

The Ontario Securities Commission

# OSC Bulletin

February 10, 2006

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

**The Ontario Securities Commission**

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# Chapter 1

## Notices / News Releases

### 1.1 Notices

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

**FEBRUARY 10, 2006**

#### **CURRENT PROCEEDINGS**

#### **BEFORE**

#### **ONTARIO SECURITIES COMMISSION**

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

The Harry S. Bray Hearing Room  
Ontario Securities Commission  
Cadillac Fairview Tower  
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Carol S. Perry	—	CSP
Robert L. Shirriff, Q.C.	—	RLS
Suresh Thakrar, FIBC	—	ST
Wendell S. Wigle, Q.C.	—	WSW

### SCHEDULED OSC HEARINGS

February 13, 2006 **Universal Settlement International Inc.**

10:00 a.m.

s. 127 & 127.1

Y. Chisholm in attendance for Staff

Panel: WSW

February 21, 2006 **Fulcrum Financial Group Inc., Secured Life Ventures Inc., Zephyr Alternative Power Inc., Troy Van Dyk and William L. Rogers**

2:30 p.m.

s. 127 and 127.1

G. Mackenzie in attendance for Staff

Panel: PMM

February 27, 2006 **Jose L. Castaneda**

10:00 a.m.

s.127

T. Hodgson in attendance for Staff

Panel: WSW

February 28, 2006 **Maitland Capital Ltd., Allen Grossman, Hanouch Ulfan, Leonard Waddingham, Ron Garner, Gord Valde, Marianne Hyacinthe, Diana Cassidy, Ron Catone, Steven Lanys, Roger McKenzie, Tom Mezinski, William Rouse and Jason Snow**

9:30 a.m.

s.127 & 127.1

D. Ferris in attendance for Staff

Panel: PMM

March 1 and 2, 2006 **Richard Ochnik and 1464210 Ontario Inc.**

10:00 a.m.

s. 127 and 127.1

M. Britton in attendance for Staff

Panel: PMM/RWD/DLK

**Notices / News Releases**

March 2 and 3, 2006 10:00 a.m.	<b>Christopher Freeman</b> s. 127 and 127.1 P. Foy in attendance for Staff Panel: SWJ/CSP	March 30, 2006 10:00 a.m.	<b>Mega-C Power Corporation, Rene Pardo, Gary Usling, Lewis Taylor Sr., Lewis Taylor Jr., Jared Taylor, Colin Taylor and 1248136 Ontario Limited</b> S. 127 T. Hodgson in attendance for Staff Panel: TBA
March 6-10, 2006 (except Tuesday) April 10-28, 2006 (except Tuesdays and not Good Friday April 14)	<b>Philip Services Corp., Allen Fracassi, Philip Fracassi, Marvin Boughton, Graham Hoey, Colin Soule*, Robert Waxman and John Woodcroft</b> s. 127	April 3, 5 to 7, 2006 10:00 a.m.	<b>Momentas Corporation, Howard Rash, Alexander Funt, Suzanne Morrison and Malcolm Rogers</b>
May 1-12; 17-19; 24-26, 2006 (except Tuesdays)	K. Manarin in attendance for Staff Panel: PMM/RWD/DLK	April 4, 2006 2:30 p.m.	s. 127 and 127.1 P. Foy in attendance for Staff Panel: TBA
June 12-19; 26-30, 2006 (except Tuesdays) 10:00 a.m.	* Settled November 25, 2005	July 31, 2006 10:00 a.m.	<b>Firestar Capital Management Corp., Kamposse Financial Corp., Firestar Investment Management Group, Michael Ciavarella and Michael Mitton</b> s. 127 J. Cotte in attendance for Staff Panel: TBA
March 7, 2006 2:30 p.m.	<b>Olympus United Group Inc.</b> s.127 M. MacKewn in attendance for Staff Panel: PMM	October 16, 2006 to November 10, 2006 10:00 a.m.	<b>James Patrick Boyle, Lawrence Melnick and John Michael Malone*</b> s. 127 and 127.1 Y. Chisholm in attendance for Staff <b>Panel: TBA</b>
March 7, 2006 2:30 p.m.	<b>Norshield Asset Management (Canada) Ltd.</b> s.127 M. MacKewn in attendance for Staff Panel: PMM	March 9, 2006 10:00 a.m.	<b>Portus Alternative Asset Management Inc., Portus Asset Management Inc. Boaz Manor, Michael Mendelson, Michael Labanowich and John Ogg</b> s.127 & 127.1 M. MacKewn in attendance for Staff Panel: TBA
March 9, 2006 10:00 a.m.	<b>Portus Alternative Asset Management Inc., Portus Asset Management Inc. Boaz Manor, Michael Mendelson, Michael Labanowich and John Ogg</b> s.127 & 127.1 M. MacKewn in attendance for Staff Panel: TBA	TBA	* Malone settled December 22, 2005 <b>Yama Abdullah Yaqeen</b> s. 8(2) J. Superina in attendance for Staff Panel: TBA
March 9, 2006 10:00 a.m.	<b>Portus Alternative Asset Management Inc., Portus Asset Management Inc. Boaz Manor, Michael Mendelson, Michael Labanowich and John Ogg</b> s.127 & 127.1 M. MacKewn in attendance for Staff Panel: TBA	TBA	<b>Cornwall et al</b> 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

TBA            **Hollinger Inc., Conrad M. Black, F.  
David Radler, John A. Boulton and  
Peter Y. Atkinson**

s.127

J. Superina in attendance for Staff

Panel: SWJ/RWD/MTM

TBA            **Joseph Edward Allen, Abel Da Silva,  
Chateram Ramdhani and Syed Kabir**

s.127

J. Waechter in attendance for Staff

Panel: RLS/ST/DLK

**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**

**Andrew Stuart Netherwood Rankin**

1.1.2 OSC Staff Notice 11-739 (Revised) - Policy Reformulation Table of Concordance and List of New Instruments

OSC STAFF NOTICE 11-739 (REVISED)

POLICY REFORMULATION TABLE OF CONCORDANCE AND LIST OF NEW INSTRUMENTS

The following revisions have been made to the Table of Concordance and List of New Instruments. A full version of the Table of Concordance and List of New Instruments as of December 31, 2005 has been posted to the OSC Website at www.osc.gov.on.ca under Policy and Regulation/Status Summaries.

Table of Concordance

Item Key
The third digit of each instrument represents the following: 1-National/Multilateral Instrument; 2-National/Multilateral Policy; 3-CSA Notice; 4-CSA Concept Release; 5-Local Rule; 6-Local Policy; 7-Local Notice; 8-Implementing Instrument; 9-Miscellaneous

Reformulation

Instrument	Title	Status
NP 2-B	Guide for Engineers and Geologists Submitting Oil and Gas Reports to Canadian Provincial Securities Administrators	<i>Rescinded June 30/05</i>
NP 27	Canadian Generally Accepted Accounting Principles	<i>Rescinded June 1/05</i>
NP 31	Change of Auditor of a Reporting Issuer	<i>Rescinded June 1/05</i>
NP 50	Reservations in an Auditor's Report	<i>Rescinded June 1/05</i>
NP 51	Changes in the Ending Date of a Financial Year and in Reporting Status	<i>Rescinded June 1/05</i>
OSC 9.3	Take-over Bids – Miscellaneous Guidelines	<i>Revoked May 9/05</i>
32-101	Small Securityholder Selling and Purchase Arrangements	<i>Revoked September 14/05 (tied to 45-106)</i>
32-502	Registration Exemption for Certain Trades by Financial Intermediaries	<i>Revoked September 14/05 (tied to 45-106)</i>
32-503	Registration and Prospectus Exemption for Trades by Financial Intermediaries in Mutual Fund Securities to Corporate Sponsored Plans	<i>Revoked September 14/05 (tied to 45-106)</i>
44-101	Short Form Prospectus Distributions	<i>Repealed and Replaced December 30/05</i>
45-501	Exempt Distributions [replaces subsection 25(2) of Regulation 1015]	<i>Revoked and Replaced September 14/05</i>
45-502	Dividend or Interest Reinvestment and Stock Dividend Plans	<i>Revoked September 14/05 (tied to 45-106)</i>
46-501	Self-Directed Registered Education Savings Plans	<i>Revoked September 14/05 (tied to 45-106)</i>
48-501	Market Stabilization during Distributions	<i>Came into Force May 9/05</i>
51-501	Annual Information Form and Management's Discussion and Analysis of Financial Condition and Results of Operation	<i>To be revoked May 30/06</i>
54-102	Interim Financial Statement and Report Exemption	<i>Revoked June 1/05</i>
55-101	Exemptions from Certain Insider Reporting Requirements	<i>Restated and Came into Force April 30/05</i>
62-601	Securities Exchange Take-Over Bids - Trades in the Offeror's Securities	<i>Revoked May 9/05 (tied to 48-501)</i>
81-501	Mutual Fund Reinvestment Plans (1997), 20 OSCB 5163	<i>Revoked Sept. 14/05 (tied to 45-106)</i>



**New Instruments**

11-737	Securities Advisory Committee – Vacancies	<i>Revised and published July 15/05</i>
11-739	Policy Formulation Table of Concordance and List of New Instruments (Revised)	<i>Published April 15/05</i>
11-742	The Securities Advisory Committee to the OSC	<i>Revised and Published September 23/05</i>
11-747	IOSCO and Basel Committee Publish Consultation Document on the Application of Basel II to Trading Activities and the Treatment of Double Default Effects	<i>Published April 22/05</i>
11-748	IOSCO Publishes a Discussion Paper on the Compliance Function at Market Intermediaries	<i>Published April 22/05</i>
11-749	International Joint Forum Publishes Final Report on Credit Risk Transfer	<i>Published April 22/05</i>
11-750	IOSCO Releases Survey Report on the Regulation and Oversight of Auditors	<i>Published May 6/05</i>
11-751	IOSCO Finalizes Consultation Policy and Procedures	<i>Published May 6/05</i>
11-752	Limited Market Dealer Initiatives – Compliance Team	<i>Published May 20/05</i>
11-753	Statement of Priorities for the Financial Year to End March 31, 2006	<i>Published June 17/05</i>
11-754	Amendments to National Policy 43-201 Mutual Reliance Review System for Prospectuses and Annual Information forms; Amendments to National Policy 12-201 Mutual Reliance Review System or Exemptive Relief Applications; Amendments to National Instrument 51-101 Standards of Disclosure for Oil and Gas Activities; and Multilateral Instrument 81-104 Commodity Pools	<i>Published August 26/05</i>
11-756	Assignment of Notice Numbers	<i>Published December 23/05</i>
11-902	Request for Comments Regarding Statement of Priorities for Fiscal Year Ending March 31, 2006	<i>Final June 17/05</i>
13-101	SEDAR (Electronic Filing) Rule	<i>Amendment Came into Force June 1/05 (tied to 81-106) Amendment published for comment May 27/05 (tied to 81-107)</i>
13-502	Fees – Amendment	<i>Came into Force September 14/05</i>
13-503	Fees (under the Commodity Futures Act)	<i>Revocation and replacement published for comment August 12/05</i>
14-502	(Commodity Futures Act) Designation of Additional Commodities	<i>Came into Force May 16/05</i>
23-302	Joint Regulatory Notice – Electronic Audit Trail Initiative (TREATS)	<i>Published April 15/05</i>
23-303	Update on Concept Paper 23-402 Best Execution and Soft Dollar Arrangements	<i>Published December 16/05</i>
31-101	National Registration System – Amendment	<i>Published for comment November 25/05</i>
31-201	National Registration System	<i>Adopted April 4/05 Amendment published for comment May 27/05 (tied to 11-101 passport initiative) Amendment published for comment November 25/05</i>
31-503	Limited Market Dealers – Amendment	<i>Came into Force September 14/05 (tied to 45-106)</i>
32-502	Registration Exemption for Certain Trades by Financial Intermediaries – Amendment	<i>Revoked September 14/05 (tied to 45-106)</i>
32-503	Registration and Prospectus Exemption for Trades by Financial Intermediaries in Mutual Fund Securities to Corporate Sponsored Plans – Amendment	<i>Revoked September 14/05 (tied to 45-106)</i>
32-504	Adviser Registration Exemption (under the Commodity Futures Act)	<i>Came into Force September 14/05 (tied to 45-106)</i>
33-105	Underwriting Conflicts – Amendment	<i>Came into Force September 14/05 (tied to 45-106)</i>
33-723	Fair Allocation of Investment Opportunities - Compliance Team Desk Review	<i>Published September 23/05</i>
41-304	Income Trusts: Prospectus Disclosure of Distributable Cash	<i>Published August 26/05</i>

41-502	Prospectus Requirements for Mutual Funds – Amendment	<b>Adopted June 1/05 (tied to 81-106)</b>
41-701	Issuance of Receipts of Preliminary Prospectuses and Prospectuses (previous version published May 2, 1997)	<b>Published July 29/05</b>
43-201	Mutual Reliance Review System for Prospectus and Initial AIF's – Amendments	<b>Published for comment May 27/05 (tied to 11-101 passport initiative)</b>
44-101	Short Form Prospectus Distributions – Amendments	<b>Published for comment May 27/05 (tied to 81-107)</b>
44-102	Shelf Distributions – Amendment	<b>Came into Force December 30/05 (tied to 44-101)</b>
44-103	Post-Receipt Pricing – Amendment	<b>Came into Force December 30/05 (tied to 44-101)</b>
44-302	Replacement of National Instrument 44-101 Short Form Prospectus Distributions	<b>Published December 16/05</b>
45-101	Rights Offerings – Amendments	<b>Came into Force September 14/05 (tied to 45-106)</b>
45-102	Resale of Securities	<b>Amendment Came into Force September 14/05 (tied to 45-106)</b>
45-105	Trades to Employees, Executives, Senior Officers, Directors and Consultants	<b>Revoked September 14/05 (tied to 45-106)</b>
45-106	Prospectus and Registration Exemptions	<b>Came into Force September 14/05 Amendment published for comment October 21/05 Amendment to come into force January 6/06</b>
45-305	FAQs Regarding NI 45-106 Prospectus and Registration Exemptions	<b>Published December 2/05</b>
45-501	Exempt Distributions – Amendments	<b>Revoked and Replaced September 14/05 (tied to 45-106)</b>
45-502	Dividend or Interest Reinvestment and Stock Dividend Plans – Amendments	<b>Revoked September 14/05 (tied to 45-106)</b>
45-802	Implementing National Instrument 45-106 Prospectus and Registration Exemptions and Ontario Securities Commission Rule 45-501 Ontario Prospectus and Registration Exemptions	<b>Came into Force September 14/05 (tied to 45-106)</b>
46-501	Self-Directed Registered Education Savings Plans – Amendment	<b>Revoked September 14/05 (tied to 45-106)</b>
51-101	Standards of Disclosure for Oil and Gas Activities – Amendment	<b>Published for comment May 27/05 (tied to 11-101 passport initiative) Came into Force December 30/05 (tied to 44-101)</b>
51-102	Continuous Disclosure Obligations – Amendment	<b>Came into Force June 1/05 (tied to 81-106) Came into Force December 30/05 (tied to 43-101)</b>
51-316	Continuous Disclosure Review of Smaller Issues	<b>Published December 9/05</b>
51-501	Annual Information Form and Management's Discussion and Analysis of Financial Condition and Results of Operation – Amendment	<b>Came into Force May 16/05</b>
51-601	Reporting Issuer Defaults – Amendment	<b>Adopted May 17/05</b>
51-706	Corporate Finance Report (2005)	<b>Renamed December 23/05</b>
51-708	Continuous Disclosure Program Report	<b>Renamed and renumbered 51-706 December 23/05</b>
51-711	Refiling and Correction of Errors	<b>Revised and published May 27/05</b>
51-712	Corporate Finance Review Program Report – August 2003	<b>Renamed and renumbered 51-706 December 23/05</b>
51-715	Corporate Finance Review Program Report – October 2004	<b>Renamed and renumbered 51-706 December 23/05</b>
52-107	Acceptable Accounting Principles, Auditing Standards and Reporting Currency – Amendment	<b>Came into Force June 1/05 (tied to 81-106)</b>
52-109	Certification of Disclosure of Companies' Annual and Interim Filings	<b>Amendment Came into Force June 6/05</b>
52-110	Audit Committees – Amendment	<b>Came into Force June 30/05</b>
52-309	Multilateral Instrument 52-110 Audit Committees Compliance Review	<b>Published May 6/05</b>
52-310	Regarding Proposed Timing of Proposed MI 52-111 and Companion Policy 52-111CP Reporting on Internal Control over Financial Reporting	<b>Published July 29/05</b>

