review System Receipt dated November 7, 2005
Offering Price and Description:
US$500,000,000.00 - Trust Units Purchase Contracts Warrants Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #806792

Issuer Name:
First Asset Renewable Power Flow-Through LP III
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated November 1, 2005
Mutual Reliance Review System Receipt dated November 2, 2005
Offering Price and Description:
Maximum Offering: $26,500,000.00 (2,650,000 Limited Partnership Units); Minimum Offering: $* (* Limited Partnership Units) PRICE: $10.00 per Unit. MINIMUM PURCHASE: 500 Units
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
TD Securities Inc.
Dundee Securities Corporation
Canaccord Capital Corporation
HSBC Securities (Canada) Inc.
Raymond James Ltd.
Berkshire Securities Inc.
Blackmont Capital Inc.
Desjardins Securities Inc.
Research Capital Corporation
Wellington West Capital Inc.
IPC Securities Corporation
Promoter(s):
First Asset Power Funds III Inc.
First Asset Funds Inc.
Project #848538

Issuer Name:
FNX Mining Company Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated November 8, 2005
Mutual Reliance Review System Receipt dated November 8, 2005
Offering Price and Description:
$102,000,000 - 7,500,000 Common Shares Price: $13.60 per Common Share
Underwriter(s) or Distributor(s):
GMP Securities Ltd.
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
Dundee Securities Corporation
Orion Securities Inc.
Toll Cross Securities Inc.
Promoter(s):
-
Project #851097

Issuer Name:
GrowthWorks Commercialization Fund Ltd.
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated November 2, 2005
Mutual Reliance Review System Receipt dated November 3, 2005
Offering Price and Description:
Class A Shares, 06 Series Maximum Offering: $60 million Offering Price: $10 per share until March 1, 2006 and thereafter Net Asset Value per Share
Underwriter(s) or Distributor(s):
GrowthWorks Capital Ltd.
Promoter(s):
-
Project #848945

Issuer Name:
MineralFields/EnergyFields Multi Series Fund Inc.
Type and Date:
Preliminary Simplified Prospectus dated October 31, 2005
Receipted on November 7, 2005
Offering Price and Description:
Explorer Series Shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
Mineralfields Fund Management Inc.
Project #848687

Issuer Name:
QGX Ltd.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated November 4, 2005
Mutual Reliance Review System Receipt dated November 8, 2005
Offering Price and Description:
$ * - * Common Shares Price: $ * per Common Share
Underwriter(s) or Distributor(s):
CIBC Work Markets Inc.
Sprott Securities Inc.
GMP Securities Ltd.
Promoter(s):
-
Project #850108

Issuer Name:
Ritchie Bros. Auctioneers Incorporated
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated November 8, 2005
Mutual Reliance Review System Receipt dated November 8, 2005
Offering Price and Description:
US$86,521,737 - 2,173,913 Common Shares Price: $39.80 per Common Share
Underwriter(s) or Distributor(s):
Raymond James Ltd.
BMO Nesbitt Burns Inc.
Scotia Capital Inc.
CIBC World Markets Inc.
Sprott Securities Inc.
Blackmont Capital Inc.
Promoter(s):
-
Project #851307

Issuer Name:
Sanatana Diamonds Inc.
Principal Regulator - British Columbia
Type and Date:
Preliminary Non-offering Prospectus dated November 8, 2005
Mutual Reliance Review System Receipt dated November 8, 2005
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #851244

Issuer Name:
SHAW COMMUNICATIONS INC.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form PREP Prospectus dated November 2, 2005
Mutual Reliance Review System Receipt dated November 2, 2005
Offering Price and Description:
$ * - * % Senior Notes due * , 2012 (unsecured)
Underwriter(s) or Distributor(s):
TD Securities Inc.
RBC Dominion Securities Inc.
CIBC World Markets Inc.
Merrill Lynch Canada Inc.
National Bank Financial Inc.
Scotia Capital Inc.
Promoter(s):
-
Project #848692

Issuer Name:
Suntec Pure Water Technologies Inc.
Principal Regulator - Alberta
Type and Date:
Preliminary Prospectus dated November 3, 2005
Mutual Reliance Review System Receipt dated November 4, 2005
Offering Price and Description:
$3,000,000.00 - * Units
Underwriter(s) or Distributor(s):
Blackmont Capital Inc.
Promoter(s):
Gene Moody
Project #849995

Issuer Name:
TransAlta Corporation
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Shelf Prospectus dated November 1, 2005
Mutual Reliance Review System Receipt dated November 1, 2005
Offering Price and Description:
$1,000,000,000.00 - Medium Term Note Debentures (Unsecured)
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
RBC Dominion Securities Inc.
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
HSBC Securities (Canada) Inc.
National Bank Financial Inc.
TD Securities Inc.
Merrill Lynch Canada Inc.
Promoter(s):
-
Project #848305

Issuer Name:
TURNKEY E&P INC.
Principal Regulator - Alberta
Type and Date:
Preliminary Prospectus dated October 31, 2005
Mutual Reliance Review System Receipt dated November 2, 2005
Offering Price and Description:
$ * - * Common Shares Price: $ * per Common Share
Underwriter(s) or Distributor(s):
Sprott Securities Inc.
CIBC World Markets Inc.
StephenAvenue Securities Inc.
Promoter(s):
Dale W. Bossert
Robert M. Tessari
Project #848300

Issuer Name:
Vasogen Inc.
Type and Date:
Preliminary Short Form Shelf Prospectus dated November 4, 2005
Receipted on November 4, 2005
Offering Price and Description:
25,000,000 Common Shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #849919

Issuer Name:
Versacold Income Fund
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated November 4, 2005
Mutual Reliance Review System Receipt dated November 4, 2005
Offering Price and Description:
$ * - * Subscription Receipts each representing the right to receive one Trust Unit and $ * - * % Extendible Convertible Unsecured Subordinated Debentures Price $ * per Subscription Receipt Price: $1,000.00 per Debenture
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
TD Securities Inc.
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
Raymond James Ltd.
Promoter(s):
-
Project #850009

Issuer Name:
AltaGas Utility Group Inc.
Principal Regulator - Alberta
Type and Date:
Final Prospectus dated November 4, 2005
Mutual Reliance Review System Receipt dated November 4, 2005
Offering Price and Description:
$15,795,000.00 - 2,106,000 Common Shares Price: $7.50 per Common Share
Underwriter(s) or Distributor(s):
Clarus Securities Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
Scotia Capital Inc.
Promoter(s):
AltaGas Income Trust
AltaGas Holding Limited Partnership No. 1
Project #827472

Issuer Name:
Anacle Short-Term Investment Class of Anacle I Corporation
(Series A Shares)
Type and Date:
Final Simplified Prospectus dated November 2, 2005
Receipted on November 3, 2005
Offering Price and Description:
Series A Shares @ Net Asset Value
Underwriter(s) or Distributor(s):
M.R.S. Securities Services Inc.
M.R.S. Securities Services Inc.
Promoter(s):
Execuhold Investments Ltd.
Project #841831

Issuer Name:
CNH Capital Canada Receivables Trust
Principal Regulator - Ontario
Type and Date:
Final Short Form Shelf Prospectus dated November 4, 2005
Mutual Reliance Review System Receipt dated November 4, 2005
Offering Price and Description:
Up to $1,000,000,000.00 of Receivable-Backed Notes
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #839520

Issuer Name:
Countryside Canada Power Inc.
Countryside Power Income Fund
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated November 8, 2005
Mutual Reliance Review System Receipt dated November 8, 2005
Offering Price and Description:
US$55,000,000.00 - 6.25 Exchangeable Unsecured and Subordinated Debentures Price: US$1,000 per Debenture
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
RBC Dominion Securities Inc.
TD Securities Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
Promoter(s):
-
Project #845020 & 845014

Issuer Name:
Emerging Markets Equity Pool
Enhanced Income Pool
US Equity Small Cap Pool
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated October 28, 2005
Mutual Reliance Review System Receipt dated November 3, 2005
Offering Price and Description:
Mutual Fund Units @ Net Asset Value
Underwriter(s) or Distributor(s):
United Financial Corporation
Assante Capital Management Ltd.
Assante Financial Management Ltd.
Assante Capital Management Ltd.
Promoter(s):
-
Project #833727

Issuer Name:
FortisBC Inc.
Principal Regulator - British Columbia
Type and Date:
Final Short Form Prospectus dated November 3, 2005
Mutual Reliance Review System Receipt dated November 3, 2005
Offering Price and Description:
$100,000,000.00 - 5.60% Senior Unsecured Debentures due November 9, 2035 Price: 99.957% per Debenture
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
RBC Dominion Securities Inc.
HSBC Securities (Canada) Inc.
Promoter(s):
-
Project #846428

Issuer Name:
GrowthWorks Canadian Fund Ltd.
(Class A Shares)
Principal Regulator - Ontario
Type and Date:
Amendment #4 dated October 27, 2005 to Final Prospectus dated December 24, 2004
Mutual Reliance Review System Receipt dated November 3, 2005
Offering Price and Description:
Class A Shares in Series Offering Price: Net Asset Value per Series Share
Underwriter(s) or Distributor(s):
GrowthWorks Capital Ltd.
Promoter(s):
GrowthWorks WV Management Ltd.
Project #701638

Issuer Name:
Heroux-Devtek Inc.
Principal Regulator - Quebec
Type and Date:
Final Short Form Prospectus dated November 3, 2005
Mutual Reliance Review System Receipt dated November 3, 2005
Offering Price and Description:
$16,875,000.00 - 4,500,000 Common Shares PRICE: $3.75 per Common Share
Underwriter(s) or Distributor(s):
National Bank Financial Inc.
GMP Securities Ltd.
Raymond James Ltd.
Versant Partners Inc.
Promoter(s):
-
Project #844964

Issuer Name:
HSBC Bank Canada
Principal Regulator - British Columbia
Type and Date:
Final Short Form Prospectus (NI 44-101) dated November 2, 2005
Mutual Reliance Review System Receipt dated November 2, 2005
Offering Price and Description:
$175,000,000.00 - 7,000,000 Non-Cumulative Class 1 Preferred Shares Series D Price: $25.00 per share to yield 5.00%
Underwriter(s) or Distributor(s):
HSBC Securities (Canada) Inc.
RBC Dominion Securities Inc.
Scotia Capital Inc.
TD Securities Inc.
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
National Bank Financial Inc.
Desjardins Securities Inc.
Trilon Securities Corporation
Promoter(s):
-
Project #845299

Issuer Name:
Imperial Overseas Equity Pool
Principal Regulator - Ontario
Type and Date:
Amendment #2 dated October 28, 2005 to Final Simplified Prospectus and Annual Information Form dated May 9, 2005
Mutual Reliance Review System Receipt dated November 4, 2005
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
Canadian Imperial Bank of Commerce
Project #747343

Issuer Name:
Series A, F, I and O Shares
and
Series M and R Shares (where indicated) of:

Mackenzie Cundill Canadian Security Capital Class
(also Series R Shares)
Mackenzie Ivy Canadian Capital Class
(also Series R Shares)
Mackenzie Ivy Enterprise Capital Class
(also Series R Shares
Mackenzie Maxxum Canadian Equity Growth Capital Class
(also Series R Shares)
Mackenzie Maxxum Canadian Value Capital Class
(also Series R Shares)
Mackenzie Maxxum Dividend Capital Class
(also Series R Shares)
Mackenzie Select Managers Canada Capital Class
(also Series R Shares)
Mackenzie Universal Canadian Growth Capital Class
(also Series R Shares)
Mackenzie Universal Future Capital Class
(also Series R Shares)
Mackenzie Cundill American Capital Class
Mackenzie Select Managers USA Capital Class
(also Series R Shares)
Mackenzie Universal American Growth Capital Class
(also Series M Shares)
Mackenzie Universal U.S. Blue Chip Capital Class
(also Series R Shares)
Mackenzie Universal U.S. Emerging Growth Capital Class
(also Series R Shares)
Mackenzie Universal U.S. Growth Leaders Capital Class
(also Series R Shares)
Mackenzie Cundill Value Capital Class
(also Series R Shares)
Mackenzie Ivy European Capital Class
(also Series M Shares)
Mackenzie Ivy Foreign Equity Capital Class
(also Series R Shares)
Mackenzie Maxxum Global Explorer Capital Class
(also Series R Shares)
Mackenzie Select Managers Capital Class
(also Series R Shares)
Mackenzie Select Managers Far East Capital Class
(also Series M and R Shares)
Mackenzie Select Managers International Capital Class
(also Series R Shares)
Mackenzie Select Managers Japan Capital Class
(also Series R Shares)
Mackenzie Universal Emerging Markets Capital Class
(also Series M Shares)
Mackenzie Universal European Opportunities Capital Class
Mackenzie Universal Global Future Capital Class
(also Series R Shares)
Mackenzie Universal Growth Trends Capital Class
(also Series M and R Shares)
Mackenzie Universal International Stock Capital Class
Mackenzie Universal Sustainable Opportunities Capital Class
(also Series R Shares)
Mackenzie Universal Emerging Technologies Capital Class
(also Series R Shares)
Mackenzie Universal Health Sciences Capital Class
(also Series R Shares)
Mackenzie Universal World Precious Metals Capital Class
Mackenzie Universal World Real Estate Capital Class
Mackenzie Universal World Resource Capital Class
Mackenzie Universal World Science & Technology Capital Class
(also Series R Shares)
Mackenzie Sentinel Canadian Managed Yield Capital Class
(also Series R Shares)
Mackenzie Sentinel Managed Return Capital Class
Mackenzie Sentinel U.S. Managed Yield Capital Class
(also Series R Shares)
of
Mackenzie Financial Capital Corporation
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated October 30, 2005
Mutual Reliance Review System Receipt dated November 4, 2005
Offering Price and Description:
Offering Series A, F, I, M, O and R Shares @ Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
Mackenzie Finanical Corporation
Project #835510

Issuer Name:
MINCO SILVER CORPORATION
Principal Regulator - British Columbia
Type and Date:
Final Prospectus dated November 4, 2005
Mutual Reliance Review System Receipt dated November 8, 2005
Offering Price and Description:
Minimum Offering: 400,000 Common Shares ($500,000.00); Maximum Offering: 800,000 Shares ($1,000,000.00) Price: $1.25 per Common Share
Underwriter(s) or Distributor(s):
BLACKMONT CAPITAL INC.
Promoter(s):
Minco Mining & Metals Corporation
Project #803445

Issuer Name:
Molson Coors Capital Finance ULC
Principal Regulator - Nova Scotia
Type and Date:
Final Short Form Prospectus (NI 44-101) dated November 1, 2005
Mutual Reliance Review System Receipt dated November 2, 2005
Offering Price and Description:
Offer to exchange up to Cdn.$900,000,000.00 - of new 5.00% Senior Notes due 2015 (Fully and unconditionally guaranteed by Molson Coors Brewing Company and certain of its subsidiaries) for up to Cdn.$900,000,000.00 outstanding 5.00% Senior Notes due 2015 (Fully and unconditionally guaranteed by Molson Coors Brewing Company and certain of its subsidiaries)
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
TD Securities Inc.
J.P. Morgan Securities Canada Inc.
Morgan Stanley Canada Limited
Promoter(s):
-
Project #842909

Issuer Name:
Provident Energy Trust
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated November 7, 2005
Mutual Reliance Review System Receipt dated November 7, 2005
Offering Price and Description:
$275,058,000.00 - 21,830,000 Subscription Receipts and $150,000,000.00 - 6.50% Extendible Convertible Unsecured Subordinated Debentures Subscription Receipts
Underwriter(s) or Distributor(s):
National Bank Financial Inc.
BMO Nesbitt Burns Inc.
Scotia Capital Inc.
TD Securities Inc.
RBC Dominion Securities Inc.
CIBC World Markets Inc.
Canaccord Capital Corporation
HSBC Securities (Canada) Inc.
Sprott Securities Inc.
Promoter(s):
-
Project #847651

Issuer Name:
Railpower Technologies Corp.
Principal Regulator - British Columbia
Type and Date:
Final Short Form Prospectus dated November 8, 2005
Mutual Reliance Review System Receipt dated November 8, 2005
Offering Price and Description:
$60,000,009.25 - 11,214,955 Common Shares Price: $5.35 per Common Share
Underwriter(s) or Distributor(s):
Sprott Securities Inc.
National Bank Finanical Inc.
Paradigm Capital Inc.
Promoter(s):
-
Project #844529

Issuer Name:
SHAW COMMUNICATIONS INC.
Principal Regulator - Alberta
Type and Date:
Final MJDS PREP Short Form Prospectus dated November 8, 2005
Mutual Reliance Review System Receipt dated November 8, 2005
Offering Price and Description:
$400,000,000.00 -* % Senior Notes due * , 2012 (unsecured)
Underwriter(s) or Distributor(s):
TD Securities Inc.
RBC Dominion Securities Inc.
CIBC World Markets Inc.
Merrill Lynch Canada Inc.
National Bank Financial Inc.
Scotia Capital Inc.
Promoter(s):
-
Project #848692

Issuer Name:
Sun Life Financial Inc.
Principal Regulator - Ontario
Type and Date:
Final Short Form Base Shelf Prospectus dated November 4, 2005
Mutual Reliance Review System Receipt dated November 7, 2005
Offering Price and Description:
$3,000,000,000.00 - Debt Securities Class A Shares - Class B Shares - Common Shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #846012

Issuer Name:
Synenco Energy Inc.
Principal Regulator - Alberta
Type and Date:
Final Prospectus dated November 4, 2005
Mutual Reliance Review System Receipt dated November 7, 2005
Offering Price and Description:
$275,625,000.00 - 15,750,000 Common Shares Price: $17.50 per Common Share
Underwriter(s) or Distributor(s):
TD Securities Inc.
CIBC World Markets Inc.
Merrill Lynch Canada Inc.
Scotia Capital Inc.
National Bank Financial Inc.
Raymond James Ltd.
J. F. Mackie & Company Ltd.
Octagon Capital Corp.
Promoter(s):
-
Project #834803