52-311	CSA Staff Notice Regarding Proposed Timing of Proposed Multilateral Instrument 52-111 and Companion Policy 52-111CP Reporting on Internal Control over Financial Reporting	<b>Published December 16/05</b>
52-501	Financial Statements	<b>Revoked May 19/05 (tied to 51-102)</b>
52-708	Staff Accounting Communiqué - Initial Offering Costs of Closed-End Investment Funds	<b>Retained</b>
55-101	Exemption from Certain Insider Reporting Requirements – Amendments	<b>Came into Force April 30/05</b>
55-310	Questions and Answers on the System for Electronic Disclosure by Insiders (SEDI)	<b>Revised and published August 19/05</b>
56-501	Restricted Shares – Amendment	<b>Came into Force May 19/05 (tied to 51-102)</b>
57-303	Frequently Asked Questions regarding Management Cease Trade Orders issued as a consequence of a failure to file financial statements	<b>Published April 29/05</b>
58-101	Disclosure of Corporate Governance Practices	<b>Came into Force June 30/05</b>
58-201	Corporate Governance Guidelines	<b>Adopted June 30/05</b>
62-101	Control Block Distribution Issues	<b>Revoked September 14/05 (tied to 45-106)</b>
62-102	Disclosure of Outstanding Share Data	<b>Revoked May 19/05</b>
62-103	The Early Warning System and Related Take-over Bid and Insider Reporting Issues	<b>Amendment Came into Force September 14/05 (tied to 45-106)</b>
62-503	Financing of Take-over Bids and Issuer Bids	<b>Came into Force December 22/05</b>
62-601	Securities Exchange Take-over Bids – Trades in the Offeror's Securities –Amendment	<b>Revoked May 9/05</b>
71-102	Continuous Disclosure and Other Exemptions Relating to Foreign Issuers – Amendment	<b>Came into Force June 1/05 (tied to 81-106)</b>
81-101	Mutual Fund Prospectus Disclosure – Amendment	<b>Came into Force June 1/05 (tied to 81-106) Amendment published for comment May 27/05 (tied to 81-107)</b>
81-102	Mutual Funds – Amendment	<b>Came into Force June 1/05 (tied to 81-106) Amendment published for comment May 27/05 (tied to 81-107)</b>
81-104	Commodity Pools – Amendment	<b>Came into Force June 1/05 (tied to 81-106) Amendment published for comment May 27/05 (tied to 81-107) Amendment published for comment May 27/05 (tied to 11-101 passport initiative)</b>
81-106	Investment Fund Continuous Disclosure	<b>Came into Force June 1/05 Amendment published for comment May 27/05 (tied to 81-107)</b>
81-107	Independent Review Committee for Mutual Funds	<b>Republished for comment May 27/05</b>
81-314	Removal of Foreign Content Restrictions for Registered Plans – Eliminating Indirect Foreign Content Exposure in Certain RSP Funds	<b>Published March 18/05</b>
81-315	FAQs on NI 81-107 Investment Fund Continuous Disclosure	<b>Published November 25/05</b>
81-801	Implementing National Instrument 81-106 Investment Fund Continuous Disclosure	<b>Came into Force June 1/05</b>
91-502	Trades in Recognized Options – Amendment	<b>Came into Force September 14/05 (tied to 45-106)</b>

Questions regarding this notice may be directed to:

Alicia Ferdinand, Project Coordinator  
 Policy and Project Office  
 Ontario Securities Commission  
 416-593-8307  
 aferdinand@osc.gov.on.ca

February 10, 2006

**1.1.3 OSC Staff Notice 11-757 Withdrawal of OSC Notices**

**ONTARIO SECURITIES COMMISSION  
STAFF NOTICE 11-757  
WITHDRAWAL OF OSC NOTICES**

Commission Staff have reviewed a number of Staff Notices and have determined that the following notices are no longer required. Effective immediately the following notices are withdrawn:

- 11-715 Policy Reformulation Table of Concordance (2002), 25 OSCB 267
- 11-717 Securities Advisory Committee - OSC Policy 11-601 (2002), 25 OSCB 2791
- 31-705 Common Renewal Date (2002), 25 OSCB 2627
- 31-709 National Registration Database (NRD) – Filing Deadlines Extended to November 15, 2003 (2003), 26 OSCB 4527
- 31-710 National Registration Database (NRD) Extension of Certain Filing Deadlines (2003), 26 OSCB 7571
- 33-720 2001 National Compliance Review (NCR) (2002), 25 OSCB 5063
- 45-704 OSC Small Business Advisory Committee (2002), 25 OSCB 4207
- 51-705 Notice of Commission Intention to Allow Rule to Elapse: In the Matter of Certain Trades in Securities of Junior Resource Issuers (2001), 24 OSCB 3584
- 51-707 OSC Continuous Disclosure Advisory Committee (2002), 25 OSCB 2489
- 52-702 Financial Statements to be Filed According to GAAP (2003), 26 OSCB 2319

Questions regarding this notice may be directed to:

Alicia Ferdinand  
Policy and Project Office  
Ontario Securities Commission  
Phone: 416-593-8307  
aferdinand@osc.gov.on.ca

February 10, 2006

**1.1.4 Notice of Correction - Hollinger Inc. - s. 144**

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

**AND**

**IN THE MATTER OF  
CERTAIN DIRECTORS, OFFICERS AND  
INSIDERS OF HOLLINGER INC.  
(BEING THE PERSONS AND COMPANIES LISTED  
IN SCHEDULE "A" HERETO)**

**ORDER  
(Section 144)**

The date was inadvertently omitted from the order published on August 19, 2005 at (2005), 28 OSCB 6896.

The following should have appeared directly above the signatures on page 6898:

**"DATED** at Toronto, this 10th day of August, 2005."

1.3 News Releases

1.3.1 Martin Tremblay

**FOR IMMEDIATE RELEASE**  
**February 1, 2006**

**FREEZE ORDERS CONTINUED ON  
MARTIN TREMBLAY ACCOUNTS**

**TORONTO** – Today the Superior Court of Justice made an order continuing until March 1, 2006 or further order of the Court two freeze directions issued by the Ontario Securities Commission (OSC) directing Research Capital and Jones Gable to retain the funds, securities or property held in accounts in the name of or otherwise under the control of Martin Tremblay.

A copy of the order is available on the OSC web site ([www.osc.gov.on.ca](http://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 CSA Releases Their Third Report on Enforcement Activities**

**NEWS RELEASE**

**CSA RELEASES THEIR THIRD REPORT  
ON ENFORCEMENT ACTIVITIES**

Montreal, February 2, 2006. The Canadian Securities Administrators released their third report of enforcement activities today. Between April 1 and September 30, 2005, the regulators pursued 49 new enforcement matters. They also concluded 56 cases that resulted in sanctioning orders or settlements that often included several persons or companies. They also report that the self-regulatory organizations they oversee concluded 40 cases. The report covers cases that led to penalties imposed on 5 Canadian mutual fund companies, which will disburse \$205.6 million to investors. It also highlights joint hearings and joint enforcement activities, such as optionsXpress Inc. and Norshield Asset Management (Canada) Ltd.

Jean St-Gelais, Chair of CSA, said that “the report demonstrates the vigorous enforcement of securities regulators to deter wrongdoing, protect investors and foster fair and efficient capital markets in which investors have confidence.”

The report can be found on the CSA website at ([www.csa-acvm.ca](http://www.csa-acvm.ca)) and on many provincial regulators' sites. The CSA is the council of the securities regulators of Canada's provinces and territories whose objectives are to improve, coordinate and harmonize regulation of the Canadian capital markets.

**REPORT ON ENFORCEMENT ACTIVITIES  
FROM APRIL 1 TO SEPTEMBER 30, 2005**

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## SELF-REGULATORY ORGANIZATIONS

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*Ontario*

*British Columbia*

*Saskatchewan*

### MARKET REGULATION SERVICES INC. (RS INC.)

*Ontario*

*British Columbia*

### INVESTMENT DEALERS ASSOCIATION (IDA)

*British Columbia*

*Ontario*

*Alberta*

*Quebec*

## INTRODUCTION

This report provides information about enforcement activity undertaken by members of the Canadian Securities Administrators (CSA) during the 6 months ended September 30, 2005. The CSA is the council of the securities regulators of Canada's provinces and territories whose objectives are to improve, coordinate and harmonize regulation of the Canadian capital markets. References in this report to the CSA include reference to its member regulators and associated tribunals.

### ENFORCEMENT: A CORE CSA RESPONSIBILITY

Investigation and enforcement are core CSA activities. By identifying contraventions of securities laws or conduct in the capital markets that is contrary to the public interest, and by imposing appropriate sanctions, the CSA deter wrongdoing, protect investors, and foster fair and efficient capital markets in which investors have confidence. Enforcement personnel of CSA



member authorities deal with potential securities law violations identified through internal CSA compliance and surveillance or as a result of complaints from market participants and the public.

#### COMPLEMENTARY ENFORCEMENT ROLES

The CSA's enforcement activity complements that of other agencies, with which we cooperate and share information on matters of mutual interest. This allows us to focus activity and resources where most appropriate.

#### KEY PLAYERS

##### *Securities Tribunals*

Enforcement personnel of CSA members can bring matters before a specialized administrative tribunal, which in most jurisdictions is the local securities commission. Such tribunals can impose sanctions including orders that trading in securities cease or that exemptions are unavailable, bans on individuals acting as corporate directors and officers, mandatory filing of specified disclosure, monetary administrative penalties and payment of costs. Enforcement personnel often negotiate settlement agreements under which those alleged to have contravened securities laws submit to agreed sanctions. In some jurisdictions settlement agreements are approved by staff; in other cases they are presented for the approval of the local securities commission or tribunal.

Members act jointly in approving some settlements and taking enforcement action. In this report, the optionsXpress, Inc. settlement and the Norshield Asset Management (Canada) Ltd case are examples.

##### *SROs*

Self-regulatory organizations (SROs) oversee regulated conduct of their members. For example, if the Investment Dealers Association of Canada (IDA) finds that a member has contravened its by-laws, it can impose monetary penalties and suspend or revoke IDA membership and registration under securities laws. The Mutual Fund Dealers Association of Canada (MFDA) assumes a similar role for members in its sector.

Market Regulation Services Inc. (RS Inc.) oversees trading activity on Canadian equity markets. It imposes sanctions for contraventions of the Universal Market Integrity Rules ("UMIRs"), including fines and suspension or restriction of market access. The *Chambre de la sécurité financière* oversees some securities intermediaries and financial planners in Quebec.

##### *Exchanges*

Exchanges monitor compliance, by listed companies, with the terms of Exchange listing agreements and policies. Where appropriate, they can deny pre-approval of certain transactions, require corrective disclosure, halt or suspend trading and, in egregious cases, terminate a listing.

##### *Police*

The RCMP and local and provincial police investigate commercial crimes, including market fraud. The federal government recently established IMET (Integrated Market Enforcement Teams, with combined RCMP and civilian membership) to target major economic crime.

##### *Courts*

Provincial and territorial Attorneys-General or equivalents can bring contraventions of securities laws, as well as of criminal laws, before a court. In some provinces, enforcement personnel of CSA members can also bring securities law contraventions before a court. Fraud and other contraventions of the Criminal Code can attract stiff penalties including large fines and imprisonment. The sanctions available to courts for securities law violations are also more extensive than those available to securities regulatory authorities, including imprisonment.

#### CSA ENFORCEMENT ACTIVITY IN THE FIRST HALF OF 2005

During the first 6 months of 2005, CSA members pursued 49 new enforcement matters. During the same period, 56 cases resulted in sanctioning orders or settlements that often included several persons or companies. This activity is summarized in the following table:

Proceedings Commenced <sup>1</sup>	Interim Orders <sup>2</sup>	Matters Concluded				Appeals	
		Findings Issued (Sanction Decision Pending)	Sanctions Ordered	Settlement Agreements	Withdrawn	Decisions Appealed	Appeal Decisions Rendered
49	42	17	17	39	3	5	8

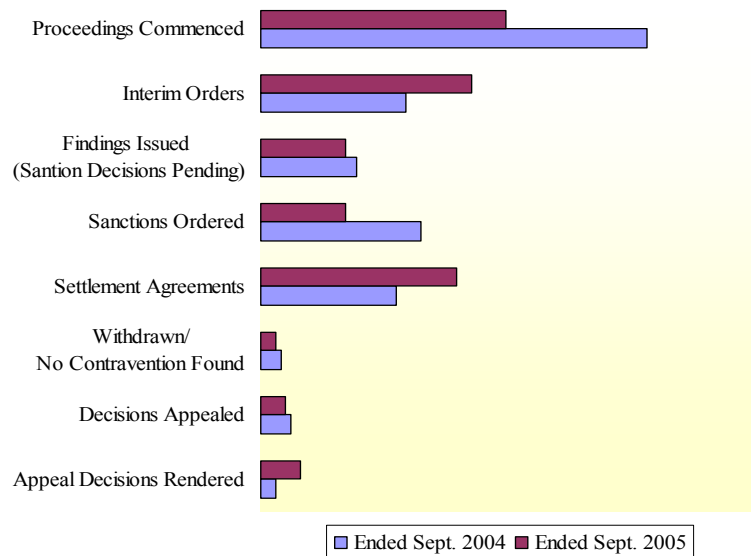
During the same period, self-regulatory organizations (“SROs”: RS, MFDA and IDA) concluded 12 settlement agreements, and ordered sanctions in 24 cases. They also rejected one settlement agreement and dismissed allegations in another case.

*Hearing and Enforcement Joint Actions*

Members act jointly in approving some settlements and taking enforcement action. In this report, the optionsXpress, Inc. settlement and the Norshield Asset Management (Canada) Ltd case are examples.

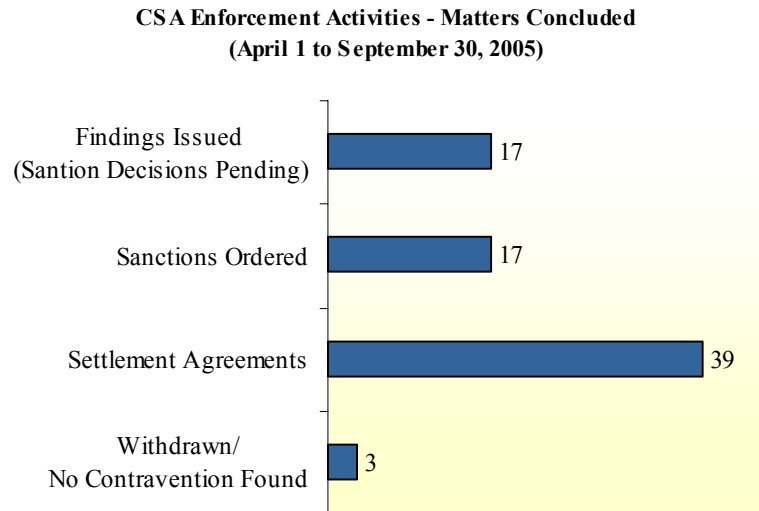
A number of enforcement matters are explained in more detail in the sections that follow.

**Comparative Table for the Period of  
6 Months ended September 2004 versus  
6 months ended September 2005**



<sup>1</sup> Proceedings before a CSA member Commission or associated tribunal may be commenced by a Notice of Hearing. Court proceedings may be commenced by way of “Information”.  
<sup>2</sup> Includes freeze orders and interim cease trade orders.

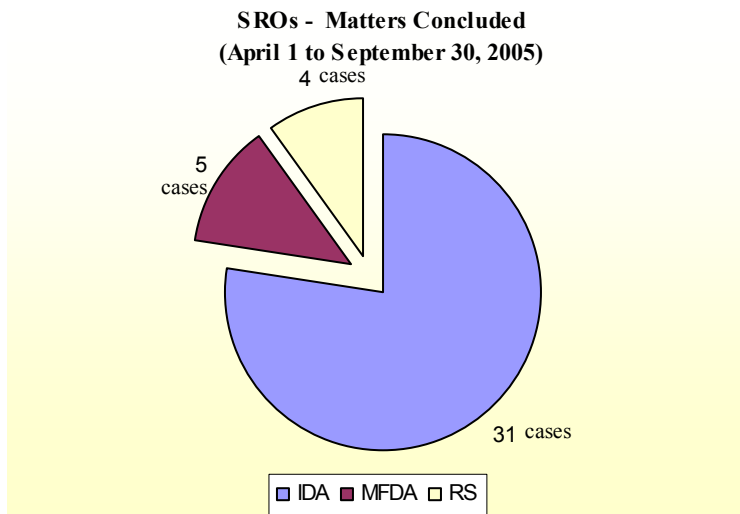
CSA Enforcement Activities (April 1, 2005 to September 30, 2005)		
Enforcement Activities		Number
Proceedings commenced (1)		49
Interim Orders (2)		42
Matters Concluded	Findings Issued (Sanction Decisions Pending)	17
	Sanctions Ordered	17
	Settlement Agreements	39
	Withdrawn/No Contravention Found	3
Appeals	Decisions Appealed	5
	Appeal Decisions Rendered	8



Self-Regulatory Organizations (SROs) Activities

SROs - Matters Concluded  
(April 1 to September 30, 2005)





## ILLEGAL DISTRIBUTION

### COURT RULINGS

#### Québec

**Réal Ouellette (Logi-Tech)** – On June 16, 2005, Ouellette pleaded guilty to 17 counts of having helped Logi-tech illegally distribute its securities to the public. Ouellette, president of Logi-Tech, was fined \$ 85,000, plus \$ 1250 in court costs, by Mr. Justice Léopold Goulet of the Court of Québec (Criminal and penal division).

See <http://www.lautorite.qc.ca/salle-de-presse/communiqués-presse/2004/communiqué-4382/en/communiqué-16juin2005-realouellette-ang.pdf>.

**Michel Maheux (Coopérative de producteurs de bois précieux Québec Forestales)** – On May 11, 2005, the Court of Québec (Criminal and penal division) found Michel Maheux guilty on 74 counts of having helped the Coopérative make misrepresentations regarding securities transactions and contravene a decision issued by the Commission des valeurs mobilières du Québec. Mr. Justice Jean B. Falardeau ordered Maheux to pay a fine of \$ 222,000, plus court costs. On May 20, 2005, Maheux was also found guilty of one count for having refused to file documents requested by an AMF investigator; Mr. Justice Claude Leblond of the Court of Québec (Criminal and penal division) then fined Maheux \$1000, plus court costs.

See <http://www.lautorite.qc.ca/salle-de-presse/communiqués-presse/2004/communiqué-4325/en/Communiqué-13mai2005-Michel-Maheux-ANGLAIS.pdf>.

#### Manitoba

**Robert Syme** - On March 24, 2005, Robert Syme pleaded guilty in the Provincial Court of Manitoba to five counts in trading in securities without registration and was later fined \$4,000. Costs and applicable surcharges were waived and Syme was given until December 31, 2006 to pay the fine.

See <http://www.msc.gov.mb.ca/investigation/reasons/syme.html> for details.

**Kenneth Driedger** - On April 26, 2005, Kenneth Driedger pleaded guilty to 17 counts of offences of *The Securities Act* of Manitoba and was fined in the Provincial Court of Manitoba to a fine of \$11,000.

See <http://www.msc.gov.mb.ca/investigation/reasons/driedger.html> for details.

**John Olfert** - On June 30, 2005, John Olfert pleaded guilty in the Provincial Court of Manitoba to five counts of offences of trading without registration and was fined \$4,500 with costs and surcharge of \$140.

See <http://www.msc.gov.mb.ca/investigation/reasons/olfert.html> for details.

**Peter Bergen** – On August 18, 2005, Peter Beren pleaded guilty in the Provincial Court of Manitoba to four counts of offences of the *Securities Act* and was fined \$4,000. The fine included disgorgement of commissions made by Bergen in relation to the charges. Bergen was also placed on six months probation and must participate in a MSC Investor Education Month program.

See <http://www.msc.gov.mb.ca/investigation/reasons/bergen.html> for details.

#### CSA COMMISSION OR TRIBUNAL DECISIONS

##### *New Brunswick Securities Commission (NBSC)*

**Fundy Minerals Ltd** - In July 2005, after a full hearing, the Commission ordered Fundy Minrals Ltd. to pay an administrative penalty in the amount of \$5,000 and \$2,750 for hearing costs.

See <http://www.nbsc-cvmnb.ca/PDF/DecisionandOrder-e.pdf> for details.

##### *Ontario Securities Commission (OSC)*

**Francis Jason Biller** – In April 2005, the OSC ordered that all trading in securities by Francis Jason Biller cease until such time as a full hearing of the matter is concluded and a decision of the Commission is rendered. In February 2000, the British Columbia Securities Commission prohibited Biller from engaging in investor relations activities for 10 years as a result of his involvement in Eron Mortgage and other related companies in British Columbia. On April 5, 2005, Biller pled guilty in the British Columbia Supreme Court to four counts of fraud and one count of theft contrary to the Criminal Code of Canada in relation to his involvement in Eron Mortgage.

See [http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad\\_20050429\\_billerf.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad_20050429_billerf.jsp) for details.

##### *Manitoba Securities Commission (MSC)*

**Euston Capital Corp.** – On July 11, 2005, MSC issued a Notice of Hearing against Euston and later issued an order, consented to by Euston, denying exemptions to Euston until the hearing matter has been heard by a panel of the MSC. The matter is returnable on February 22, 2006. See Order No. 4884.

See <http://www.msc.gov.mb.ca/orders/euston.html> for details.

##### *Alberta Securities Commission (ASC)*

**Fair Share Investing Inc. and Gary Wojciechowski** - On April 7, 2005 the ASC accepted the undertaking of Fair Share Inc. and Gary Wojciechowski not to trade in any securities of this corporation or any other issuer except in compliance with applicable securities laws until hearing or abandonment of the proceedings.

See [http://www.albertasecurities.com/dms/1404/11952/12348\\_FAIR\\_SHARE\\_-\\_ICTO\\_AND\\_UNdertaking\\_-\\_2005-04-07\\_-\\_1798140\\_.pdf](http://www.albertasecurities.com/dms/1404/11952/12348_FAIR_SHARE_-_ICTO_AND_UNdertaking_-_2005-04-07_-_1798140_.pdf) for details.

##### *British Columbia Securities Commission (BCSC)*

**Corporate Express Inc., also known as Corporate Express Club and Corporate Express Club (CEC) 1998, Fortress International Ltd., Great American Gold Ltd., John Thomas McCarthy and Cameron Willard McEwen (the “respondents”)** – On September 9, 2005, the BCSC found that the respondents illegally distributed securities and made misrepresentations and contravened its temporary orders. The BCSC directed that the temporary orders remain in place until it has rendered its decision on sanctions.

For details see [www.bcsc.bc.ca](http://www.bcsc.bc.ca), type the full name of a respondent or 2005 BCSECCOM 583 in the search box and go to the findings.

#### SETTLEMENT AGREEMENTS

##### *Ontario Securities Commission – (OSC)*

**Allan Eizenga** – In August 2005, the OSC concluded a settlement agreement with Allan Eizenga with respect to his actions as a director and officer with The Saxton Group and ordered that Mr. Eizenga be prohibited from acting as an officer or director of any issuer for 25 years; that the exemptions contained in Ontario securities law do not apply to him and that he cease trading in securities for 22 years (with the exception of trading certain securities in his RRSP after 10 years); and that he be reprimanded.

Mr. Eizenga undertook to never re-apply for registration under Ontario securities law or under any other Canadian securities legislation; and to cooperate fully with staff in connection with the outstanding Saxton-related proceeding.

See [http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/set\\_20050829\\_eizengaa.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/set_20050829_eizengaa.jsp) for details.

*Alberta Securities Commission (ASC)*

**Stone Mountain Precious Metals Depository Corp.** - On August 24, 2005, staff obtained written undertakings to the Executive Director from this corporation and from Capital Alternatives Inc. to cease trading in securities.

See [http://www.albertasecurities.com/dms/1404/11952/13030\\_Capital\\_Alternatives\\_-\\_STONE\\_MOUNTAIN\\_UNDERTAKING\\_-\\_2005-08-24\\_-\\_1931388v2.pdf](http://www.albertasecurities.com/dms/1404/11952/13030_Capital_Alternatives_-_STONE_MOUNTAIN_UNDERTAKING_-_2005-08-24_-_1931388v2.pdf) for details.

*British Columbia Securities Commission – (BCSC)*

**James Harvey Cameron and Venture Trading Inc. (“the respondents”)** – On April 5, 2005, the respondents entered into a settlement with the BCSC for illegally distributing securities. Cameron agreed to pay the BCSC \$10,000. The BCSC ordered the respondents for 4 years to cease trading securities and Cameron for 4 years not to act as a director or officer or engage in investor relations.

For details see [www.bcsc.bc.ca](http://www.bcsc.bc.ca), type the full name of a respondent or 2005 BCSECCOM 229 in the search box and go to the settlement.

**James Nelson McCarney, 526053 B.C. Ltd. and Trevor William Park (“the respondents”)** – In May 2005, the respondents entered into settlements with the BCSC for illegally distributing securities and making misrepresentations and, in the case of McCarney, failing to fulfill his duties as a director and officer. The BCSC will receive \$100,000 from McCarney and \$5,000 from Park. The BCSC ordered 526053 for 20 years not to buy or sell securities and McCarney for 20 years, and Park for 12 years, not to buy or sell securities (except for their own accounts), act as directors or officers (with a limited exception for McCarney) and engage in investor relations. All orders remain outstanding until the monetary amounts are paid.

For details see [www.bcsc.bc.ca](http://www.bcsc.bc.ca), type the full name of a respondent or 2005 BCSECCOM 370 & 373 in the search box and go to the settlements.

**Brent Edgson, Mark Stephen Heeres and Del Michel Albert Delisle (“the respondents”)** – On June 6, 2005, the respondents entered into settlements with the BCSC for illegally distributing the securities of James Nelson McCarney's company, 526053 B.C. Ltd. (see the settlement above). The BCSC will receive \$40,000 from Edgson and \$2,500 from Heeres. The BCSC ordered Edgson for 10 years, Heeres for 8 years and Delisle for six (6) years, not to buy or sell securities, act as directors or officers and engage in investor relations. The orders for Edgson and Heeres remain outstanding until the monetary amounts are paid.

For details see [www.bcsc.bc.ca](http://www.bcsc.bc.ca), type the full name of a respondent or 2005 BCSECCOM 391, 393 & 395 in the search box and go to the settlements.

APPEALS

*Québec*

**André Charbonneau (L'Alternative, compagnie d'assurance sur la vie)** – In 2003, the Court of Québec (Criminal and penal division) had found André Charbonneau guilty of having illegally distributed securities and he was fined \$ 295,000. Charbonneau appealed to the Superior Court and on May 9, 2005, Mrs. Justice Nicole Duval-Hesler dismissed his appeal and confirmed the Court of Québec's judgment. Charbonneau then asked the Court of Appeal leave to appeal this judgment and on August 3, 2005, Mrs. Justice Pierrette Rayle refused to grant Charbonneau such a leave.

See <http://www.lautorite.qc.ca/salle-de-presse/communiqués-presse/2004/communiqué-4314/en/communiqué-rejet-appel-Charbonneaua.pdf>

**Coopérative de producteurs de bois précieux Québec Forestales (Michel Maheux)** – In 2003, the Commission des valeurs mobilières du Québec (CVMQ) had issued a cease trading order against the Coopérative. The CVMQ concluded that the Coopérative had acted more as an enterprise issuing and investing in securities than as a real cooperative. The CVMQ had also found that the Coopérative was engaging in a distribution to the public of investment contracts without the benefit of prospectus and registration exemptions for cooperatives provided for in the *Securities Act*. The Coopérative appealed these findings to the Court of Québec (Civil division) and on June 17, 2005, in a unanimous judgment, the court dismissed the appeal,

finding that the CVMQ had been correct in its assessment of the activities of the Coopérative and, consequently, that the cease trading order was justified.

See <http://www.lautorite.qc.ca/salle-de-presse/communiqués-presse/2004/communiqué-4411/fr/communiqué-23juin2005-forestaies.pdf>. (Press release available in French only.)

## INSIDER TRADING

### COURT RULINGS

#### *Ontario*

**Andrew Rankin** – On July 15, 2005, the Ontario Court of Justice found Andrew Rankin guilty on all ten counts of informing or “tipping” another person of a material fact that had not been generally disclosed. Rankin was found not guilty on the ten counts of illegal insider trading. Submissions on sentencing have been scheduled for October 19, 2005.

See [http://www.osc.gov.on.ca/About/NewsReleases/2005/nr\\_20050715\\_osc-rankin-guilty.jsp](http://www.osc.gov.on.ca/About/NewsReleases/2005/nr_20050715_osc-rankin-guilty.jsp) for details.

### CSA COMMISSION OR TRIBUNAL DECISIONS

#### *Ontario Securities Commission – (OSC)*

**Betty Ho** – In May 2005, the OSC dismissed a motion for a nonsuit brought by Betty Ho at the close of the evidence introduced by Staff with respect to the allegations that Mrs. Ho committed insider trading.

See [http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad\\_20050511\\_ati-technologies-inc.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad_20050511_ati-technologies-inc.jsp) for details.

#### *British Columbia Securities Commission – (BCSC)*

**Fatir Hussain Siddiqi** – The BCSC found that Siddiqi traded securities on undisclosed information and manipulated the market. On September 9, 2005, the Commission ordered Siddiqi to pay \$60,000 and for 6 years not to buy or sell securities, act as a director or officer and engage in investor relations. The orders remain outstanding until the monetary amount is paid.

For details see [www.bcsc.bc.ca](http://www.bcsc.bc.ca), type the full name of the respondent or 2005 BCSECCOM 575 in the search box and go to the decision.

### SETTLEMENT AGREEMENTS

#### *Ontario Securities Commission – (OSC)*

**Jo-Anne Chang and David Stone** – In April 2005, the OSC concluded a settlement agreement with Jo-Anne Chang and David Stone with respect to tipping of inside information and insider trading of ATI Technologies Inc. shares. The OSC ordered that Chang and Stone be reprimanded; that they disgorge \$950,384.80 (plus \$126,820 accrued interest); that they pay \$311,180.20 for allocation to third parties and \$100,000 in costs; that Chang cease trading in securities for 20 years (with the exception of her RRSP and certain limited securities) and that she be prohibited from acting as a director or officer for 10 years; and that Stone permanently cease trading in securities (with the exception of his RRSP and certain limited securities) and permanently be prohibited from acting as a director or officer.

See [http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/set\\_20050409\\_changstone.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/set_20050409_changstone.jsp) for details.

**Gregory Hryniw and Walter Hryniw** – In May 2005, the OSC concluded settlement agreements with Gregory Hryniw and Walter Hryniw with respect to their false and misleading statements made to Staff in the course of an insider trading investigation. The Commission ordered that Messrs. Hryniw cease trading in securities for three years; that exemptions will not apply to them for three years; that they cannot act as an officer or director of any issuer for three years; that they be reprimanded; and that they each pay \$2,500 in costs.