Issuer Name:
Talvest Global Resource Fund
(Class A, F and O Units)
Principal Regulator - Ontario
Type and Date:
Amendment #4 dated October 28, 2005 to Simplified Prospectus and Annual Information Form dated December 15, 2004
Mutual Reliance Review System Receipt dated November 4, 2005
Offering Price and Description:
Class A, F and O Units
Underwriter(s) or Distributor(s):
CIBC Asset Management Inc.
CIBC Asset Management Inc.
Promoter(s):
CIBC Asset Management Inc.
Project #699344

Issuer Name:
TEAL Exploration & Mining Incorporated
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated November 4, 2005
Mutual Reliance Review System Receipt dated November 7, 2005
Offering Price and Description:
C$40,050,000.00 - 17,800,000 Common Shares Price: C$2.25 per Common Share
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
Haywood Securities Inc.
Promoter(s):
African Rainbow Minerals Limited
Project #833672

Issuer Name:
VCom Inc.
Principal Regulator - British Columbia
Type and Date:
Final Prospectus dated November 3, 2005
Mutual Reliance Review System Receipt dated November 4, 2005
Offering Price and Description:
$25,012,500.00 - 3,335,000 Common Shares Price: $7.50 per Common Share
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
National Bank Financial Inc.
TD Securities Inc.
Orion Securities Inc.
Raymond James Ltd.
Promoter(s):
-
Project #836733

Issuer Name:
Criterion Multi-National Yield Fund
Principal Jurisdiction - Ontario
Type and Date:
Preliminary Prospectus dated September 28th, 2005
Withdrawn on November 1st, 2005
Offering Price and Description:
$ * - * Units - Price: $10.00 per Unit Minimum Purchase: 200 Units
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
RBC Dominion Securities Inc.
National Bank Financial Inc.
Scotia Capital Inc.
TD Securities Inc.
HSBC Securities (Canada) Inc.
Raymond James Ltd.
Canaccord Capital Corporation
Blackmont Capital Inc.
Desjardins Securities Inc.
Dundee Securities Corporation
Wellington West Capital Inc.
Promoter(s):
Criterion Investments Limited
Project #837350

Issuer Name:
Genericspharma Inc.
Principal Jurisdiction - Ontario
Type and Date:
Preliminary Prospectus dated June 6th, 2005
Withdrawn on November 8th, 2005
Offering Price and Description:
$ * - * Common Shares Price: $ * per Common Shares
Underwriter(s) or Distributor(s):
Research Capital Corporation
Canaccord Capital Corporation
Orion Securities Inc.
Promoter(s):
Achilles N. Vigopoulos
Project #795899

Issuer Name:
Sutyr Corp.
Type and Date:
Preliminary Prospectus dated August 11th, 2005
Withdrawn on November 2nd, 2005
Offering Price and Description:
$2,000,000.00 to $2,500,000.00 - A Minimum of 20,000,000 Common Shares and a Maximum of 25,000,000 Common Shares Price: $0.10 per Common Share
Underwriter(s) or Distributor(s):
Dominick & Dominick Securities Inc.
Promoter(s):
Gaetano Fiore
William Benazzi
Linda Le Blanc
Project #817231

Issuer Name:
Variable Rate MBS Fund
Principal Jurisdiction - Ontario
Type and Date:
Preliminary Prospectus dated July 27th, 2005
Withdrawn on September 19, 2005
Offering Price and Description:
$ * - Maximum - * Units Price: $10.00 per Unit
Underwriter(s) or Distributor(s):
TD Securities Inc.
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
Canaccord Capital Corporation
Desjardins Securities Inc.
Dundee Securities Corporation
Raymond James Ltd.
First Associates Investments Inc.
Wellington West Capital Inc.
Richardson Partners Financial Limited
Berkshire Securities Inc.
Promoter(s):
MACCs Administrator Inc.
Project #810498

Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
New Registration	Alterra Capital Inc.	Limited Market Dealer	November 8, 2005
New Registration	Knight Equity Markets L.P.	International Dealer	November 3, 2005
New Registration	Hyperion Capital Management, Inc.	Non-Canadian Adviser (Investment Counsel & Portfolio Manager) and Commodity Trading Manager (Non-Resident)	November 2, 2005
Change of Name	From: I. H. Rotenberg Investment Counsel Inc. To: Lissom Investment Management Inc.	Limited Market Dealer & Investment Counsel & Portfolio Manager	October 19, 2005
Change of Name	From: Bluefield Financial Limited Partnership To: NexGen Financial Limited Partnership	Mutual Fund Dealer & Limited Market Dealer & Investment Counsel and Portfolio Manager	October 31, 2005
Change in Category	Cornerstone Asset Management L.P.	From: Limited Market Dealer, Investment Counsel and Portfolio Manager To: Limited Market Dealer, Investment Counsel and Portfolio Manager	November 4, 2005

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Chapter 13

SRO Notices and Disciplinary Proceedings

13.1.1 Notice of Request for Comments – Amendments to IDA Regulation 200.1(H) regarding Confirmations for Externally Managed Account Transactions

INVESTMENT DEALERS ASSOCIATION OF CANADA

REGULATION 200.1(H) –
CONFIRMATION FOR EXTERNALLY MANAGED ACCOUNT TRANSACTIONS

NOTICE OF REQUEST FOR COMMENTS

I OVERVIEW

A Current Rules

Regulation 200.1(h) requires that Members issue a confirmation of each trade in securities or commodity futures in a customer account. Regulation 200.1(h) also lists the information that must be included on the confirmation. The Regulation provides an exemption from doing so for accounts managed by external portfolio managers provided that the customer consents and a confirmation is sent to the external portfolio manager (sub-paragraph (iv)(a) of Regulation 200.1). An exemption is also provided for accounts managed by internal portfolio managers of the Member provided that the customer consents, the account is not charged a commission or fees based on the volume or value of transactions and the monthly statement contains certain information that would have been contained in a confirmation (sub-paragraph (iv)(b) of Regulation 200.1).

B The Issue

Many external portfolio managers do not wish to receive confirmations as currently required. Clients would have sufficient disclosure and adequate protection if clients are provided with enhanced monthly statements that include some of the information that would have been contained in a confirmation.

C Objective

The objective of the amendment is to relieve external portfolio managers from receiving unnecessary confirmations and providing Members with the option of instead providing clients with monthly statements enhanced to include all the items of trade information that normally appear on a confirmation but not on a monthly statement, although for some such items the member may simply disclose that the information is available on request.

D Effect of Proposed Rules

The proposed rule change will reduce the cost of administration of managed accounts by eliminating the cost of sending out confirmations to external portfolio managers. In addition, the proposal would result in treating portfolio managers carrying out the same function in the same manner regardless of whether they work for the Member firm or are sub-advisers.

II DETAILED ANALYSIS

A Present Rules, Relevant History and Proposed Regulation Amendment

The current provision regarding confirmations for managed accounts was passed by the Board of Directors in 2003 and implemented in 2004. It revised earlier amendments to the Regulation that were made in 1997. The 1997 amendments responded to complaints from managed accountholders that, having signed the management of their portfolios over to others, they had no use for and did not want to receive a separate confirmation of each trade, and would be satisfied with monthly statements showing all transactions.

The 1997 provision, as originally passed by the Board of Directors, did not restrict the exemption to externally managed accounts. That restriction was included at the insistence of those Canadian Securities Administrators (CSA) whose approval of IDA By-laws and Regulations is required.

Members that offered managed accounts internally continued to report that some clients complained about receiving separate confirmations of every trade for their accounts.

In May 2003 all members of the CSA, except the Prince Edward Island Securities Office, to which application was not made, granted to an applicant Member an exemption from providing confirmations to managed account customers in an internally managed program, subject to certain conditions. The Member sought an exemption from Regulation 200.1(h) for the accounts in the program. Consequently, the 2003 amendment provided an exemption to Members offering internally managed accounts, subject to the conditions already included in the exemption for externally managed accounts. These conditions are:

1. That the client must consent to not receive confirmations and must be able to terminate that consent by notice in writing. The firm must resume sending confirmation on receipt of the notice for trades the following day.

2. The provision of a confirmation is not required under any applicable securities law, regulation or policy of the jurisdiction in which the client resides or the Member has obtained an exemption from any such law, regulation or policy by the responsible securities regulatory authority.

3. The Member sends a monthly statement to the client.

The fundamental difference in the conditions for internal versus external accounts is that where the Member manages the account, the monthly statements must contain all of the information required to be contained in a confirmation except:

1. The day and the stock exchange or commodity futures exchange upon which the trade took place;

2. The fee or other charge, if any, levied by a securities regulatory authority in connection with the trade;

3. The name of the salesman, if any, in the transaction;

4. The name of the dealer, if any, used by the Member as its agent to effect the trade; and,

5. If acting as agent in a trade upon a stock exchange, the name of the person or company from or to or through whom the security was bought or sold.

This condition was in lieu of the requirement for externally managed accounts that a trade confirmation be sent to the external manager of the account.