See [http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/set\\_20050506\\_hryniw-gregory.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/set_20050506_hryniw-gregory.jsp) and [http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/set\\_20050505\\_hryniw-walter.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/set_20050505_hryniw-walter.jsp) for details.

#### *Alberta Securities Commission (ASC)*

**Robert Kenneth Pretty and Robert Lyle Pretty (the “respondents”)** - On June 2, 2005 the respondents concluded a settlement and admitted to insider tipping and illegal insider trading contraventions during a four year period relating to

merger/acquisition discussions involving Newport Petroleum, Berkley Petroleum, Hawk Oil, Nycan Energy, and Great Northern Exploration. Ken Pretty agreed to pay \$145,000 to settle the allegations, and \$3,000 towards investigation costs. He also undertook to cease trading in securities and to refrain from acting as a director or officer of any reporting issuer for a period of five years. Lyle Pretty agreed to pay \$95,000 to settle the allegations and \$2,000 towards investigation costs. He undertook to cease trading in securities for a period of three years.

See

[http://www.albertasecurities.com/dms/1404/11952/12689\\_PRETTY, Robert Kenneth SA & U June 2 2005 1754475 .pdf](http://www.albertasecurities.com/dms/1404/11952/12689_PRETTY,_Robert_Kenneth_SA_&_U_June_2_2005_1754475_.pdf) for details.

## MARKET MANIPULATION AND FRAUD

### COURT RULINGS

#### *Ontario*

**Dimitrios Boulieris** – On May 11, 2005, the Ontario Superior Court of Justice, Divisional Court affirmed the decision of the OSC which set aside part of an IDA decision relating to Boulieris' facilitation of a market manipulation. The OSC had overturned the IDA's decision and concluded that it had erred in failing to appreciate the essential business and operational elements necessary to prove that Boulieris facilitated a market manipulation; in misapprehending material evidence; and in misapprehending the public interest. The OSC had also found that the IDA had erred by imposing a penalty that was completely unfit and inappropriate in light of Boulieris' facilitation of the market manipulation, and imposed a harsher sanction which included a fine of \$128,504 and the suspension of Boulieris' registration for 7 years.

See <http://www.canlii.org/on/cas/onscdc/2005/2005onscdc10115.html> for details.

#### *Alberta*

**Sheldon Zelitt** - On May 19th, Mr. Zelitt was returned to Canada upon his extradition from the Czech Republic and taken into custody to begin serving his 4 year term of imprisonment plus the 4 more years to be served in default of having paid the \$1.85 million fine imposed for 11 contraventions of the *Securities Act* respecting non-disclosure and misrepresentation in documents relating to VisuaLABS Inc.

### CSA COMMISSION OR TRIBUNAL DECISIONS

#### *Ontario – (OSC)*

**Michael Ciavarella, Kamposse Financial Corp., Firestar Capital Management Corp., Firestar Investment Management Group, and Michael Mitton** – In June 2005, the OSC continued the Temporary Cease Trading Orders against Michael Ciavarella, Kamposse Financial Corp., Firestar Capital Management Corp., and Firestar Investment Management Group preventing them from trading in the shares of Pender International Inc., and the Temporary Cease Trading Order against Michael Mitton preventing him from trading in any shares in Ontario.

See [http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad\\_20050629\\_firestar-capital.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad_20050629_firestar-capital.jsp) and [http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad\\_20050629\\_firestar-capital.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad_20050629_firestar-capital.jsp) for details.

#### *British Columbia Securities Commission – (BCSC)*

**Carey Brian Dennis** - Dennis, a mutual fund salesperson, defrauded his clients. On June 1, 2005, the BCSC ordered Dennis to pay \$200,000 and for 30 years not to buy or sell securities (except for his own account), act as a director or officer and engage in investor relations. In October 2003, for the same scheme, the Supreme Court of British Columbia convicted Dennis of fraud and theft.

For details see [www.bcsc.bc.ca](http://www.bcsc.bc.ca), type the full name of the respondent or 2004 BCSECCOM 591 in the search box and go to the decision.

**Nano World Projects Corporation and Robert Papalia (the “respondents”)** – On June 22, 2005, the BCSC found that the respondents defrauded investors. The BCSC directed that the parties file submissions on sanctions. In September 2004, for the same scheme, the United States District Court in Seattle found that Papalia committed securities fraud.

For details see [www.bcsc.bc.ca](http://www.bcsc.bc.ca), type the full name of a respondent or 2005 BCSECCOM 441 in the search box and go to the findings.



**Statik Sports Inc., Sniper Sports Ltd., 592087 B.C Ltd. and Glenn Anthony Rosen, also known as Anthony G. Rosen and Glenn Anthony Carl Rosen** – In three schemes, using Statik, Sniper and 592087, Rosen defrauded investors. The BCSC cease traded the securities of the companies and ordered Rosen to pay \$375,000 and permanently not to buy or sell securities, act as a director or officer and engage in investor relations. In January 2005, for one scheme, the BC Supreme Court found Rosen guilty of theft.

For details see [www.bcsc.bc.ca](http://www.bcsc.bc.ca), type the full name of a respondent or 2004 BCSECCOM 634 in the search box and go to the decision.

**H & R Enterprises Inc., Michael Lee Mitton, David Scott Heredia and Jerome Rosen** – In four schemes, Mitton defrauded investors and in doing so advised investors without registration, sold shares he did not own without telling investment dealers, traded securities without registration, illegally distributed securities and manipulated the market. He did the manipulation in the shares of H & R with the help of Heredia and Rosen. The BCSC cease traded the securities of H & R, ordered Mitton to pay \$250,000 and ordered Mitton, Heredia and Rosen permanently not to buy or sell securities, act as directors or officers and engage in investor relations. In December 2000, the BC Supreme Court convicted Mitton of securities fraud and sentenced him to a 4 year jail term. In January 2004, Heredia and Rosen pleaded guilty in the US to charges of securities fraud for the manipulation. Before the hearing, the BCSC entered into settlements with 6 other participants in the schemes.

For details see [www.bcsc.bc.ca](http://www.bcsc.bc.ca), type the full name of a respondent or 2005 BCSECCOM 612 in the search box and go to the decision.

#### SETTLEMENT AGREEMENTS

*British Columbia Securities Commission – (BCSC)*

**Michel Ernest Ruge and Chivas Hedge Fund Ltd.** – On May 6, 2005, the respondents entered into a settlement with the BCSC for defrauding investors, illegally distributing securities and making misrepresentations. Ruge must pay the BCSC \$150,000. The BCSC ordered the respondents for 25 years not to buy or sell securities (with an exception for Ruge) and Ruge for 25 years not to act as a director or officer (with a limited exception) and engage in investor relations.

For details see [www.bcsc.bc.ca](http://www.bcsc.bc.ca), type the full name of a respondent or 2005 BCSECCOM 297 in the search box and go to the settlement.

#### DISCLOSURE VIOLATIONS

#### SETTLEMENT AGREEMENTS

*Ontario Securities Commission – (OSC)*

**Agnico-Eagle Mines Limited** – In April 2005, the OSC concluded a settlement agreement with Agnico-Eagle Mines Limited with respect to its failure to forthwith disclose material changes in its affairs and timely file a Material Change Report with the OSC on two occasions, and its issuance of an inaccurate news release. The OSC ordered Agnico-Eagle to initiate a review of its disclosure and reporting practices and procedures by an independent third party, acceptable to both Agnico-Eagle and Staff, at the expense of Agnico-Eagle.

See [http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/set\\_20050426\\_agnico-eagle-mines.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/set_20050426_agnico-eagle-mines.jsp) for details.

*Alberta Securities Commission (ASC)*

**Mercury Partners and Company Inc., et al** – In June, 2005 a settlement was concluded with the former Mercury Partners and Company Inc. and officers of the company, Tian Kusumoto, Shaun Cockburn and Jasmin Auck for violations of takeover bid rules and insider reporting obligations. Mercury, now Black Mountain Capital Corp., agreed to pay \$40,000 to settle the allegations and \$10,000 towards costs for using nominee corporations to accumulate share positions in Cybersurf Corp. and Takla Star Resources Ltd. Kusumoto agreed to pay \$50,000 fine to settle allegations of co-ordinating and trading in the nominee accounts and for failing to ensure that Mercury made required filings with the ASC. He has also agreed to cease trading in securities, and to refrain from acting as a director or officer of publicly trading company for nine years. Cockburn agreed to pay \$10,000 to settle the allegations against him, \$5,000 towards costs, and to refrain from trading in securities and from acting as a director or officer for four years. Auck agreed to pay \$10,000 to settle the allegations against her and \$2,500 towards costs and to refrain from trading in securities and from acting as a director and officer for 1.5 years.

See [http://www.albertasecurities.com/dms/1404/11952/12742\\_KUSUMOTO,\\_Tian\\_Robert\\_\(Mercury\\_et\\_al\) - SAU - 2005-06-13 - 1799370.pdf](http://www.albertasecurities.com/dms/1404/11952/12742_KUSUMOTO,_Tian_Robert_(Mercury_et_al) - SAU - 2005-06-13 - 1799370.pdf) for details.

*British Columbia Securities Commission (BCSC)*

**David Lynn Hunter** – On April 25, 2005, Hunter entered into a settlement with the BCSC for issuing a false and misleading news release for Nano World Projects Corp. (see the findings above under market manipulation and fraud). The BCSC ordered Hunter not to act as a director or officer for 5 years.

For details see [www.bcsc.bc.ca](http://www.bcsc.bc.ca), type the full name of the respondent or 2005 BCSECCOM 260 in the search box and go to the settlement.

**Jesus Ricafort Martinez** – On April 25, 2005, Martinez entered into a settlement with the BCSC for failing to disclose his trading in insider trading reports. Martinez must pay \$10,000 to the BCSC. The BCSC ordered Martinez for 18 months not to sell securities (except for his own account) and to act as a director or officer. Martinez must complete a course for directors and officers and complete his insider reports before he can act as a director or officer.

For details see [www.bcsc.bc.ca](http://www.bcsc.bc.ca), type the full name of the respondent or 2005 BCSECCOM 258 in the search box and go to the settlement.

#### **DISCLOSURE VIOLATIONS**

**Peter William Dunfield** – On April 28, 2005, Dunfield entered into a settlement with the BCSC for failing to cause Jalna Resources Limited to file a material change report and accurate and consistent financial statements and for not fulfilling his duties as a director. Dunfield must pay \$10,000 to the BCSC. The BCSC ordered Dunfield for 3 years not to act as a director or officer and engage in investor relations. Dunfield must complete a course for directors and officers before he can act as a director or officer.

For details see [www.bcsc.bc.ca](http://www.bcsc.bc.ca), type the full name of the respondent or 2005 BCSECCOM 271 in the search box and go to the settlement.

**Dilbagh Singh Gujral** – On July 12, 2005, Gujral entered into a settlement with the BCSC for failing to cause Caset Enterprises Corp. to file material change reports and for not fulfilling his duties as a director. Gujral must pay \$30,000 to the BCSC. The BCSC ordered Gujral for 4 years not to act as a director or officer and engage in investor relations. The orders remain outstanding until the monetary amounts are paid.

For details see [www.bcsc.bc.ca](http://www.bcsc.bc.ca), type the full name of the respondent or 2005 BCSECCOM 458 in the search box and go to the settlement.

#### **MISCONDUCT BY REGISTRANTS**

##### **COURT RULINGS**

###### *Ontario*

**Derivative Services Inc. and Malcolm Robert Bruce Kyle** – On May 25, 2005, the Ontario Superior Court of Justice, Divisional Court, affirmed the decision of the Ontario Securities Commission which had affirmed the finding of the IDA's Ontario District Council that Derivative Services Inc. (DSI) and Kyle had engaged in conduct unbecoming by failing to provide documents and information to IDA Enforcement staff in the course of a regulatory investigation. The Commission had dismissed an application by DSI and Kyle in which they challenged several disciplinary rulings of the District Council. In the course of these proceedings, DSI and Kyle raised a number of legal issues challenging the jurisdiction of the IDA over its members.

See <http://www.canlii.org/on/cas/onscdc/2005/2005onscdc10119.html> for details.

**Norshield Asset Management (Canada) Ltd., Norshield Investment Partners Holdings Ltd., Olympus United Funds Holdings Corporation, Olympus United Funds Corporation, Olympus United Group Inc., and Olympus United Bank and Trust SCC** -- In June 2005, the Ontario Superior Court of Justice ordered that RSM Richter Inc. be appointed receiver of the 'Norshield Group'. Norshield had been unable or unwilling to adequately explain the investment structure offered to clients, and the flow and location of client funds. RSM Richter Inc. had been appointed as monitor of Norshield's business and financial affairs, and following receipt of the monitor's first report, the Ontario Securities Commission and the Autorité des marchés financiers (AMF) acted jointly to seek the appointment of Richter as receiver.

See [http://www.osc.gov.on.ca/About/NewsReleases/2005/nr\\_20050629\\_osc-rsm-norshield.jsp](http://www.osc.gov.on.ca/About/NewsReleases/2005/nr_20050629_osc-rsm-norshield.jsp) for details.

CSA COMMISSION OR TRIBUNAL DECISIONS

*Nova Scotia Securities Commission – (NSSC)*

**Harry Rollo** - The NSSC made an order suspending the registration of Harry Rollo upon his failure to provide evidence of having successfully completed required examinations.

See <http://www.gov.ns.ca/nssc/docs/statementofallegations.pdf>; and [http://www.gov.ns.ca/nssc/docs/order33\(2\)ROLLO220605.pdf](http://www.gov.ns.ca/nssc/docs/order33(2)ROLLO220605.pdf).

*New Brunswick Securities Commission (NBSC)*

**Portus Alternative Asset Management Inc. and Boaz Manor** – On May 16, 2005, the NBSC ordered that previous orders issued on February 2, 2005 are to continue until further order of the Commission. The orders provide, inter alia, for a cessation in trading.

See [http://www.nbsc-cvmnb.ca/pdf/extension\\_order-e.pdf](http://www.nbsc-cvmnb.ca/pdf/extension_order-e.pdf) for details.

**Vincent Lacroix** – In September 2005, the Commission decided that Vincent Lacroix shall remain suspended indefinitely.

See <http://www.nbsc-cvmnb.ca/pdf/vincentlacroisorder-e.pdf> for details.

*Bureau de Décision et de Révision en Valeurs Mobilières – (BDRVM)*

**Les conseillers en valeurs Planiges Inc. (« Planiges »), Denis Patry and Zenith Stable Value Growth Fund (“Zenith Fund”)** – On September 13, 2005, the BDRVM suspended the rights granted by registration to Planiges and issued a freeze order against the Zenith Fund.

See [http://www.lautorite.qc.ca/salle-de-presse/communiqués-presse/2004/communiqué-4648/en/Comm13sept2005\\_Zenith\\_ang.pdf](http://www.lautorite.qc.ca/salle-de-presse/communiqués-presse/2004/communiqué-4648/en/Comm13sept2005_Zenith_ang.pdf).

**Norboung, gestion d'actifs Inc. (« Norbourg »), Vincent Lacroix, Évolution and Norbourg families of funds** – On August 24, 2005, the BDRVM ordered Norbourg to cease all activities, issued a cease trading order against the Evolution and Norbourg families of funds and a freeze order targeting the bank accounts of Norbourg, Vincent Lacroix and affiliated companies and their assets. Finally, the BDRVM recommended to the Minister of Finance that a provisional administrator be appointed to administer the property of Norbourg, affiliated companies and the Norbourg and Evolution families of funds.

See <http://www.lautorite.qc.ca/salle-de-presse/communiqués-presse/2004/communiqué-4598/en/Comm25aout2005-Norboung-ang.pdf>.

*Ontario Securities Commission – (OSC)*

**Foreign Capital Corporation, Montpellier Group Inc. and Pierre Alfred Montpellier (the “respondents”)** – In April 2005, the OSC found that the respondents had engaged in conduct contrary to the public interest, based on the criminal conviction of Pierre Montpellier for fraud and theft contrary to the Criminal Code. The Commission ordered that Montpellier be permanently prohibited from becoming or acting as a director or officer of any issuer, and that his registration be terminated. The Commission also imposed a permanent cease trade order on all three respondents.