The IDA has recently become aware of securities commissions granting relief applications to Member firms from the securities legislation requirement to send confirmations. The firms received relief in reliance on sub-paragraph (iv)(b). Specifically, although the firm was offering externally managed accounts, rather than having to send confirmations to the external portfolio manager, the firm was permitted to send monthly statements which included information usually contained in a confirmation. Another Member, BMO Nesbitt Burns, has recently received relief from the securities commissions and is now requesting permission from the IDA to also rely on sub-paragraph (iv)(b) for externally managed accounts.

The Association is of the view that it is appropriate for clients to receive a monthly account statement that includes the information required by paragraph (iv)(b) rather than a trade confirmation for each individual trade or a trade confirmation being sent to a sub-adviser for each trade.

The amendment will provide an alternative for Members who offer externally managed accounts from the present requirement that a trade confirmation be sent to the manager of the account. Members can choose instead for these accounts to comply with the exemption currently available only for internally managed accounts.

An amendment has also been made to sub-paragraph (iv)(a)(A) simply to clarify the language and maintain consistency with the language throughout sub-paragraphs (iv)(a) and (b).

In conjunction with this submission to the Board for a rule amendment, in order to assist BMO Nesbitt Burns with its relief application, a draft Resolution of the Board of Directors is being submitted. This Resolution is pursuant to By-law 17.15 and is intended to grant an exemption from the trade confirmation requirements contained in Regulation 200.1(h); specifically the requirements in sub-paragraph (iv)(a).

B Issues and Alternatives Considered

No alternatives were considered.

C Comparison with Similar Provisions

Provincial securities legislation such as Section 36 of the *Securities Act (Ontario),* Section 36 of the *Securities Rules (B.C)*, Section 90(1) of the *Securities Act (Alberta)* and Section 162 of the *Securities Act (Quebec)* requires that registered dealers send a confirmation of each trade to the customer. No similar provision applies to registered portfolio managers, who also manage customer accounts. Under Section 123 of Ontario Regulation 1015, registered portfolio managers are required to send quarterly statements of the portfolio.

D Systems Impact of Rule

The rule will have systems implications for some Members in that it will require that additional disclosures or information be added to the monthly statements if the Member chooses to comply with the requirements currently in place for internally managed accounts. However, the option still remains to send trade confirmations to the manager if Members do not wish to make use of the proposed amendment.

E Best Interests of the Capital Markets

The Board has determined that the public interest rule is not detrimental to the best interests of the capital markets.

F Public Interest Objective

According to the IDA's Order of Recognition as a self-regulatory organization, the IDA shall, where requested, provide in respect of a proposed rule change "a concise statement of its nature, purposes and effects, including possible effects on market structure and competition". Statements have been made elsewhere as to the nature and effects of the proposals with respect to the proposed amendments.

The purpose of the proposal is to ensure that the governance and organization structure is of paramount importance as it provides the platform from which the Association delivers upon its dual mandate. As a national not-for-profit Self-Regulatory Organization, the aim of the IDA's corporate governance structure must be to satisfactorily address the inherent conflicts between the public, Members and management. As a result the related general purposes of the amendment are to "ensure compliance with Ontario securities laws", "facilitate fair and open competition in securities transactions generally" and "standardize industry practices where necessary or desirable for investor protection."

The proposal does not permit unfair discrimination among customers, issuers, brokers, dealers, Members or others. It does not impose any burden on competition that is not necessary or appropriate in furtherance of the above purposes.

III COMMENTARY

A Filing in Other Jurisdictions

These proposed amendments will be filed for approval in Alberta, British Columbia, Quebec and Ontario and will be filed for information in Manitoba, Nova Scotia and Saskatchewan.

B Effectiveness

The revision will eliminate the Association requirement with regard to confirmations for externally managed accounts but does not address similar requirements under provincial and territorial securities legislation. Members seeking to use the exemption under the revised rule will have to apply for exemptions under securities legislation to the provinces and territories in which they are registered.

C Process

The issue was raised as a result of some Members receiving relief from the securities commissions on one of the conditions that for accounts managed by external portfolio managers, the Member sends to clients a monthly statement that includes certain information from the trade confirmation. A submission was consequently made to the IDA by BMO Nesbitt Burns seeking the approval of the IDA for a similar arrangement. The proposed amendments were developed by senior management of the IDA and have been approved by the IDA Board of Directors.

IV SOURCES

References:

- Regulations 200.1(c) and 200.1(h)

V OSC REQUIREMENT TO PUBLISH FOR COMMENT

The IDA is required to publish for comment the accompanying amendments.

The Association has determined that the entry into force of the proposed amendments would be in the public interest. Comments are sought on the proposed amendments. Comments should be made in writing. One copy of each comment letter should be delivered within 30 days of the publication of this notice, addressed to the attention of Michelle Alexander, Senior Legal and Policy Counsel, Regulatory Policy**,** Investment Dealers Association of Canada, Suite 1600, 121 King Street West, Toronto, Ontario, M5H 3T9 and one copy addressed to the attention of the Manager of Market Regulation, Ontario Securities Commission, 20 Queen Street West, 19th Floor, Box 55, Toronto, Ontario, M5H 3S8.

Questions may be referred to:

Michelle Alexander
Senior Legal and Policy Counsel, Regulatory Policy
Investment Dealers Association of Canada
416.943.5885
malexander@ida.ca

INVESTMENT DEALER ASSOCIATION OF CANADA

REGULATION 200.1(H)
CONFIRMATIONS FOR EXTERNALLY MANAGED ACCOUNT TRANSACTIONS

ATTACHMENT #1

The BOARD OF DIRECTORS of the Investment Dealers Association of Canada hereby makes the following amendments to the By-laws, Regulations, Forms and Policies of the Association:

1. Regulation 200.1(h) is amended as follows:

"Notwithstanding the provisions of this Regulation 200.1(h), a Member shall not be required to provide a confirmation to a client in respect of a trade in a managed account, provided that:

(i) Prior to the trade, the client has consented in writing to waive the trade confirmation requirement;

(ii) The client may terminate a waiver by notice in writing. The termination notice shall be effective upon receipt of the written notice by the Member, for trades following the date of receipt;

(iii) The provision of a confirmation is not required under any applicable securities law, regulation or policy of the jurisdiction in which the client resides or the Member has obtained an exemption from any such law, regulation or policy by the responsible securities regulatory authority; and

(iv) (a) where a person other than the Member manages the account

(A) the Member

(1) sends a trade confirmation ~~has been sent~~ to the manager of the account, and

(2) ~~(B) the Member~~ complies with the requirements of Regulation 200.1(c); or

(B) the Member complies with the requirements of paragraph (b) below,

(b) where the Member manages the account:

(A) the account is not charged any commissions or fees based on the volume or value of transactions in the account;

(B) the Member sends to the client a monthly statement that is in compliance with Regulation 200.1(c) and contains all of the information required to be contained in a confirmation under this Regulation 200.1(h) except:

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

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

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

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

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

(C) the Member maintains the information not required to be in the monthly statement pursuant to paragraph (B) and discloses to the client on the monthly statement that such information will be provided to the client on request."

PASSED AND ENACTED BY THE Board of Directors this 26th day of October 2005, to be effective on a date to be determined by Association staff.

13.1.2 Notice of Request for Comments – Amendments to IDA Regulation 100.12 regarding Optional Use of Value at Risk (VaR) Modeling to Determine Capital Requirements for Member Firm Security Positions

INVESTMENT DEALERS ASSOCIATION OF CANADA

REGULATION 100.12 –
OPTIONAL USE OF VALUE AT RISK (VAR) MODELING
TO DETERMINE CAPITAL REQUIREMENTS
FOR MEMBER FIRM SECURITY POSITIONS

NOTICE OF REQUEST FOR COMMENTS

I OVERVIEW

At present, the regulatory capital requirements for Member firm positions in and offsets involving securities (and related derivative instruments) are set out in Regulation 100. These requirements have been developed over a number of decades to conservatively provide for the market risk associated with unhedged security positions[1] as well as to allow capital requirement reductions for a limited number of security offset strategies[2, 3].

A Current Rules

Regulation 100 sets out the capital requirements that address the market risk associated with Member firm positions in and offsets involving securities (and related derivative instruments). Regulation 100 has increased in length over the past decade to approximately 120 pages due largely to the significant increase in the number of new securities products that have been introduced and the continuation of the strategy-based[4] rulemaking approach, which requires that specific rules be developed for each new product (as well as accompanying offset rules).

B The Issue

In spite of recent efforts to rationalize the existing strategy-based rules, the continued exclusive use of such rules is no longer workable as:

- The strategy-based rules have been found to be overly conservative in that the number of permitted offset strategies within an issuer product group is limited and issuer risk diversification is not considered; and
- The rulemaking and compliance burden associated with the strategy-based rules is increasing due to the increasing number and complexity of securities products.

It is for these reasons that the optional use of a more advanced approach to determining the market risk associated with a Member firm's proprietary inventory security positions, specifically value at risk (VaR) modeling, is being proposed.

C Objective(s)

The proposal set out in Attachment #1 seeks to permit the optional use of VaR modeling for determining the capital requirement associated with a Member firm's proprietary inventory security positions, subject to certain conditions being met by the Member firm. The proposal does not seek to replace the existing strategy-based rules which we believe will continue to be necessary for determining the capital and margin requirements for relatively unsophisticated proprietary inventory and customer account security positions.