See [http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad\\_20050415\\_montpellier.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad_20050415_montpellier.jsp) for details.

**Momentas Corporation, Howard Rash, Alexander Funt, and Suzanne Morrison** – In June 2005, the Commission made temporary orders that all trading by Momentas Corporation and its officers, directors, employees, and/or agents in securities of Momentas shall cease; that Rash, Funt, and Morrison cease trading in any securities; and that any exemptions do not apply to Momentas, Rash, Funt, and Morrison.

See [http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad\\_20050624\\_momentas.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad_20050624_momentas.jsp):

[http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad\\_20050624\\_momentas.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad_20050624_momentas.jsp)  
[http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad\\_20050708\\_momentas-corp.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad_20050708_momentas-corp.jsp)  
[http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad\\_20050714\\_momentas-corp.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad_20050714_momentas-corp.jsp) and  
[http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad\\_20050802\\_momentas.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad_20050802_momentas.jsp) for details.

**Portus Alternative Asset Management Inc. and Boaz Manor** – Since May 2005, the OSC has ordered that the hearing to consider whether to extend the temporary orders imposing terms and conditions on the registration of Portus, and restricting trading by Portus and Manor, be adjourned until December 16, 2005. The temporary orders were extended until then.

See [http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad\\_20050516\\_portus-manor.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad_20050516_portus-manor.jsp) and [http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad\\_20050914\\_portus-manor.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad_20050914_portus-manor.jsp) for details.

**Brian Peter Verbeek** – In July 2005, an OSC hearing panel found that Brian Peter Verbeek violated the Ontario *Securities Act* and engaged in conduct contrary to the public interest by participating in an illegal distribution of securities, failing to ascertain the investment needs and objectives of his clients and the suitability of securities for his clients, participating in a scheme that involved the subsequent loan to the investor of approximately 65% of the share purchase price and by charging an administrative fee to the investors of 35% of the loan proceeds, processing documents that referenced ‘Lafferty, Harwood and Partners Ltd.’ without Lafferty’s knowledge and at a time when he was not registered through Lafferty; and making misleading or untrue representations to OSC staff. Submissions on sanctions will be made on October 26, 2005.

See [http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad\\_20050726\\_verbeek.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad_20050726_verbeek.jsp) for details.

**Jose L. Castaneda** – On June 7, 2005, the Commission ordered that Castaneda cease trading securities for a period of 15 days. The Temporary Order was continued on June 20, 2005 until further order of the Commission.

See [http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/soa\\_20050620\\_castaneda.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/soa_20050620_castaneda.jsp) for details.

**Norshield Asset Management (Canada) Ltd.** – On May 20, 2005, the OSC ordered that the registration of Norshield be temporarily suspended. On June 2, 2005, the OSC ordered RMS Richter Inc. to act as Monitor of Norshield.

See [http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad\\_20050520\\_norshield-temp.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad_20050520_norshield-temp.jsp); and [http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad\\_20050602\\_norshield.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad_20050602_norshield.jsp) for details.

**Olympus United Group Inc.** – On May 13, 2005, the OSC ordered that the registration of Olympus be temporarily suspended. On May 20, 2005, the OSC ordered that terms and conditions be imposed on Olympus’ registration; specifically that Olympus shall not pay out, redeem, or otherwise return any funds or other assets from any existing client accounts.

See [http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad\\_20050513\\_olympus.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad_20050513_olympus.jsp) and [http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad\\_20050520\\_olympus-temp.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad_20050520_olympus-temp.jsp) for details.

*Manitoba Securities Commission – (MSC)*

**Mark Edward Valentine** - On June 30, 2005, the MSC issued an order against Valentine reciprocating certain sanctions imposed on him by the OSC, based upon a Settlement Agreement with the OSC. Valentine was prohibited from trading in securities until December 23, 2019, and permanently prohibited from acting as a director or officer.

See <http://www.msc.gov.mb.ca/orders/valentine.html> for details.

*Alberta Securities Commission – (ASC)*

**Christopher Wesley Stewart** – In June 2005, this former securities broker was sanctioned for unauthorized discretionary trading and ordered to pay \$10,000, \$5,000 towards costs, and prohibited from trading securities for ten years.

See [http://www.albertasecurities.com/dms/1404/11952/12716\\_STEWART,\\_Christopher\\_Wesley\\_-\\_Decision\\_-\\_2005-06-07\\_-\\_1872985.pdf](http://www.albertasecurities.com/dms/1404/11952/12716_STEWART,_Christopher_Wesley_-_Decision_-_2005-06-07_-_1872985.pdf) for details.

*British Columbia Securities Commission – (BCSC)*

**Timothy Fernback, Wolverton Securities Ltd., Brent Wolverton and William Massey (the “respondants”)** – On May 9, 2005, the respondents (an investment dealer and its president and corporate finance manager and the president of Cinema Internet Networks) entered into a settlement with the BCSC for failing to act in the public interest in connection with a private placement for Cinema. The BCSC will receive \$60,000 from Wolverton Securities, \$30,000 from Wolverton, \$20,000 from Fernback and \$5,000 from Massey.

For details see [www.bcsc.bc.ca](http://www.bcsc.bc.ca), type the full name of a respondent or 2005 BCSECCOM 304 in the search box and go to the settlement.

**Martin, Lucas & Seagram Ltd.** – On July 6, 2005, Martin, an adviser from Toronto, entered into a settlement with the BCSC for failing to register as an adviser. Martin must pay \$135,695 to the BCSC and confirm it has a credible registration compliance system. The BCSC ordered Martin reprimanded.

For details see [www.bcsc.bc.ca](http://www.bcsc.bc.ca), type the full name of the respondent or 2005 BCSECCOM 449 in the search box and go to the settlement.

**Nelson Kenfung Sui** – On July 7, 2005, Sui, a registered salesperson, entered into a settlement with the BCSC for breaching the know your client rule and his fiduciary duties to his client. Sui must pay \$25,000 to the BCSC. The BCSC ordered Sui be placed under close supervision by his investment dealer for a year. The order remains outstanding until the monetary amount is paid.

For details see [www.bcsc.bc.ca](http://www.bcsc.bc.ca), type the full name of the respondent or 2005 BCSECCOM 467 in the search box and go to the settlement.

**Michael Fenwick French** – On July 20, 2005, French entered into a settlement with the BCSC for failing to register as an adviser. The BCSC ordered French for 15 years not buy or sell securities (except for a personal account), act as a director or officer and engage in investor relations.

For details see [www.bcsc.bc.ca](http://www.bcsc.bc.ca), type the full name of the respondent or 2005 BCSECCOM 471 in the search box and go to the settlement.

**J. D. Stanley Futures Inc. and Clive Chow Kai Tsang (the “respondents”)** – On August 23, 2005, the respondents entered into a settlement with the BCSC for failing to comply with their duties as registrants under the legislation. J. D. voluntarily surrendered its registration. Tsang agreed not act as a designated compliance officer or apply for registration for 5 years. The BCSC ordered the respondents reprimanded and for 5 years not sell securities or exchange contracts (except Tsang for his own account) and Tsang not to act as a director or officer of any issuer in the securities or exchange contract business for the later of 5 years and the date he completes an acceptable course.

For details see [www.bcsc.bc.ca](http://www.bcsc.bc.ca), type the full name of a respondent or 2005 BCSECCOM 546 in the search box and go to the settlement.

## SETTLEMENT AGREEMENTS

### *Joint Action by Regulators*

**optionsXpress, Inc. (and its affiliate optionsXpress Canada Corp./Corporation optionsXpress Canada)** – On August 11, 2005 provincial securities regulators for 10 Canadian provinces concluded a settlement agreement with optionsXpress, a Chicago based internet trading firm that permitted Canadians to open internet trading accounts and trade securities in the United States. As part of the settlement agreement, optionsXpress' Canadian affiliate was required to pay \$550,000 to the ten regulators by December 31, 2005. Until then, optionsXpress will be prevented from opening any new accounts. The settlement agreement concluded at the largest ever joint hearing of Canadian securities regulators involving simultaneous settlement hearings by the Alberta Securities Commission, the Manitoba Securities Commission, the Ontario Securities Commission, the Nova Scotia Securities Commission, the New Brunswick Securities Commission and the Bureau de décision et de révision en valeurs mobilières in Québec.

For details, see [http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad\\_20050916\\_optionsxpress.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad_20050916_optionsxpress.jsp)  
<http://www.gov.ns.ca/nssc/docs/optionsxpressincnoticeofhearing.pdf>  
<http://www.gov.ns.ca/nssc/docs/optionsxpressincstmtofallegations.pdf>  
<http://www.gov.ns.ca/nssc/docs/optionsXpressInc%20Order%2031Aug%2005Conformed.pdf>  
<http://www.gov.ns.ca/nssc/docs/Options-Final-August11.pdf>  
<http://www.lautorite.qc.ca/salle-de-presse/communiqués-presse/2004/communiqué-46311/en/communiqué-optionsxpress-a.pdf>  
<http://www.nbsc-cvmnb.ca/PDF/OrderandStlmtAgree-e.pdf>  
[http://www.albertasecurities.com/dms/1404/11952/13093\\_OptionsXpress\\_Inc\\_-\\_Decision\\_-\\_2005-08-31\\_-\\_1943490\\_v1.pdf](http://www.albertasecurities.com/dms/1404/11952/13093_OptionsXpress_Inc_-_Decision_-_2005-08-31_-_1943490_v1.pdf)  
<http://www.msc.gov.mb.ca/orders/optionsexpress.html>

*Nova Scotia Securities Commission – (NSSC)*

**Christopher Robinson** - The Commission approved a settlement agreement where Robinson admitted having contravened the Act and acted contrary to the public interest by failing to comply with an order of an I.D.A. discipline panel. An administrative penalty and costs award was imposed.

See <http://www.gov.ns.ca/nssc/docs/chrisrobinsonallegations.pdf>;  
<http://www.gov.ns.ca/nssc/docs/settlementagreementRobinson14JUL05.pdf>;  
<http://www.gov.ns.ca/nssc/docs/robinsonorder.pdf> for details

*Ontario Securities Commission – (OSC)*

**Norman Frydrych** – In May 2005, the OSC concluded a settlement agreement with Norman Frydrych with respect to his actions as an officer of the securities dealer, Buckingham Securities Corporation, in authorizing, permitting, or acquiescing in Buckingham's violations of Ontario securities laws. The OSC ordered that Frydrych's registration be terminated, that he be permanently prohibited from becoming or acting as a director or officer of any reporting issuer or registrant, that he cease trading in securities for 15 years (except in his personal accounts or RRSPs), and that he be reprimanded. Frydrych also provided a written undertaking that he will never apply for registration in any capacity under Ontario securities law, and that he will never have any ownership interest in any registrant.

See [http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/set\\_20050516\\_frydrych.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/set_20050516_frydrych.jsp) for details.

**Miller Bernstein & Partners LLP** – In May 2005, the OSC concluded a settlement agreement with Miller Bernstein & Partners LLP, a partnership of chartered accountants, with respect to its audit of the securities dealer, Buckingham Securities Corporation. The OSC ordered that Miller Bernstein be reprimanded, that it make a settlement payment of \$75,000, and that it pay \$115,000 in costs. Miller Bernstein also provided a written undertaking that it will not provide auditing or other services to reporting issuers or to registrants under Ontario securities law in their capacity as reporting issuers and registrants, respectively. If Miller Bernstein seeks relief from this undertaking, it must comply with certain conditions, including an inspection of the design and implementation of its quality controls by the Canadian Public Accountability Board or a public accounting firm acceptable to Staff and Miller Bernstein. Miller Bernstein also agreed to provide a copy of the Settlement Agreement and Commission Order to the Institute of Chartered Accountants of Ontario and to the Canadian Public Accountability Board.

See [http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/set\\_20050517\\_miller-bernstein.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/set_20050517_miller-bernstein.jsp) for details.

**Buckingham Securities Corporation** – In June 2005, the OSC concluded a settlement agreement with Buckingham Securities Corporation, with respect to its failure to segregate fully paid or excess margin securities owned by its clients; its failure to maintain adequate capital at all times; and its failure to keep required books and records; making materially misleading or untrue statements with respect to the fiscal years ending March 31, 1999 and March 31, 2000 in its Form 9 Reports filed with the OSC. Buckingham failed to file an audited Form 9 Report for the fiscal year ending March 31, 2001. The OSC ordered that the registration of Buckingham be terminated.

See [http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/set\\_20050602\\_buckingham.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/set_20050602_buckingham.jsp) for details.

**AGF Funds Inc., AIC Limited, CI Mutual Funds Inc. (now CI Investments Inc.), I.G. Investment Management, Ltd., and Franklin Templeton Investment Corp.** – In June 2005, the OSC approved the distribution plans that will see these five Canadian mutual fund companies disburse \$205.6 million to investors. The plans are to be implemented before the end of September 2005.

See [http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/pod\\_20050630\\_agf-funds-inc.pdf](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/pod_20050630_agf-funds-inc.pdf),  
[http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/pod\\_20050630\\_aic-limited.pdf](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/pod_20050630_aic-limited.pdf),  
[http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/pod\\_20050630\\_ci-investments.pdf](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/pod_20050630_ci-investments.pdf),  
[http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/pod\\_20050630\\_ig-investment.pdf](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/pod_20050630_ig-investment.pdf),  
[http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/pod\\_20050630\\_franklin-templeton.pdf](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/pod_20050630_franklin-templeton.pdf) for details.

**Ron Carter Hew** – In July 2005, the OSC concluded a settlement agreement with Ron Carter Hew with respect to his commissioned trading in the accounts of numerous investors without being registered. The OSC ordered that he cease trading in securities for 15 years (except in his RRSP), and that he be reprimanded.

See [http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/set\\_20050623\\_hewr.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/set_20050623_hewr.jsp) and  
[http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/set\\_20050718\\_hewrc.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/set_20050718_hewrc.jsp) for details.

**Francis George Lee Simpson** – In August 2005, the OSC concluded a settlement agreement with Francis George Lee Simpson with respect to his actions as an officer and the Ultimate Designated Person of the investment dealer, Thomson

Kernaghan & Co. Ltd. ("TK"), and ordered that Simpson's registration be terminated; that he be permanently prohibited from acting as an officer or director of any registrant; that he be prohibited from acting as a director or Chief Financial Officer of a reporting issuer for 5 years; and that he pay \$50,000 in costs. Simpson undertook to never re-apply for membership in or approval from the IDA of Canada, or registration or recognition under Ontario securities law or any other Canadian securities legislation.

See [http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/set\\_20050812\\_simpsonfgl.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/set_20050812_simpsonfgl.jsp) for details.

**Affinity Financial Group Inc., International Structured Products Inc., Affinity Restricted Securities Inc., Dionysus Investments Ltd., Brian Keith McWilliams, David John Lewis and Louis Sapi** – In September 2005, the OSC concluded a settlement agreement with Affinity Financial Group Inc. (Affinity) and its related companies with respect to their unlicensed advising in securities by soliciting clients to invest in a product titled the "Rule 144 Loan Program", and ordered that the registration of International Structured Products Inc. (ISP), McWilliams, and Lewis be terminated; that Affinity, Affinity Restricted Securities Inc. (ARS), and Dionysus Investments Ltd. cease trading in securities permanently; that exemptions do not apply to Affinity, ISP, ARS, and Dionysus permanently; that McWilliams, Lewis, and Sapi be permanently prohibited from becoming directors or officers of any registrant; and that McWilliams, Lewis, and Sapi each pay \$10,000 in costs.

See [http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/set\\_20050919\\_mcwilliamsb.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/set_20050919_mcwilliamsb.jsp); [http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/set\\_20050919\\_sapilouis.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/set_20050919_sapilouis.jsp); and [http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/set\\_20050919\\_affinity.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/set_20050919_affinity.jsp) for details.

**TD Waterhouse Canada Inc.** – In September 2005, the OSC concluded a settlement agreement with TD Waterhouse Canada Inc. (TDW) with respect to its failure to comply with its suitability obligation to its clients, and its failure to comply with its obligation to deal with its clients fairly by failing to disclose to them a commission paid to itself, and ordered that TDW pay \$125,000 in costs, and that it be reprimanded. TDW agreed to make a settlement payment of \$250,000; to make restitution to its clients; and to provide Staff with a comfort letter that it has instituted practices and procedures designed to prevent the facilitation of such action in the future.

See [http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/set\\_20050919\\_tdwaterhouse.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/set_20050919_tdwaterhouse.jsp) for details.

#### *Manitoba Securities Commission – (MSC)*

**Charles Edward Griffith** – On July 15, 2005, the MSC approved a Settlement Agreement with Griffith whereby, he acknowledged churning accounts and discretionary trading. Griffith agreed to an order including an order of financial loss compensation in the amount of \$68,237 and a denial of exemptions for a period of 10 years from the date of the order. In addition, Griffith represented that for the period of time since his registration under the Act had ceased on March 26, 2001 (over 4 years prior to the Settlement Agreement), he had not traded in securities in the Province of Manitoba.

See <http://www.msc.gov.mb.ca/orders/griffith.html> for details.

#### *Alberta Securities Commission – (ASC)*

**Douglas Gerhardt Schmidt** - On September 15, 2005, Schmidt concluded a settlement with the ASC and admitted to illegal insider trading. He paid \$5,000.00 to settle these allegations, \$1,000.00 towards costs, and undertook to cease trading in securities for a period of 6 months.

See [http://www.albertasecurities.com/dms/1404/11952/13117\\_SCHMIDT,\\_Douglas\\_Gerhardt\\_-\\_SA&U\\_-\\_2005-09-15\\_-\\_1911998.pdf](http://www.albertasecurities.com/dms/1404/11952/13117_SCHMIDT,_Douglas_Gerhardt_-_SA&U_-_2005-09-15_-_1911998.pdf) for details.

#### APPEALS

##### *Québec*

**Guy Shedleur** – In 2001, the Commission des valeurs mobilières du Québec (CVMQ) had found that Shedleur, as a representative registered for the firm Valeurs Mobilières Investpro Inc., had not acted with the competence and integrity required from a registrant in relation to the distribution to the public by Investpro of the securities of SPEQ MPI. Therefore, the CVMQ had suspended Shedleur's rights granted by registration for a period of seven years. Shedleur appealed to the Court of Québec (Civil division) which, in a unanimous decision rendered on August 12, 2002, dismissed his appeal. Shedleur then appealed this decision to the Court of Appeal and, on September 8, 2005, in a unanimous judgment, the court dismissed the appeal, finding that the Court of Québec had been correct in confirming the CVMQ's 2001 decision.

## MISCELLANEOUS

### COURT RULINGS

#### *Nova Scotia*

**Bruce P. Schriver** - The Supreme Court of Nova Scotia issued a decision denying the appeal of Bruce P. Schriver from a decision of the Nova Scotia Securities Commission which rejected his argument that the Nova Scotia Securities Commission lacked jurisdiction to make a finding under section 30(3) of the Act that Bruce P. Schriver had violated a M.F.D.A. bylaw and thereby contravened the Act. Mr. Schriver has appealed the decision of the Supreme Court. The Nova Scotia Supreme Court Appeal Division will hear the appeal on the 22nd day of November 2005.

#### *Alberta*

**Thomas Kim Seto** - On May 12, 2005, Seto pleaded guilty in Edmonton Provincial Court to five charges and was sentenced to 5 months imprisonment, prohibited from trading in securities and acting as a director or officer for 12 years, and ordered to pay \$18,000.00 restitution and \$10,000.00 towards costs.

The Institute for Financial Learning - In August 2005, the appeal was denied.

See [http://www.albertasecurities.com/dms/1404/11952/13006\\_IFL\\_Court\\_of\\_Appeal\\_Reasons\\_-\\_08-16-2005\\_-\\_1930037.pdf](http://www.albertasecurities.com/dms/1404/11952/13006_IFL_Court_of_Appeal_Reasons_-_08-16-2005_-_1930037.pdf) for details

#### *British Columbia*

**John W. S. Roeder** - In 1995, the Commission banned Roeder for 17 years from the market. In 2000, Roeder applied to the Commission to have the orders revoked, alleging that BCSC staff counsel acted with a conflict of interest at the hearing. On May 20, 2003, the BCSC heard Roeder's application and dismissed it on the basis of unjustified delay. The BCSC did not consider the merits of the conflict of interest allegations. Roeder appealed to the Court of Appeal and on April 4, 2005, in a unanimous judgment, the court dismissed the appeal, finding that the BCSC acted reasonably on making its 1995 orders.

For details see [www.bcsc.bc.ca](http://www.bcsc.bc.ca), type Roeder's full name in the search box and go to the 1995 and 2003 Commission decisions.

### CSA COMMISSION OR TRIBUNAL DECISIONS

#### *Bureau de Décision et de Révision en Valeurs Mobilières – (BDRVM)*

**Fonds TIP Canada Ltée** – On August 9, 2005, the BRVM recommended that the Minister of Finance order the winding-up of the property of Fonds TIP Canada Ltée and appoint a liquidator.

See [http://www.lautorite.qc.ca/salle-de-presse/communiqués-presse/2004/communiqué-4592/en/Comm17aout2005FondsTIP\\_ANGLAIS.pdf](http://www.lautorite.qc.ca/salle-de-presse/communiqués-presse/2004/communiqué-4592/en/Comm17aout2005FondsTIP_ANGLAIS.pdf).

**Zenith Stable Value Growth Fund (“Zenith Fund”), Corporation de gestion et de recherche Zenith, Conseillers en valeurs Planiges inc. (« Planiges »), Denis Patry** – On June 15, 2005, the BDRVM issued a freeze order against the Zenith Fund, Corporation de gestion et de recherche Zenith, Planiges and Denis Patry to prevent them from withdrawing funds from the Zenith Fund. Then, on September 13, 2005, the BDRVM issued another freeze order against the Zenith Fund, the Corporation de gestion et de recherche Zenith, Planiges and Denis Patry targeting all funds, securities or other assets of the Zenith Fund. The BDRVM also ordered the Zenith Fund to cease any activity in respect of a transaction in securities.

See [http://www.lautorite.qc.ca/salle-de-presse/communiqués-presse/2004/communiqué-4648/en/Comm13sept2005\\_Zenith\\_ang.pdf](http://www.lautorite.qc.ca/salle-de-presse/communiqués-presse/2004/communiqué-4648/en/Comm13sept2005_Zenith_ang.pdf).

**Fonds de placement Excellence and Placements « Parts » Excellence inc.** – On August 3, 2005, the BDRVM issued a freeze order against Fonds de placement Excellence, a mutual fund, and Placements « Parts » Excellence inc., the fund's manager.

See <http://www.lautorite.qc.ca/salle-de-presse/communiqués-presse/2004/communiqué-4569/en/communiqué-8aout2005-fondsexcellence-ang.pdf>.



*Ontario Securities Commission – (OSC)*

**Andrew Currah, Colin Halanen, Joseph Damm, Nicholas Weir, Penny Currah, and Warren Hawkins** – In July 2005, the OSC dismissed a motion by Nicholas Weir that the allegations against him were commenced outside the limitation period. Since Weir was not deprived of a vested substantive right when the revised limitation period came into effect, the current 6 year limitation period applies to him. The Commission held that a proceeding is 'commenced' on the date on which the notice of hearing and statement of allegations are issued by the office of the Secretary of the Commission (which in this case was within the 6 year limitation period).

See [http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad\\_20050729\\_currah.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad_20050729_currah.jsp) for details.

*Alberta Securities Commission (ASC)*

**Murdo C. McLeod and Sidney Miszczuk v. TSXV (the “respondents”)** - During 2005 the Commission considered its practice and procedures governing appeals to the ASC regarding a TSXV decision regarding suitability of the Appellants as directors and officers for two Alberta-based issuers. These two decisions in McLeod and Miszczuk v. TSXV are posted at 2005 ABASC 191 and 2005 ABASC. The initial ruling addressed the ASC's lack of jurisdiction to stay trading halts imposed by the TSXV against the issuers involved and also considered specific terms upon which the respondents might March 7, 2005 adduce limited additional evidence upon this hearing before the Commission. In a later July 14, 2005 decision dismissing the appeal, a different panel rendered a lengthy decision – deciding that these proceedings were in the nature of a civil appeal rather than a hearing de novo, that the TSXV had acted fairly and in accordance with principles of natural justice, and that there was no reason to disturb the TSXV's decision regarding suitability. Together these two decisions provide a detailed analysis of the statutory framework for appeal of an Exchange decision to the ASC, the role of the Exchange, and the nature of the decisions under appeal.

See [http://www.albertasecurities.com/dms/1404/11952/12855\\_MCLEOD\\_Murdo\\_C.\\_-Decision-2005-07-14-1898612v1.pdf](http://www.albertasecurities.com/dms/1404/11952/12855_MCLEOD_Murdo_C._-Decision-2005-07-14-1898612v1.pdf) for details.

**Gordon Simpson** - On August 22, 2005, an ASC panel dealt with a complainants appeal of an IDA refusal to take enforcement proceedings in the case of Simpson, 2005 ABASC 724. The Reasons for Decision analyzed the applicable legislative framework and legal characterization of the determinations sought to be appealed and concluded that it was not appealable under the *Securities Act* section 73(1), nor was Simpson directly affected by it so as to have standing to appeal under that section. In addition, the panel ruled that the ASC's public interest jurisdiction does not give it jurisdiction to order the IDA, IDA staff or ASC staff to investigate any matter or to institute regulatory or disciplinary proceedings.

See [http://www.albertasecurities.com/dms/1404/11952/13018\\_SIMPSON\\_Gordon-DECISION-2005-08-22-1930420\\_v1.pdf](http://www.albertasecurities.com/dms/1404/11952/13018_SIMPSON_Gordon-DECISION-2005-08-22-1930420_v1.pdf) for details.

SETTLEMENT AGREEMENTS

*Ontario – (OSC)*

**Andrew Cheung** – In April 2005, the OSC concluded a settlement agreement with Andrew Cheung with respect to his failure to file insider trading reports on 21 occasions between November 2003 and October 2004. The Commission ordered that Cheung pay an administrative penalty of \$5,000 and \$3,500 in costs.

See [http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/set\\_20050420\\_cheung-andrew.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/set_20050420_cheung-andrew.jsp) and [http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad\\_20050510\\_cheunga..jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad_20050510_cheunga..jsp) for details.

**Zoran Popovic and DXStorm.Com Inc.** – In May 2005, the OSC concluded a settlement agreement with Zoran Popovic and DXStorm.Com Inc. with respect to the former's failure to file insider trading reports on 95 occasions in 2002, and with respect to the latter's failure to have in place a policy dealing with insider trading. The Commission reprimanded Popovic and ordered him to personally pay \$5,500 in costs. The Commission also ordered DXStorm.Com Inc. to implement a Code of Conduct, including an Insider Trading and Reporting Policy, approved by Staff.

See [http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/set\\_20050505\\_popovicz.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/set_20050505_popovicz.jsp) for details.

APPEALS

*Québec*

**Comité pour un traitement égal des actionnaires minoritaires de la Société Asbestos Itée (Société nationale de l'amiante)** – In 2003, after a public hearing, the Commission des valeurs mobilières du Québec (CVMQ) had rejected the

Comité's demands and complaints concerning the acquisition of control by the Société nationale de l'amiante of the Société Asbestos ltée from General Dynamics Corporation. The Comité appealed to the Court of Québec (Civil division) and on May 9, 2005, in a unanimous judgment, the court dismissed the appeal as it concluded that the CVMQ had acted correctly in rejecting the Comité's demand to intervene in a transaction that did not constitute a take-over and, therefore, was not subject to the *Securities Act*.

#### WARNING LETTER

*Ontario – Ontario Securities Commission – (OSC)*

**CP Ships Ltd.** – In July 2005, OSC Staff issued a warning letter to CP Ships Ltd. advising that in Staff's opinion, the determination by CP Ships management that the financial statements needed to be restated constituted a material change which should have been disclosed forthwith. As well, four insiders traded CP Ships shares at a time when they knew that the quarterly financial results were expected to be materially below publicly disclosed estimates of analysts. Although such conduct by CP Ships and the insiders could have formed the basis of proceedings against them, Staff took into consideration the fact that the traders either articulated their intention to sell shares well in advance of the inside knowledge or otherwise had an unrelated reason to sell shares.

CP Ships demonstrated a high level of cooperation, including public disclosure of the existence of Staff's investigation and restitution to the company by the four insiders for the loss avoided on their trades. CP Ships and Staff agreed that this restitution in the amount of \$1,434,112.25 will be re-directed to the "MFDA Investor Protection Corporation".

See [http://www.osc.gov.on.ca/About/NewsReleases/2005/nr\\_20050707\\_osc-cp-ships.jsp](http://www.osc.gov.on.ca/About/NewsReleases/2005/nr_20050707_osc-cp-ships.jsp) for details.

#### SELF-REGULATORY ORGANIZATIONS

MUTUAL FUND DEALERS ASSOCIATION OF CANADA (MFDA)

*Ontario*

**Earl Crackower ("Crackower")** – On August 22, 2005, the MFDA found that Crackower took \$3.4 million from clients that he failed to return and subsequently misled and failed to cooperate with the MFDA during an investigation. The MFDA ordered that he be permanently prohibited from conducting securities related business, pay a fine of \$3.5 million and costs of \$7,500.

See <http://www.mfda.ca/enforcement/hearings05/Decision200506.pdf> for details.

**Anthony McPhail ("McPhail")** – On June 9, 2005, the MFDA found that McPhail failed to cooperate with the MFDA during the course of an investigation concerning transactions processed through a branch operating account controlled by McPhail. The MFDA ordered that he be permanently prohibited from conducting securities related business, pay a fine of \$50,000 and costs of \$10,000.

See <http://www.mfda.ca/enforcement/hearings05/Decision200505.pdf> for details.

**Jawad Rathore ("Rathore")** – On June 28, 2005, the MFDA found that Rathore engaged in a gainful occupation that was not approved by the Member and failed to cooperate with the MFDA during an investigation. The MFDA ordered that he be permanently prohibited from conducting securities related business, pay a fine of \$25,000 and costs of \$7,500.

See <http://www.mfda.ca/enforcement/hearings05/Decision200504.pdf> for details.

*British Columbia*

**Raymond Brown-John ("Brown-John")** - On June 27, 2005, the MFDA found that Brown-John stole \$10,609.64 from two clients, failed to repay \$67,000 borrowed from one of those clients and failed to cooperate with the MFDA during an investigation. The MFDA ordered that he be permanently prohibited from conducting securities related business, pay fines totalling \$185,000 and costs of \$10,000.

See <http://www.mfda.ca/enforcement/hearings05/Decision200502.pdf> for details.

*Saskatchewan*

**Arnold Tonnies (“Tonnies”)** – On June 27, 2005, the MFDA found that Tonnies borrowed \$250,000 from two clients which he failed to repay and failed to cooperate with the MFDA during an investigation. The MFDA ordered that he be permanently prohibited from conducting securities related business, pay a fine of \$350,000 and costs of \$7,500.

See <http://www.mfda.ca/enforcement/hearings05/Decision200503.pdf> for details.

MARKET REGULATION SERVICES INC. (RS INC.)