The objective of the proposal is to grant those Member firms who maintain sophisticated and/or significant proprietary inventories the option of using a VaR modeling approach to determine their capital requirement, the byproduct of which will be

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1 Examples of the conservatism in the current capital requirements for unhedged security positions include the fixed percentage margin requirements for debt securities and the traded price per share margin requirements for equity securities.

2 Regulation 100.4 sets out a number of strategy-based offsets which allow for capital requirement reductions for debt offsets, convertible / exchangeable security offsets and swap contract offsets. These offset requirements were most recently amended effective January 1, 2004 through the implementation of amendments to Regulations 100.4F, 100.4G, 100.4H and 100.4I.

3 Regulation 100.10 sets out a number of strategy-based offsets which allow for capital requirement reductions for offsets involving exchange trade derivatives. These offset requirements were most recently amended effective January 1, 2005.

4 Strategy-based rules set out capital and margin requirements for a security or derivative position or offset strategy involving two or more security/derivative positions based on the calculated worst-case scenario loss for the position or offset strategy.

capital requirements being provided by the Member firm which are more reflective of the overall market risk of the proprietary inventory. Specifically, the use of VaR modeling will generally[5] result in reduced capital requirements for offsets strategies that are either not addressed in the current strategy-based rules (or are addressed in an overly conservative fashion) as well reduced capital requirements in situations where the modeling recognizes the market risk reduction achieved through portfolio diversification.

D Effect of Proposed Rules

As previously stated, the proposal seeks to permit the optional use of VaR modeling for determining the capital requirement associated with a Member firm's proprietary inventory security positions, subject to certain conditions being met by the Member firm. Adoption of the proposal will make consistent the regulatory capital requirements that address the market risk associated with inventory security positions that are held at either a Canadian bank or a Canadian securities dealer.

The conditions that must be met by those Member firms opting to use VaR modeling are:

- Provision of a higher minimum capital requirement on Statement B, Line 4 of Form 1 than the current $250,000 requirement that applies to a full service dealer. [The proposal sets this requirement at the greater of $10 million and 25% of the capital requirement calculated using the VaR modeling approach.]

- Certification that the VaR modeling methodology to be used utilizes standards that are compliant with the Basel capital standards recommended standards any additional standards the Association may establish from time to time.

It is not anticipated that the proposed rule will have any market structure impacts. It is believed that the proposed rule will have positive impacts in terms of enabling improved Member firm competitiveness with non-dealer financial institutions without diminishing the effectiveness of the IDA's overall capital adequacy requirements. It is also believed that the proposed higher minimum capital requirements that will apply are an accurate reflection of the additional resources that will be necessary and the incremental operational risk and "tail event" market risk that will be assumed where a Member firm opts to use VaR modeling. As a result, we do not believe that competition among Member firms will be unduly affected under this proposed rule.

II DETAILED ANALYSIS

A Present Rules, Relevant History and Proposed Policy

Present rules and relevant history

Regulation 100 sets out the capital requirements that address the market risk associated with Member firm positions in and offsets involving securities (and related derivative instruments). Regulation 100 has increased in length over the past decade to approximately 120 pages due largely to the significant increase in the number of new security products that have been introduced and the continuation of the strategy-based rulemaking approach, which requires that specific rules be developed for each new product (including accompanying offset rules). Efforts have been made over the past five years to rationalize the existing strategy-based rules through the development of the following rule amendment proposals among others:

- Capital and margin requirements for positions in and offsets involving interest rate and total performance swaps – Regulations 100.2(j), 100.2(k), and 100.4F; implemented effective January 1, 2004

- Capital and margin requirements for offsets involving capital shares and convertible and exercisable securities – Regulations 100.4G, 100.4H and 100.4I; implemented effective January 1, 2004

- Capital and margin requirements for positions in and offsets involving exchange traded derivatives – Regulations 100.9 and 100.10; implemented effective January 1, 2005

- Optional use of TIMS or SPAN for determining the capital requirements for positions in and offsets involving exchange traded derivatives – Regulation 100.10; implemented effective January 1, 2005
- Capital requirements for underwriting commitments – Regulation 100.5; implemented effective March 1, 2005

- Capital and margin requirements for offsets involving Canadian debt securities and related futures contracts – Regulations 100.4C and 100.4K; approved by the Board or Directors at January 2005 meeting and awaiting CSA approval

[5] Although the use of VaR modeling will generally result in a lower capital requirement than current IDA requirements it may not always result in a lower requirement. There may be instances where a Member firm holding an unhedged portfolio of securities, particularly once the new "basic margin rate" methodology is implemented for equity securities, may calculate a lower requirement under the current strategy-based requirements than under VaR modeling.

- Capital and margin requirements for listed equity securities – Regulation 100.2(f)(i); to be considered at Board of Directors at October 2005 meeting

In spite of these efforts to rationalize the existing strategy-based rules, the continued exclusive use of such rules is no longer workable as:

- The strategy-based rules have been found to be overly conservative in that the number of permitted offset strategies within an issuer product group is limited and issuer risk diversification is not considered; and

- The rulemaking and compliance burden associated with the strategy-based rules is increasing due to the increasing number and complexity of securities products.

It is for these reasons that the optional use of a more advanced approach to determining the market risk associated with a Member firm's proprietary inventory security positions, specifically value at risk (VaR) modeling, is being proposed.

Background to development of proposal

In early 2004, the Association engaged the consulting firm PricewaterhouseCoopers to perform an initial feasibility study of the optional use of value at risk (VaR) modeling for determining the capital requirements for a Member firm's proprietary inventory security positions. The study was undertaken for a number of reasons including:

- The recent initiatives in Europe and the United States to consider the use of the Basel II capital standards (including VaR modeling) by the securities industry requiring that Canadian securities regulators consider the same for capital markets competitiveness reasons;

- The increasing limitations to the use of strategy-based rules for determining the capital requirements for proprietary inventory security positions (as discussed above); and

- The expressed interest by a number of Member firms to use VaR modeling for regulatory purposes.

As part of the study the risk specific capital requirements that apply to OSFI regulated financial institutions (both current OSFI and proposed Basel II) and IDA Member firms were compared. The following table summarizes this comparison of requirements:

Risk Type	OSFI Requirements		IDA Requirements
	Current OSFI	Proposed Basel II	
Market risk [proprietary inventory positions]	VaR modeling allowing risk requirement reduction through recognizing a virtually unlimited number of position risk reduction strategies and portfolio diversification	VaR modeling allowing risk requirement reduction through recognizing a virtually unlimited number of position risk reduction strategies and portfolio diversification	Unhedged positions subject to fixed percentage margin requirements set out in Regulation 100 Hedged positions granted reduced margin where offset rule is available
Credit risk Institutional clients	Relatively simple standardized approach	Proposed credit rating based approach will result in some reductions for investment grade credit risks and significant increases for less than investment grade credit risks	Relatively simple standardized approach with a number of instances lower credit requirements than under **Current OSFI** (i.e., currently "acceptable institution" exposures attract no capital provision)
Credit risk Retail clients	Relatively simple standardized approach	Proposed credit rating based approach would yield similar results as **IDA Requirements** as would	Same as **Market risk** requirements above

Risk Type	OSFI Requirements		IDA Requirements
	Current OSFI	Proposed Basel II	
		assess value of credit risk collateral	
Operational risk	No current capital requirement	Proposed capital requirement	IDA examination staff assess operational risk as part of Member firm risk assessment and the preparation of the Risk Trend Report, but there is no current capital requirement.

As the table suggests, the current IDA requirements with respect to the assessment of market risk in proprietary trading books are more conservative than the current OSFI and proposed Basel II VaR requirements. However, the current IDA requirements with respect to the assessment of operational risk and institutional account credit risk are generally less conservative than the existing Basel and proposed Basel II capital requirements.

Specific to operational risk, there are no existing IDA capital requirements that apply to Member firms. As a result, if the optional use of VaR modeling is permitted without the making of any other rule changes, the overall IDA capital requirements will be less conservative than those of Basel and proposed Basel II. It is also believed that operational risk will be of greater concern for those dealers who opt to use VaR modeling, because of the sophisticated systems and control structures that will need to be maintained on an ongoing basis. For these reasons, the proposal will require Member firms to provide a higher minimum capital requirement in the determination of their risk adjusted capital.

Proposal details

The proposal itself is relatively straightforward. The proposal seeks to provide Member firms with the option of using VaR modeling for determining the capital requirements of its proprietary inventory security positions, provided two conditions are met: (1) The provision of a higher minimum capital requirement on Statement B, Line 4 of Form 1 than the current $250,000 requirement that applies to a full service dealer and (2) Certification that the VaR modeling methodology to be used utilizes standards and is subject to stress testing and back-testing procedures that are compliant with the Basel II capital standards recommended standards and any additional standards the Association may establish from time to time.