*Ontario*

**Zoltan Horcsok and Glen Grossmith** – On July 18, 2005, RS Inc. approved a Settlement Agreement with each of Messrs. Grossmith and Horcsok. Under the Settlement Agreements, Mr. Horcsok admitted that he failed to comply with his trading supervision obligations. Mr. Grossmith admitted that he engaged in conduct inconsistent with just and equitable principles of trade. They both admitted that they engaged in conduct which resulted in UBS Securities Canada Inc., their employer, contravening certain audit trail requirements. Mr. Horcsok agreed to pay a fine of \$100,000 and costs of \$25,000, and was also suspended from access to marketplaces regulated by RS Inc. for 3 months, strict supervision for 6 months after completion of the suspension referred to above and prohibition against acting as a supervisor for 1 year after completion of the suspension noted above. Mr. Grossmith agreed to pay a fine of \$75,000 and costs of \$25,000, and was also suspended from access to marketplaces regulated by RS Inc. for 3 months and strict supervision for 6 months after completion of the suspension noted above.

**W. Scott Leckie** – On July 19, 2005, RS Inc. approved a Settlement Agreement with Mr. Leckie whereby he admitted that he engaged in a manipulative and deceptive method of trading. Mr. Leckie agreed to pay a fine of 100,000 and costs of \$20,000.

**Ian Macdonald, Edward Boyd, Peter Dennis and David Singh (“The Respondants”)** – On July 28, 2005, RS Inc. approved a Settlement Agreement with Messrs. Macdonald, Boyd, Dennis and Singh. Under the Settlement Agreement, the Respondents admitted that they engaged in a manipulative and deceptive method of trading. Mr. Macdonald agreed to pay a fine of \$90,000 and costs of \$35,000. Messrs. Boyd and Singh each agreed to pay a fine of \$60,000 and costs of \$20,000. Mr. Dennis agreed to pay a fine of \$20,000 and costs of \$7,000.

See [http://www.rs.ca/Enforcement - Settlement Agreements/Statements of Allegations](http://www.rs.ca/Enforcement-SettlementAgreements/StatementsofAllegations) for details.

*British Columbia*

**Jason Fediuk** - On August 24, 2004, after a contested hearing, RS Inc. dismissed an allegation of frontrunning against Mr. Fediuk.

See [http://www.rs.ca/Enforcement - Settlement Agreements/Statements of Allegations](http://www.rs.ca/Enforcement-SettlementAgreements/StatementsofAllegations) for details.

INVESTMENT DEALERS ASSOCIATION (IDA)

*British Columbia*

**Union Securities Limited (“Union”)** – On April 8, 2005 the IDA found that Union failed to establish internal controls to enforce the use by employees at Union of foreign exchange rates and imposed a fine of \$25,000. Decision in regards to costs will be released at a later date.

See [http://www.ida.ca/Enforcement/DisciplinaryBulletins\\_en.asp](http://www.ida.ca/Enforcement/DisciplinaryBulletins_en.asp) for details.

**RBC Dominion Securities Inc.** – On May 4, 2005 the IDA accepted a Settlement Agreement whereby, RBC DS admitted to designating a branch manager of its Penticton, British Columbia branch office when in fact it did not intend for him to perform, nor did he actually perform, any of the responsibilities that a branch manager was required to perform. The IDA imposed a fine to RBC Dominion Securities Inc. of \$130,000 and \$5,000 in costs.

See [http://www.ida.ca/Enforcement/DisciplinaryBulletins\\_en.asp](http://www.ida.ca/Enforcement/DisciplinaryBulletins_en.asp) for details.

**Douglas Francis Corrigan** – On May 13, 2005 the IDA found that Mr. Corrigan failed to adequately supervise the activities of an Investment Representative, failed to ensure that the handling of client business was within the bounds of ethical conduct, consistent with just and equitable principles of trade and not detrimental to the interests of the securities industry. The IDA ordered him to pay a fine of \$25,000, \$15,000 in costs and prohibited him permanently from being or acting as a branch manager or compliance officer.

See [http://www.ida.ca/Enforcement/DisciplinaryBulletins\\_en.asp](http://www.ida.ca/Enforcement/DisciplinaryBulletins_en.asp) for details.

**Stephen Brook Toban** – The IDA found Mr. Toban effected unauthorized transaction, attempted to personally settle the complaint with an offer of financial compensation and attempted to delay, frustrate and/or obstruct the Association's investigation and/or disciplinary hearing. He was fined \$30,000 payable no later than October 31, 2005; he shall rewrite the exam based on the Conduct and Practices Handbook Course and complete the course by October 31, 2005; together with his employer, select a charity approved of by the Pacific Regional Director of the Association, and perform 25 hours of community work for that charity prior to December 31, 2005; and shall pay \$5,000 in costs.

See [http://www.ida.ca/Enforcement/DisciplinaryBulletins\\_en.asp](http://www.ida.ca/Enforcement/DisciplinaryBulletins_en.asp) for details.

**Brian Stephen Bassett** – The IDA found Mr. Bassett refused or failed to attend and give information in respect of an investigation being conducted by the Association's Enforcement Department. Mr. Bassett shall be permanently barred from acting in any registered capacity with any Member firm; pay a fine of \$50,000 and pay \$20,000 in costs.

See [http://www.ida.ca/Enforcement/DisciplinaryBulletins\\_en.asp](http://www.ida.ca/Enforcement/DisciplinaryBulletins_en.asp) for details.

**Union Securities Ltd.** – On July 25, 2005 the IDA imposed a Sales Compliance Monitor on Union on an Ex Parte basis. The IDA ordered Union Securities Ltd. to install an IDA-approved Compliance Monitor to conduct day to-day monitoring of all of Union Securities Ltd.'s procedures and compliance systems; conduct a complete evaluation of Union Securities Ltd.'s compliance systems and corporate governance structure; make recommendations to Union Securities Ltd.'s Board of Directors regarding action that is required for Union Securities Ltd.'s compliance systems to comply with the Association's By-laws, Regulations, Rules and Policies; and provide regular reporting of its findings, observations and recommendations to Association staff.

See [http://www.ida.ca/Enforcement/DisciplinaryBulletins\\_en.asp](http://www.ida.ca/Enforcement/DisciplinaryBulletins_en.asp) for details.

**Robert Scott Ritchie** – On July 27, 2005, the IDA accepted a Settlement Agreement with Mr. Ritchie whereby Ritchie admitted that he engaged in personal financial dealings with a client, without the knowledge, consent, or authorization of his Member employer. He was fined \$10,000, is under close supervision for 12 months, must re-write and pass the Conduct and Practices Handbook examination; and pay \$1,000 in costs.

See [http://www.ida.ca/Enforcement/DisciplinaryBulletins\\_en.asp](http://www.ida.ca/Enforcement/DisciplinaryBulletins_en.asp) for details.

**Kyle Wong** – On July 28, 2005 the IDA accepted a Settlement Agreement with Mr. Wong whereby he admitted to trading without first using due diligence to ensure that the recommendation was suitable, and on four occasions he, without the knowledge or approval of his Member firm, personally compensated his client. He was fined \$40,000, prohibited from acting in any registered capacity for a period of two (2) years, is subjected to a 1 year period of close supervision by his Member firm, and must re-write and pass the examination based on the Conduct & Practices Handbook Course, and pay \$5,000 in costs.

See [http://www.ida.ca/Enforcement/DisciplinaryBulletins\\_en.asp](http://www.ida.ca/Enforcement/DisciplinaryBulletins_en.asp) for details.

**William Richard Booth Bell Wright** – On August 26, 2005, the IDA accepted a Settlement Agreement with Mr. Wright whereby he admitted he failed to properly supervise the opening of, and the activity in, the joint account of clients. He was fined \$25,000 and \$5000 in costs, and required to re-write and pass the Partners, Directors and Officers examination.

See [http://www.ida.ca/Enforcement/DisciplinaryBulletins\\_en.asp](http://www.ida.ca/Enforcement/DisciplinaryBulletins_en.asp) for details.

**Eddis Petrossian** – On September 22, 2005 the IDA found that Eddis Petrossian had contravened the association conduct rules and ordered a fine of \$30,000 and costs of \$5000; suspended his registration for 12 months; prohibited from acting as a representative in the securities industry without having successfully passed the exam based on the Conduct and Practices Handbook for Securities Industry Professionals.

See [http://www.ida.ca/Enforcement/DisciplinaryBulletins\\_en.asp](http://www.ida.ca/Enforcement/DisciplinaryBulletins_en.asp) for details.

*Ontario*

**Dimitrios Boulieris** – On May 11, 2005 Mr. Boulieris' Appeal was dismissed. The IDA initiated disciplinary proceedings against Mr. Boulieris in November 2001, alleging, among other things, that he engaged in business conduct unbecoming.

See [http://www.ida.ca/Enforcement/DisciplinaryBulletins\\_en.asp](http://www.ida.ca/Enforcement/DisciplinaryBulletins_en.asp) for details.

**Robert Kyle and Derivative Services** – On May 25, 2005 the Court of Appeal upheld the IDA's investigative powers, ruling that they do not violate Charter rights and do not involve unreasonable search and seizure, and affirmed the Ontario District Council's (ODC) decision that refusal to comply was a serious infraction and that failure to provide information undermined the integrity of the self-regulatory system.

See [http://www.ida.ca/Enforcement/DisciplinaryBulletins\\_en.asp](http://www.ida.ca/Enforcement/DisciplinaryBulletins_en.asp) for details.

**Union Securities Ltd.** – On June 6, 2005, the IDA concluded that Union Securities Ltd. failed to it free access to all records reasonably required by it for the purposes of an investigation into the conduct of Union Securities Ltd. and into the conduct of one of its employees. On October 11, 2005, the IDA fined Union Securities Ltd \$50,000 and \$30,000 in costs.

See [http://www.ida.ca/Enforcement/DisciplinaryBulletins\\_en.asp](http://www.ida.ca/Enforcement/DisciplinaryBulletins_en.asp) for details.

**Bruce Graeme Taylor** - On June 7, 2005 the IDA accepted a Settlement Agreement with Mr. Taylor whereby he admitted that he failed to disclose his involvement in an outside business activity, engaged in business conduct or practice unbecoming or detrimental to the public interest. The association imposed a public reprimand and \$7,000 in costs.

See [http://www.ida.ca/Enforcement/DisciplinaryBulletins\\_en.asp](http://www.ida.ca/Enforcement/DisciplinaryBulletins_en.asp) for details.

**IPC Securities Corporation** – On July 7, 2005, the IDA accepted a Settlement Agreement with IPC Securities Corporation whereby it admitted that it failed to maintain adequate records of supervisory activity and was fined \$75,000.

See [http://www.ida.ca/Enforcement/DisciplinaryBulletins\\_en.asp](http://www.ida.ca/Enforcement/DisciplinaryBulletins_en.asp) for details.

**Lawrence Kenneth Freedman** – On July 30, 2005, the IDA found Freedman to have engaged in conduct unbecoming a registered representative or detrimental to the public interest; failed to perform adequate and continual due diligence. Freedman was fined \$35,000 and \$15,000 in costs, given a three year suspension and he must pass the exam based on the Conduct and Practices Handbook for Securities Industry Professionals as a condition of re-registration.

See [http://www.ida.ca/Enforcement/DisciplinaryBulletins\\_en.asp](http://www.ida.ca/Enforcement/DisciplinaryBulletins_en.asp) for details.

**John Norman Alexander** – On August 3, 2005, the IDA accepted a Settlement Agreement with Mr. Alexander whereby he admitted that he engaged in business conduct unbecoming or conduct detrimental to the public interest. He was fined \$40,000 and \$10,000 in costs, was permanently prohibited from acting in a supervisory capacity with any Member of the Association, suspended from acting in any registered capacity for a period of one (1) year and placed under strict supervision for a period of one (1) year upon any subsequent registration approval with any member of the Association.

See [http://www.ida.ca/Enforcement/DisciplinaryBulletins\\_en.asp](http://www.ida.ca/Enforcement/DisciplinaryBulletins_en.asp) for details.

**Sean Shanahan, Stephen Katmarian, Nicole Brewster & Derek Hume** – On August 9, 2005, the IDA found Sean Shanahan, Stephan Katmarian and Nicole Brewster guilty of participating in a trading scheme in the Over-the-Counter market, and of failing to conduct due diligence, and having engaged in business conduct unbecoming or detrimental to the public interest. The Penalty Hearing is scheduled for December 14, 2005.

See [http://www.ida.ca/Enforcement/DisciplinaryBulletins\\_en.asp](http://www.ida.ca/Enforcement/DisciplinaryBulletins_en.asp) for details.

**HSBC Securities (Canada) Inc.** – On September 14, 2005 the IDA accepted a Settlement Agreement with HSBC Securities (Canada) Inc. whereby it acknowledged that it engaged in market timing trades for one client. HSBC Securities was fined \$506,596; \$100,000 for under-reporting; must disgorge revenues of \$506,596 and pay \$50,000 in costs.

See [http://www.ida.ca/Enforcement/DisciplinaryBulletins\\_en.asp](http://www.ida.ca/Enforcement/DisciplinaryBulletins_en.asp) for details.

*Alberta*

**Gus Anastasio Dimas** – On June 16, 2005, the IDA accepted a Settlement Agreement, with Mr. Dimas whereby he admitted that failed to act in accordance with the provisions of the Alberta *Securities Act*; failed to act in accordance with the internal policies of his member firm, and in accordance with the standards for conduct prescribed in the Conduct and Practices Handbook. Mr. Dimas was fined \$10,000 and \$1,500 in costs, must pass the exam based on the Conduct and Practices Handbook upon registration; be subject to a four month period of close supervision.

See [http://www.ida.ca/Enforcement/DisciplinaryBulletins\\_en.asp](http://www.ida.ca/Enforcement/DisciplinaryBulletins_en.asp) for details.

**Christopher Wesley Stewart** – On July 28, 2005, the IDA ordered that Mr. Stewart be expelled from the Association.

See [http://www.ida.ca/Enforcement/DisciplinaryBulletins\\_en.asp](http://www.ida.ca/Enforcement/DisciplinaryBulletins_en.asp) for details.

*Québec*

**Phillip John E. Deans** – On May 11, 2005, the IDA found Phillip John E. Deans guilty of having engaged in business conduct unbecoming and detrimental to the public interest fined him \$125,000 and costs of \$15,000; ordered the disgorgement of the commissions received for the discretionary trades, namely \$41,789.37; imposed a 10-year ban on approval in any capacity with a Member of the Association; that he pass the exam based on the Conduct and Practices Handbook for Securities Industry Professionals, and 24 months of strict supervision in the event of his re-approval.

See [http://www.ida.ca/Enforcement/DisciplinaryBulletins\\_en.asp](http://www.ida.ca/Enforcement/DisciplinaryBulletins_en.asp) for details.

**LVM Canada Ltée and Jean-Claude Paradis** – On June 15, 2005, the Appeal Panel allowed the appeal and reduced to \$20,000 the \$40,000 fine imposed on LVM Canada Ltée and upheld the \$10,000 fine imposed on Jean-Claude Paradis. The Appeal Panel also upheld the requirement imposed on Mr. Paradis to pass the Partners, Directors and Officers examination but limited this requirement to the sole purpose of re-registration within an officer category or a supervisory function. Finally, in view of the particular circumstances of this case, the Appeal Panel cancelled the costs that had been imposed on the two respondents.

See [http://www.ida.ca/Enforcement/DisciplinaryBulletins\\_en.asp](http://www.ida.ca/Enforcement/DisciplinaryBulletins_en.asp) for details.

**INQUIRIES:**

CSA SECRETARIAT  
800, SQUARE VICTORIA  
SUITE 4130  
MONTREAL (QUEBEC)  
H4Z 1J2  
TEL. : 514-864-9510  
FAX : 514-864-9512  
CSA-ACVM-SECRETARIAT@LAUTORITE.QC.CA

**1.3.3 Trial Dates Agreed to in von Anhalt Prosecution**

**FOR IMMEDIATE RELEASE  
February 7, 2006**

**TRIAL DATES AGREED TO IN  
VON ANHALT PROSECUTION**

**TORONTO** – At an appearance at Old City Hall on Friday, February 3, 2006, the charges against the von Anhalts were adjourned to March 10, 2006 at 9:00 a.m. in Court Room 111 for an appearance by the defendants. A trial date of November 6, 2006 to November 20, 2006 was reserved and is to be confirmed on March 10, 2006.