Member firms will be required to apply to the Association to receive permission to exercise its option to use VaR modeling. As part of any application to the Association, the Member firm will be required to submit a description of their internal risk management control system and how that system satisfies the Association requirements, together with a description of the method the Member firm intends to use to calculate its deductions to risk adjusted capital. The Association will review how the firm manages its market risk and its mathematical models to determine if the Member firm has met the Association's VaR modeling requirements. In approving the application, the Association, in its discretion, may impose additional conditions or limitations where necessary or appropriate in the public interest or for the protection of investors.

Higher minimum capital requirement

The proposal will require Member firms to provide a higher minimum capital requirement in the determination of their risk adjusted capital. We believe the higher capital requirement is necessary to address the increased operational risk that will result when a Member firm opts to use VaR modeling. Specifically, while VaR modeling is a more sophisticated market risk measurement approach it is also more resource intensive to support and maintain in comparison to the existing IDA strategy-based rules.

Further, while VaR modeling works well in capturing the probable loss in most markets, it does not always cover "tail events", the rare market moves that cause extreme losses. The limitations of VaR modeling approaches can be addressed by stress tests that can be used to determine a capital cushion over and above the calculated VaR amount to provide for the risk associated with these events. We therefore also believe that a higher minimum capital requirement is necessary to provide for "tail event" market risk.
As a result, to address the incremental operational risks and "tail event" market risks, it is proposed that the minimum capital requirement provided on Line 4 of Statement B of Form 1 by Member firms who opt to use VaR modeling be the greater of:

(i) $10 million (to cover the increased operational risk associated with using VaR modeling); and

(ii) 25% calculated VaR modeling capital requirement.

Establishment and maintenance of a system of internal risk management controls

As a prerequisite to using VaR modeling, Member firms must establish, document, and maintain a system of internal risk management controls to assist it in managing the market risk associated with its proprietary trading inventory. The remainder of this section details the necessary considerations in developing and elements of a system of internal risk management controls.

(a) Environmental factors to be considered

In establishing its system of internal risk management controls, a Member firm shall consider all relevant environmental factors when adopting its internal control system guidelines, policies, and procedures including: (i) dealer ownership, governance and management structures, (ii) scope and nature of established risk management guidelines, (iii) scope and nature of permissible proprietary trading activities, (iv) sophistication and experience of relevant proprietary trading, risk management, and internal audit personnel, (v) sophistication and functionality of information and reporting systems, and (vi) scope and frequency of monitoring, reporting, and auditing activities.

(b) Elements of an internal risk management system

Taking these environmental factors into consideration a Member firm's internal risk management control system shall include the following elements: (i) a risk control unit that reports directly to senior management and is independent from the proprietary trading units, (ii) separation of duties between personnel responsible for entering into a transaction and those responsible for recording the transaction in the books and records, (iii) periodic reviews (which may be performed by internal audit staff) and annual reviews (which must be conducted by independent certified public accountants) of the Member firm's risk management systems, (iv) definitions of risk, risk monitoring, and risk management, and (v) written guidelines, approved by firm senior management.

(c) Written risk management guidelines

Written risk management guidelines should include/address: (i) quantitative guidelines for managing the firm's overall proprietary trading risk exposure, (ii) the type, scope, and frequency of reporting by management on risk exposures, (iii) the procedures for and the timing of firm Board of Directors periodic review of the risk monitoring and risk management written guidelines, systems, and processes, (iv) the processes for the performance of the risk monitoring and management functions by persons independent from or senior to the proprietary trading units whose activities create the risks, (v) the authority and resources of the groups or persons performing the risk monitoring and risk management functions, (vi) the appropriate response by management when internal risk management guidelines have been exceeded, and (vii) the procedures authorizing specified employees to commit the firm to particular types of transactions.

(d) Management review requirements

Member firm's management must periodically review, in accordance with written procedures, its proprietary trading activities for consistency with risk management guidelines including that: (i) risks arising from the firm's proprietary trading activities are consistent with prescribed guidelines, (ii) risk exposure guidelines for each proprietary trading unit are appropriate for the unit, (iii) the data necessary to conduct the risk monitoring and risk management function as well as the valuation process over the firm's proprietary trading positions is accessible on a timely basis and information systems are available to capture, monitor, analyze, and report relevant data, (iv) procedures are in place to enable management to take action when internal risk management guidelines have been exceeded, (v) procedures are in place to monitor and address the risk that a transaction contract will be unenforceable, (vi) procedures are in place to identify and address any deficiencies in the operating systems and to contain the extent of losses arising from unidentified deficiencies, (vii) procedures are in place to authorize specified employees to commit the firm to particular types of transactions, to specify any quantitative limits on such authority, and to provide for the oversight of their exercise of such authority, (viii) procedures are in place to provide for adequate documentation of the principal terms of transactions and other relevant information regarding such transactions, (ix) personnel resources with appropriate expertise are committed to implementing the risk monitoring and risk management systems and processes; and (x) procedures are in place for the periodic internal and external review of the risk monitoring and risk management functions.

VaR modeling methodology standards

No single approach to VaR modeling best measures the market risk of a portfolio of securities (and any related derivatives positions). Various VaR models produce different results for the same securities portfolio and therefore quantitative and qualitative factors need to be assessed to determine the suitability of any VaR model. To ensure consistency of approaches amongst those Member firms who opt to use VaR modeling we are proposing that the VaR modeling approach used must comply, at a minimum, with the recommended qualitative and quantitative standards set out in the publication entitled

"Amendment to the Capital Accord to Incorporate Market Risks" that was published by the Basel Committee on Banking Supervision in January 1996 and modified in September 1997. The remainder of this section provides specific guidance on how Member firms opting to use VaR modeling are expected to calculate the capital requirement for their proprietary inventory positions.

(a) Computation of the capital requirement for their proprietary inventory positions

Member firms opting to use VaR modeling must determine their current proprietary inventory position exposures and their VaR modeling capital requirements on a daily basis in order to be in compliance with the existing IDA By-law 17.1 requirement for a Member firm "to have and maintain at all times risk adjusted capital greater than zero."

Member firms shall provide capital for their proprietary trading inventory equal to the sum of: (i) for positions for which the Association has approved the use of VaR modeling, the calculated VaR modeling capital requirement and (ii) for all other positions, the calculated capital requirement pursuant to IDA Regulation 100. In assessing which positions will be eligible for VaR modeling, the Member firm must either demonstrate that the position is readily marketable or that its models adequately capture the material risks (including issuer specific risk) associated with making a market for the position.

Member firms shall use the same model to determine regulatory market risk as the model used to report risk to the Member firm's senior management and the model shall be integrated into the internal risk management system of the firm. The VaR model used shall be reviewed by the Member firm both periodically and annually. The periodic review may be conducted by the Member firm's internal audit staff. The annual review must be conducted by a public accounting firm with risk management expertise. The VaR model used should: (i) use a 99 percent, one-tailed confidence level with price changes equivalent to a ten business-day movement in rates and prices for purposes of determining market risk; (ii) use an effective historical observation period of at least 260 trading days in length that includes periods of market stress; and (iii) take into account and incorporate all significant, identifiable market risk factors applicable to the firm's positions. Historical data sets must be updated at least monthly and must be reassessed when position/portfolio volatilities change significantly.

(b) Back testing

Member firms must also ensure through ongoing back testing that the VaR modeling capital requirement calculated continues to cover normal market risk events (i.e., events other than "tail events"). We are therefore also proposing that the back testing procedures used by the Member firm must comply with those recommended in the publication entitled "Amendment to the Capital Accord to Incorporate Market Risks" that was published by the Basel Committee on Banking Supervision in January 1996 and modified in September 1997.

As a result, on a quarterly basis at a minimum, the Member firm must conduct back testing of the model by comparing its actual daily net trading profit or loss for its VaR eligible positions, using a 99 percent one-tailed confidence level, to its calculated VaR modeling capital requirement. The comparison shall be performed at a minimum for each of the most recent 260 trading days. The Member firm must identify the number of days its actual daily net trading loss for its VaR eligible positions exceeds its calculated VaR modeling capital requirement (back testing violation days). Where the violation day percentage (determined by dividing the number of back testing violation days by the number of trading days tested) exceeds 1%, the Member firm shall consider the need to modify its model assumptions, document any assumption changes made or not made and document why assumption changes have been made or not made.

Where the Member firm determines as a result of its back testing or otherwise that there is a material error in its calculated VaR modeling capital requirement or detects a material deficiency in its internal risk management control systems, the Member firm shall notify the Association immediately. In response, the Association may impose additional conditions or limitations on the Member firm's ongoing use of VaR modeling. Should a Member firm fail to comply with these additional conditions / limitations, the Association may withdraw its approval of a Member firm's use of VaR modeling.

(c) Additional reporting requirements

It is likely that additional reporting requirements will be imposed as a condition of permitting a Member firm to use VaR modeling. The exact form and extent of these additional requirements has not been determined at this point as the Association has not yet hired the staff with risk management expertise that would develop the additional reporting requirements.

(d) Recordkeeping requirements

We are not proposing any specific rules with respect to the maintenance books and records relating to the VaR

modeling capital requirement since existing IDA By-law 17.2 requires that "Every Member shall keep at all times a proper system of books and records."

Certification of VaR modeling methodology

The proposal will require Member firms to certify that the VaR modeling methodology they use utilizes standards and is subject to stress testing and back-testing procedures that are compliant with the Basel II capital standards recommended standards and any additional standards the Association may establish from time to time. Certification will be required: (i) at the time the firm applies to the Association to receive permission to exercise its option to use VaR modeling, and (ii) on an annual basis through responding to a specific VaR modeling question which will be added to the Certificate of Partners and Directors included with IDA Form 1.

B Issues and Alternatives Considered

With respect to the use of VaR modeling by our Member firms the following three alternatives were considered:

1. Allow the optional use by Member firms of the entire bank regulatory capital reporting format (i.e., Basel II in 2006).

2. Allow the optional use by Member firms of certain bank regulatory capital reporting format items (i.e., VaR modeling) through an amended IDA capital formula.

3. Do not allow the optional use by Member firms of VaR modeling.

The only alternative seriously considered of the three above was the second one.

The first alternative would only be practical for bank-owned Member firms and, even for those firms, the regulatory reporting efficiencies achieved would be limited, as they would be required to file with the IDA on a non-consolidated basis. Other issues such as the lack of applicability of some of the Basel II proposals to securities dealers and dealer versus dealer level playing field concerns made this alternative less attractive.

The third alternative was also considered but rejected since, as previously stated, the continued exclusive use of strategy-based rules within the IDA capital formula is no longer workable.

C Comparison with Similar Provisions

European Union

The Financial Conglomerates Directive was passed by the European Parliament on December 16, 2002. According to the website of Her Majesty's Treasury in the United Kingdom:

> "The Financial Conglomerates Directive introduces specific legislation for the prudential supervision of financial conglomerates and financial groups involved in cross-sectoral activities to foster the stability of the financial system.
>
> The main objectives of the Directive are (I) to ensure that financial conglomerates are adequately capitalized, preventing the same capital being counted twice over and so used simultaneously as a buffer against risk in different entities, (II) to introduce methods for calculating a conglomerate's overall solvency position, and (III) to provide for the establishment of a single lead regulator for financial conglomerates, rather than multiple lead regulators as at present, thereby reducing regulatory duplication."

As a result, once National laws and administrative arrangements are adopted by each of the European Union member countries, European Union securities dealers that are part of a financial conglomerate will be required to make regulatory filings on a consolidated basis (expected to commence mid 2005) and in turn comply with the Basel II capital standards (expected to commence in 2006).

United Kingdom

Recognizing the risk-based margining approach as more efficient than a strategy-based approach, the Financial Services Authority (FSA) in the United Kingdom permits the use of VaR models for calculating Position Risk Requirements. The FSA is also taking steps to facilitate the implementation of the Financial Conglomerates Directive (referred to in the European Union section above) in the United Kingdom.

United States

In August 2004 the SEC implemented new Alternative Net Capital Requirements (ANCRs) based on Basel II. The ANCRs make use of the Basel II capital standards available to U.S. securities dealers provided the dealer maintains tentative net capital of at least USD $1 billion and net capital of at least USD $500 million and, where the dealer is part of a financial conglomerate, grants to the SEC conglomerate-wide regulatory jurisdiction.

It is interesting to note that this rule limits the optional use of VaR modeling to only the largest of U.S. securities dealers, all of which are part of a financial conglomerate. Further, those large dealers that have chosen to be regulated by the SEC under this approach are not be subject to the regulatory oversight of a European securities regulator. Taking these points into account, the high minimum capital requirements under the ANCRs are understandable as it is believed that the SEC, at least at this point, seems only willing to grant the optional use of VaR to those dealers who would otherwise be subject to the requirements of the European Union Financial Conglomerates Directive.

D Systems Impacts of Rule

It is anticipated that should a Member firm decide to use VaR modeling for determining the capital requirements for its proprietary inventory security positions the operations/systems impacts on that firm could be significant. However, it is not believed that these impacts are of concern from a rule implementation standpoint as the use of VaR modeling is proposed to be optional. More concerning is what IDA staffing will be needed to support the use of VaR modeling and how the proposal will be implemented.

IDA staffing needed to support the use of VaR modeling

It had been hoped that for Member firms already using VaR modeling (for the purposes of consolidated bank financial reporting to the Office of the Superintendent of Financial Institutions (OSFI)) the IDA would be able to place significant reliance on the work already being performed by OSFI examination staff. We have determined however that we will be unable to rely on the work of OSFI as they are unable to share bank specific information with other regulators and the VaR modeling they examine is prepared on a consolidated basis. Taking this determination into account, we have engaged PricewaterhouseCoopers to assist us in determining the necessary resources (and associated costs) that will be needed to enable the IDA to effectively regulate those Member firms who will be utilizing VaR modeling. At a minimum, we would need to hire an individual who is proficient in the development, testing and maintenance of VaR models to assist in the Financial Compliance field examinations performed at Member firms utilizing VaR modeling. More individuals may be required depending upon the number of Member firms opting to use VaR modeling and the extent of the field audit procedures that are to be performed.

Proposal implementation approach

Two implementation approaches were considered for this approach: (1) A proportional phased-in approach, whereby an increasing percentage of the VaR calculation is provided over time in combination with a decreasing percentage of the current IDA requirement; and (2) An eligible security phased-in approach, whereby the use of VaR modeling would be implemented for different levels of eligible securities at different times. The latter approach is the implementation approach that was proposed in the SEC's ANCR proposal whereby VaR modeling is to be permitted for the following levels of eligible securities in sequence over an 18-month period:

Level of Eligible Securities	Securities Eligible for VaR
1	US government securities and derivatives on those securities Investment grade corporate debt and derivatives on those securities Highly rated foreign government securities and derivatives on those securities Highly rated short-term asset-backed securities and derivatives on those securities Highly rated municipal securities and derivatives on those securities Derivatives on major market foreign currencies
2	Equities Derivatives on equities
3	Positions for which there is a ready market and for which there is adequate historical data to support a VaR model

Of note, the US Securities and Exchange Commission ultimately rejected the use of an "eligible security phased-in approach" in response to dealer complaints that this implementation approach would "impose unnecessary operational costs and inefficiencies." We have rejected this approach as well for the same reasons.

The "proportional phased-in approach" was successfully used recently by CDS in rolling out its new risk model (completed in October 2004). We are recommending using this approach for Member firms who opt to use VaR modeling for determining the capital requirements for their proprietary inventory security positions. We are suggesting a one-year phase-in period from the date the Association has approved the Member firm's use of VaR modeling.

The Bourse de Montreal is also in the process of passing these amendments. Implementation of these amendments will therefore take place once both the Association and the Bourse de Montreal have received approval to do so from their respective recognizing regulators.

E Best Interests of the Capital Markets

The Board has determined that the public interest Rule is not detrimental to the best interests of the capital markets.

F Public Interest Objective

According to the IDA's Order of Recognition as a self regulatory organization, the IDA shall, where requested, provide in respect of a proposed rule change "a concise statement of its nature, purposes and effects, including possible effects on market structure and competition". Statements have been made elsewhere as to the nature and effects of the proposals with respect to the proposed optional use of VaR modeling for determining the capital requirement associated with a Member firm's proprietary inventory security positions. The purpose of the proposal is to "facilitate fair and open competition in securities transactions generally."

The proposal does not permit unfair discrimination among customers, issuers, brokers, dealers, members or others. It does not impose any burden on competition that is not necessary or appropriate in furtherance of the above purposes.

The proposal has been determined to be in the public interest due to the likely material impact that usage of VaR modeling will have on the capital provided by a Member firm for the market risk associated with its proprietary inventory security positions.

III COMMENTARY

A Filing in Other Jurisdictions

This proposed amendment will be filed for approval in Alberta, British Columbia, Manitoba, Ontario and Quebec will be filed for information in Nova Scotia and Saskatchewan.

B Effectiveness

An assessment of the effectiveness of the proposed rules in addressing the issues discussed above.

C Process

This proposal has been developed by IDA staff in consultation with the FAS Capital Formula Subcommittee at the request of the IDA Board of Directors.

IV SOURCES

References:

- IDA Regulation 100
- Equity Margin Project Discussion Paper – Draft #14, May 11, 2005
- OSFI Capital Adequacy Model (based on Basel I)
- Amendment to the Capital Accord to Incorporate Market Risks - Basel Committee on Banking Supervision, published in January 1996 and modified in September 1997
- Consultative Document, The New Capital Accord - Basel Committee on Banking Supervision, published in April 2003

- FSA Interim Prudential Sourcebook: Investment Businesses – Chapter 10, Rule 10-80 – Position Risk Requirement

- SEC Alternative Net Capital Requirements (ANCR), Securities Exchange Act of 1934, Rule 15c3-1e (Appendix E to 17 CFR 240.15c3-1), August 20, 2004,

- Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC, and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council

V OSC REQUIREMENT TO PUBLISH FOR COMMENT

The IDA is required to publish for comment the accompanying regulation.

The Association has determined that the entry into force of the proposed regulation would be in the public interest. Comments are sought on the proposed regulation. Comments should be made in writing. One copy of each comment letter should be delivered within 30 days of the publication of this notice, addressed to the attention of Richard Corner, Vice President, Regulatory Policy, Investment Dealers Association of Canada, Suite 1600, 121 King Street West, Toronto, Ontario, M5H 3T9 and one copy addressed to the attention of the Manager of Market Regulation, Ontario Securities Commission, 20 Queen Street West, 19th Floor, Box 55, Toronto, Ontario, M5H 3S8.

Questions may be referred to:

Richard Corner
Vice President, Regulatory Policy
Investment Dealers Association of Canada
(416) 943-6908
rcorner@ida.ca

INVESTMENT DEALERS ASSOCIATION OF CANADA

REGULATION 100.12 –
OPTIONAL USE OF VALUE AT RISK (VAR) MODELING
TO DETERMINE CAPITAL REQUIREMENTS
FOR MEMBER FIRM SECURITY POSITIONS

ATTACHMENT #1

THE BOARD OF DIRECTORS of the Investment Dealers Association of Canada hereby makes the following amendments to the By-laws, Regulations, Forms and Policies of the Association:

1. Regulation 100.12[6] is amended by the addition of paragraph (i) as follows:

"**Optional use of value at risk modeling**

With respect to Member firm security and related derivatives positions, the capital requirement provided may be calculated using an approved value at risk modeling approach, provided the Member firm:

(i) Reports as its minimum capital requirement on Line 4 of Statement B of Form 1 the greater of:

(A) $10 million; and

(B) 25% of the capital requirement calculated using the approved value at risk modeling approach; and;

(ii) Certifies it is using an approved value at risk modeling approach whose standards are subject to regular stress testing and back-testing to ensure ongoing model standard appropriateness.

For the purposes of this section "an approved value at risk modeling approach" is one which utilizes standards that are compliant with the recommended qualitative and quantitative standards set out in the publication entitled "Amendment to the Capital Accord to Incorporate Market Risks" that was published by the Basel Committee on Banking Supervision in January 1996 and modified in September 1997 and compliant with any additional standards the Association may establish from time to time."

2. The Notes and Instructions to Line 4 of Statement B of Form 1 are repealed and replaced with the following:

"**Line 4 - Minimum capital**

"Minimum capital" is:

- For Type 1 introducing brokers, $75,000
- For firms that use value at risk modeling to determine the capital requirements on their proprietary inventory positions, the greater of:

  (A) $10 million; and

  (B) 25% of the capital requirement calculated using the approved value at risk modeling approach;
- For all other firms, $250,000."

3. The Certificate of Partners and Directors included with Form 1 is repealed and replaced with the certificate included as Attachment #2.

PASSED AND ENACTED BY THE Board of Directors this 26th day of October 2005, to be effective on a date to be determined by Association staff.

[6] Note: There are other proposed amendments pending which seek to amend IDA Regulation 100.12 to implement the proposed methodology for margining equity securities. These above proposed amendments assume the passage of these pending amendments.

INVESTMENT DEALERS ASSOCIATION OF CANADA

REGULATION 100.12
OPTIONAL USE OF VALUE AT RISK (VAR) MODELING
TO DETERMINE CAPITAL REQUIREMENTS
FOR MEMBER FIRM SECURITY POSITIONS

ATTACHMENT #2

JOINT REGULATORY FINANCIAL QUESTIONNAIRE AND REPORT
CERTIFICATE OF PARTNERS OR DIRECTORS

_____
(Firm Name)

I/We have examined the attached statements and schedules and certify that, to the best of my/our knowledge, they present fairly the financial position and capital of the firm at _____ and the results of operations for the period then ended, and are in agreement with the books of the firm.

I/We certify that the following information is true and correct to the best of my/our knowledge for the period from the last audit to the date of the attached statements which have been prepared in accordance with the current requirements of the applicable Joint Regulatory Body and Canadian Investor Protection Fund.

ANSWERS

1. Do the attached statements fully disclose all assets and liabilities including the following: _____
   (a) All future purchase and sales commitments? …… _____
   (b) Outstanding puts, calls or other options?..…… ..... _____
   (c) Participation in any underwriting or other agreement subject to future demands? …… _____
   (d) Writs issued against the firm or partners or corporation or any other litigation pending? ..... _____
   (e) Income tax arrears of partners or corporation? …… _____
   (f) Other contingent liabilities, guarantees, accommodation endorsements or commitments affecting the financial position of the firm? …… _____

~~2.~~ ~~Are all Exchange seats which are operated by the firm owned outright and clear of encumbrance by the firm? .....~~ _____

~~3~~2. Does the firm promptly segregate clients' securities in accordance with the rules and regulations prescribed by the appropriate Joint Regulatory Body? ..... _____

~~4~~3. Does the firm determine on a regular basis its free credit segregation amount and act promptly to segregate assets as appropriate in accordance with the rules and regulations prescribed by the appropriate Joint Regulatory Body? ..... _____

~~5~~4. Does the firm carry insurance of the type and in the amount required by the rules and regulations of the appropriate Joint Regulatory Body? ..... _____

~~6~~5. Have all “concentrations of securities”, as described in the rules, regulations and policies of the appropriate Joint Regulatory Body, been identified on Schedule 9? ..... _____

~~7~~6. Has the "most stringent rule" requirement *[as described in the general instructions]* been adhered to in the preparation of these statements and schedules? ..... _____

~~8~~7. Does the firm monitor on a regular basis its adherence to early warning requirements in accordance with the rules and regulations prescribed by the appropriate Joint Regulatory Body? ..... _____

~~9~~8. Does the firm have adequate internal controls in accordance with the rules and regulations prescribed by the appropriate Joint Regulatory Body? ..... _____

~~10~~ 9. Does the firm maintain adequate books and records in accordance with the rules and regulations prescribed by the appropriate Joint Regulatory Body? ..... _____

~~11~~ 10. Does the firm follow the minimum required firm policies and procedures relating to security counts as prescribed by the appropriate Joint Regulatory Body? ..... _____

11. Where the firm uses value at risk modeling to determine its capital requirements on its proprietary inventory security positions, does the firm use an approved value at risk modeling approach whose standards are subject to regular stress testing and back-testing to ensure ongoing model standard appropriateness in accordance with the rules and regulations prescribed by the appropriate Joint Regulatory Body? .....

_____

_____
[date]

Name and Title - Please type	**Signature**

CERTIFICATE OF PARTNERS OR DIRECTORS
NOTES AND INSTRUCTIONS

1. Details must be given for any “no” answers.

2. To be signed by:

   (a) chief executive officer/partner

   (b) chief financial officer

   ~~(c) member seatholder [if applicable]~~

   (~~d~~c) chief accountant

   (~~e~~d) at least two directors/partners if not included in (a) to (~~c~~b) above.

3. Copies with original signatures must be provided to the Joint Regulatory Body with prime audit jurisdiction.

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Chapter 25

Other Information

25.1 Exemptions

25.1.1 Wellington West Capital Inc. - Rule 31-502

Headnote

Salespersons of the Applicant who were previously registered in another Jurisdiction prior to January 1, 1994 are exempt from the post registration proficiency requirements under paragraph 2.1(2) of Rule 31-502 Proficiency Requirements for Registrants, subject to conditions.

Rules Cited:

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

November 4, 2005

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

AND

IN THE MATTER OF
WELLINGTON WEST CAPITAL INC.

EXEMPTION ORDER
(Rule 31-502)

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

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

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

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

AND WHEREAS the Applicant has represented to the Director that:

1. The Applicant was incorporated under the laws of Manitoba, is registered under the Act as a dealer in the category of investment dealer and is a member of the Investment Dealers Association (the **IDA**);

2. The requirement of the IDA that a registered representative (a **Salesperson**) of an investment dealer that is a member of the IDA (a **Dealer)** complete the first course of the CIM Program within thirty months of registration (the **IDA Requirement**) first became effective on January 1, 1994 (the **IDA Effective Date**);

3. Salespersons who were registered to trade on behalf of a Dealer in a jurisdiction immediately prior to the IDA Effective Date are exempt from the IDA Requirement;

4. The Rule, which became effective on August 17, 2000 (the **OSC Effective Date**), adopted and expanded the IDA Requirement but did not exempt Salespersons from the OSC Requirement who were registered to trade on behalf of a Dealer in another jurisdiction prior to the IDA Effective Date; and

5. Salespersons of the Applicant who have been registered to trade on behalf of a Dealer under the securities legislation of a jurisdiction other than Ontario immediately prior to the IDA Effective Date and who were first registered to trade on behalf of a Dealer under the Act after the OSC Effective Date are subject to the OSC Requirement;

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

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

PROVIDED THAT:

(a) immediately prior to the IDA Effective Date, the particular Salesperson was registered under the securities legislation of one or more jurisdictions other than Ontario as a salesperson of a Dealer that

was then registered under such legislation as an investment dealer (or the equivalent) and the registration of the Salesperson was not specifically restricted to the sale of mutual funds or non-retail trades; and

(b) after the IDA Effective Date, that Salesperson was either registered to trade on behalf of a Dealer continuously in one or more jurisdictions other than Ontario, or any period after the IDA Effective Date in which the Salesperson's registration to trade on behalf of a Dealer was suspended or in which the Salesperson was not so registered does not exceed three years;

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

"David M. Gilkes"
Manager, Registrant Regulation

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