On May 5, 2005, the OSC charged Emilia von Anhalt and Jurgen von Anhalt with violating the Ontario *Securities Act*. Information concerning the charges is summarized in an OSC media release dated May 10, 2005.

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

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

**1.4 Notices from the Office of the Secretary**

**1.4.1 Martin Tremblay**

**FOR IMMEDIATE RELEASE  
February 2, 2006**

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

**AND**

**IN THE MATTER OF  
MARTIN TREMBLAY**

**TORONTO** – The Ontario Securities Commission announced today that on February 1, 2006 the Commission issued a Direction pursuant to s. 126 of the *Securities Act* freezing accounts held at RBC Investments in the name of Martin Tremblay and a number of companies related to Mr. Tremblay. In accordance with s. 126(5) of the Act, the Commission will appear before the Ontario Superior Court no later than February 8, 2006 to seek the Court's approval to continue the Direction.

A copy of the Direction is available at [www.osc.gov.on.ca](http://www.osc.gov.on.ca).

OFFICE OF THE SECRETARY  
JOHN P. STEVENSON  
SECRETARY

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)

1.4.2 Martin Tremblay

FOR IMMEDIATE RELEASE  
February 2, 2006

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

AND

IN THE MATTER OF  
MARTIN TREMBLAY

**TORONTO** – The Ontario Securities Commission announced today that the Commission issued a Direction pursuant to s. 126 of the *Securities Act* freezing accounts held at TD Waterhouse in the name of Martin Tremblay and a number of companies related to Mr. Tremblay. In accordance with s. 126(5) of the Act, the Commission will appear before the Ontario Superior Court no later than February 9, 2006 to seek the Court's approval to continue the Direction.

A copy of the Direction is available at [www.osc.gov.on.ca](http://www.osc.gov.on.ca).

OFFICE OF THE SECRETARY  
JOHN P. STEVENSON  
SECRETARY

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)

1.4.3 James Patrick Boyle, Lawrence Melnick and  
John Michael Malone - ss. 127, 127.1

FOR IMMEDIATE RELEASE  
February 03, 2006

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

AND

IN THE MATTER OF  
JAMES PATRICK BOYLE, LAWRENCE MELNICK  
AND JOHN MICHAEL MALONE  
(Sections 127 and 127.1)

**TORONTO** – The Commission issued an Order today adjourning the motion in respect of section 129.1 of the Act to Thursday, February 23 and Friday, February 24, 2006 in the above named matter.

A copy of the Order is available at [www.osc.gov.on.ca](http://www.osc.gov.on.ca).

OFFICE OF THE SECRETARY  
JOHN P. STEVENSON  
SECRETARY

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)



## Chapter 2

# Decisions, Orders and Rulings

### 2.1 Decisions

#### 2.1.1 1209762 Ontario Inc. and Axis Corporation - ss. 5.5(2), 5.8(1)(a) of NI 81-102 Mutual Funds

##### Headnote

Approval of a change in control of manager under subsection 5.5(2) of National Instrument 81-102 Mutual Funds arising as a result of a securities purchase agreement. Notice of change in control sent to securityholders in compliance with section 5.8 (1)(a) of National Instrument 81-102 Mutual Funds. Approval granted in Ontario only, as the subject labour sponsored investment fund is a reporting issuer only in Ontario.

##### Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, ss. 5.5(2), 5.8(1)(a).

January 31, 2006

**IN THE MATTER OF  
THE SECURITIES LEGISLATION  
OF ONTARIO**

**AND**

**IN THE MATTER OF  
1209762 ONTARIO INC. AND  
AXIS CORPORATION (the "Filers")**

**DECISION**

##### Background

The securities regulatory authority or regulator (the "Decision Maker") in Ontario, has received the application of 1209762 Ontario Inc. ("Ontario Inc.") and Axis Capital Corporation ("Axis") for a decision pursuant to subsection 5.5(2) of National Instrument 81-102 *Mutual Funds* (the "NI 81-102"),

- (a) approving a change in control of Axis, the manager of Axis Investment Fund Inc. (the "Axis Fund"), a labour sponsored investment fund corporation.

The Ontario Securities Commission is the principal regulator for this application.

##### Interpretation

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

##### Representations

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

1. Axis and the securityholders of Axis have entered into a securities purchase agreement dated December 2, 2005 (the "Agreement") with Ontario Inc. pursuant to which all of the issued and outstanding shares in the capital of Axis will be acquired by Ontario Inc. (the "Acquisition"). Completion of the Acquisition remains subject to the receipt of all applicable regulatory approvals by not later than February 28, 2006 as well as the satisfaction of other conditions set out in the Agreement.
2. The Acquisition will involve a direct change of control of Axis, the manager of the Axis Fund (the "Manager").
3. Axis is a corporation governed under *Canada Business Corporations Act* (the "CBCA").
4. The Axis Fund is a reporting issuer only in the Province of Ontario. The Axis Fund is not on the Commission's list of defaulting reporting issuers.
5. Pursuant to section 5.5(2) of the NI 81-102, approval of the Commission must be obtained prior to the proposed change of control that will occur in connection with the Acquisition.
6. The Axis Fund is governed under CBCA and is registered as a labour sponsored investment fund corporation under the *Community Small Business Investment Funds Act* (Ontario) (the "Ontario Act") and, as a result of such registration, is a prescribed labour sponsored venture capital corporation under the *Income Tax Act* (Canada), as amended, the ("Tax Act").
7. Two series of Class A Shares, Class A Shares, Series 1 and Class A Shares, Series 2, in the capital of the Axis Fund are currently qualified for distribution in the Province of Ontario on a continuous basis pursuant to a prospectus dated December 12, 2005. The Sponsor (as defined below) of the Axis Fund holds all of the issued and outstanding Class B Shares of the Axis Fund.

8. Pursuant to a management agreement dated December 3, 2001, Axis was appointed the Manager of the Axis Fund to manage the business affairs of the Axis Fund and to provide or retain other parties to provide management services.
9. Ontario Inc. was incorporated under the laws of the Province of Ontario by articles of incorporation dated November 21, 1996. The registered office of Ontario Inc. is located at 20 Adelaide Street East, Suite 400, Toronto, Ontario. The sole director and officer of Ontario Inc. is John M.A. Richardson. John M.A. Richardson has voting control of Ontario Inc. and therefore over B.E.S.T. Capital Management Limited ("BEST") and B.E.S.T. Investment Counsel Limited ("BIC"). BEST and BIC are each a manager of a labour sponsored investment fund corporation, affiliates of each other (as that term is defined in the *Securities Act* (Ontario)), and subsidiaries of Ontario Inc.
10. BEST is governed under the *Canadian Business Corporations Act* and is an indirect wholly-owned subsidiary of Ontario Inc. All of the outstanding voting securities of BEST are indirectly controlled by John M.A. Richardson.
11. BIC is governed under the *Ontario Business Corporations Act* and is a direct wholly-owned subsidiary of Ontario Inc. All of the outstanding voting securities of BIC are indirectly controlled by John M.A. Richardson.
12. Pursuant to a management agreement dated August 1, 2002 between BEST and the Business, Engineering, Science & Technology Discoveries Fund Inc. (the "Discoveries Fund") which was subsequently assigned by BEST to BIC effective September 1, 2003, BIC is engaged as the manager of the Discoveries Fund and responsible for all aspects of the management, operation and administration of the Discoveries Fund. In addition, pursuant to a management advisor agreement dated August 1, 2002, BIC is also engaged as the management advisor of the Discoveries Fund to identify, screen and manage the Discoveries Fund's investments and in connection therewith is registered as an investment counsel and portfolio manager in Ontario. The Discoveries Fund is registered as a labour sponsored investment fund corporation under the Ontario Act and, as a result, is a prescribed labour-sponsored venture capital corporation under the Tax Act.
13. Pursuant to a management agreement dated December 22, 2003, as amended, BEST is engaged as the manager of B.E.S.T. Total Return Fund Inc. (the "Total Return Fund") to perform daily administrative operations and engage and supervise service providers to the Total Return Fund, including the investment advisor, Absolute Private Counsel Limited (an affiliate of BEST and indirect wholly-owned subsidiary of Ontario Inc.). Absolute Private Counsel Limited is registered as a limited market dealer and investment counsel and portfolio manager in Ontario. The Total Return Fund is registered as a labour sponsored investment fund corporation under the Ontario Act and a labour-sponsored venture capital corporation under the Tax Act.
14. Following completion of the Acquisition, Axis will be a direct wholly-owned subsidiary of Ontario Inc. and an affiliate of each of BEST and BIC, each an experienced manager of a labour sponsored investment fund corporation and each of BEST, BIC and Axis will be controlled, directly or indirectly, by John M.A. Richardson.

#### Matters Relating to the Acquisition

15. A notice regarding the change of control of Axis was mailed to shareholders of the Axis Fund on December 5, 2005. In addition, public disclosure of the proposed change of control of the Manager has been made by press release dated December 5, 2005 which has also been filed on SEDAR.
16. Pursuant to a sponsor agreement dated October 29, 2001 (the "Sponsor Agreement") among the Independent Union of Defence Contractors (formerly, the Computing Devices Canada Employees' Association)(the "Sponsor"), the Sponsor has agreed to vote its Class B Shares of the Axis Fund for the election, removal and replacement of the directors nominated by the Manager, being the number of directors the holder of Class B Shares is entitled to elect minus one.
17. The Filers believe that there will be no changes to the portfolio attributes of the Axis Fund or to its investment strategy or investment objectives as a result of the Acquisition, and that the change of control of the Manager will not materially affect the operation and administration of the Axis Fund.
18. Upon the change of control of the Manager, the role of the Manager and the day-to-day management of the Axis Fund will not change. The Axis Fund will continue to be managed in a consistent manner as prior to the change in control. The Manager of the Axis Fund has certain agreements in place pursuant to which certain functions are delegated to other entities. Specifically, the Manager has entered into an (i) administrative services agreement dated December 3, 2001 between the Axis Fund and TalVest (LSVC) Inc. and (ii) a custodian agreement dated December 21, 2001 with CIBC Mellon Global Securities Company, Mellon Bank N.A. and Canadian Imperial Bank of Commerce to act as custodian of the Axis Fund's portfolio securities, both of which will continue in force following the Acquisition. Accordingly, the entities

who will perform those services will be exactly the same entities who perform those services today.

19. Following receipt of the required regulatory approval of the Commission, certain individuals, each of whom is an officer and/or director of Ontario Inc. or an affiliate, the Discoveries Fund and/or the Total Return Fund, respectively, are expected to become an officer and/or director of each of Axis and/or the Axis Fund, as applicable, as indicated in Schedule A hereto.

**Decision**

The Decision Maker is satisfied that, based on the information and representations contained in the Application and this decision, and for the purposes described in the Application, the Decision Maker hereby grants approval pursuant to section 5.5(2) of NI 81-102 in respect of the change of control of Axis Capital Corporation.

The approval provided herein is subject to compliance with all applicable provisions of NI 81-102.

"Rhonda Goldberg"  
Assistant Manager, Investment Funds Branch  
Ontario Securities Commission

**2.1.2 First Asset Advisory Services Inc. - MRRS Decision**

**Headnote**

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

**Applicable Ontario Statutory Provisions**

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

**February 1, 2006**

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

**AND**

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

**AND**

**IN THE MATTER OF  
FIRST ASSET ADVISORY SERVICES INC.  
(the Filer)**

**MRRS DECISION DOCUMENT**

**Background**

The local securities regulatory authority or regulator (the **Decision Maker**), in each of the Jurisdictions has received an application from the Filer for a decision pursuant to the securities legislation of the Jurisdictions (the **Legislation**) for relief from the requirement in the Legislation that a registered dealer deliver a transaction confirmation statement (**TCS**) to clients of the Filer (**Clients**) who receive discretionary managed services pursuant to a managed account program (**Program**) with respect to transactions under the Program (the **Confirmation Relief**).

Under the Mutual Reliance Review System for Exemptive Relief Applications

- (a) the Ontario Securities Commission is the principal regulator for this application; and
- (b) this MRRS Decision Document evidences the decision of each Decision Maker.

**Interpretation**

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

**Representations**

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

- 1. The Filer is incorporated under the laws of Canada and has its head office in Toronto, Ontario.
- 2. The Filer is registered under the Legislation of each Jurisdiction in the category of "investment dealer", or the equivalent, and is authorized to act as an adviser pursuant to an exemption from the adviser registration requirement made available under the Legislation of each Jurisdiction to dealers who are members of the Investment Dealers Association of Canada.
- 3. The Filer provides discretionary managed advisory services to individuals, corporations and other entities seeking wealth management or related services.
- 4. The Filer offers the Program, to certain Clients who desire certain discretionary managed services (**Managed Services**) from the Filer. The Program is subject to Investment Dealers Association Regulation 1300 "Supervision of Accounts" (**IDA Regulation 1300**) and in each Jurisdiction, all adviser activities in respect of the Account are provided by employees of the Filer who meet the proficiency requirements of a portfolio manager or associate portfolio manager (**PM**) under the Legislation of each Jurisdiction.
- 5. The Managed Services provided by the Filer consist of the following:
  - (a) The Filer performs trade execution services and Client communications (**Client Communications**) functions; such functions are described in the agreement between the Filer and each Client;
  - (b) prior to the opening of an account, the Filer's PM obtains from each Client an investment policy statement that defines the Client's investment objectives, time horizon and risk tolerances. The PM uses the investment policy statement to

determine the appropriate investment portfolio for the Client;

- (c) The Filer's PM performs mandate selection and management functions with respect to all investments, cash equivalents or other assets in the account; and
- (d) The Filer retains overall responsibility for the Program and has appointed a supervising portfolio manager to oversee and supervise the Program.

- 6. All Managed Services provided in relation to the Program are covered by a fixed percentage fee (**Fixed Percentage Fee**) which includes the Filer fees, ordinary course brokerage fees and custodial services and Client Communications. The Fixed Percentage Fee is not intended to cover charges for minor items such as wire transfer requests, account transfers, withdrawals, de-registration and other administrative services (**Administrative Charges**). The Filer provides a list of Administrative Charges information to all Clients.
- 7. Clients paying a Fixed Percentage Fee for a discretionary Managed Service have advised the Filer that they prefer not to receive a TCS describing each transaction in respect of their account.
- 8. The Filer proposes that a TCS in relation to each trade executed for the Client's account will not be sent to the Client where the Client instructs the Filer not to send the customary TCS and chooses instead to receive Client Communications from the Filer. Client Communications consist of the following:
  - (a) Monthly statements which will contain all of the information required by the Legislation to be contained in a TCS except (the **Omitted Information**):
    - (i) the day and the stock exchange or commodity futures exchange upon which the trade took place;
    - (ii) the fee or other charge, if any levied by any securities regulatory authority in connection with the trade;
    - (iii) the name of the salesman, if any, in the transaction;
    - (iv) the name of the dealer, if any, used by the Filer as its agent to effect the trade; and

- (v) 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.
  - (b) Quarterly review performance reports.
9. The Omitted Information will be maintained by the Filer and made available to the Client upon request.
10. The Filer, in accordance with IDA Regulation 1300, performs daily reviews of all account transactions in respect of suitability.
11. Also in accordance with IDA Regulation 1300, the Filer has a portfolio management committee which reviews, quarterly, each account under the Program to ensure that the investment objectives of the client are being diligently pursued and that each account is being conducted in accordance with the applicable law.

**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 Confirmation Relief is granted provided that:

- (i) each Client has previously informed the Filer that the Client does not wish to receive trade confirmations for the Client's accounts; and
- (ii) in the case of each trade for a Client's account, the Filer sends to the Client the corresponding Client Communications.

"Paul M. Moore"

"Suresh Thakrar"

**2.1.3 CBID Markets Inc. and Markets Securities Inc. - MRRS Decision**

**Headnote**

Mutual Reliance Review System for Exemptive Relief Applications – Multilateral Instrument 33-109 Registration Information (MI 33-109) – relief from certain filing requirements of MI 33-109 in connection with a bulk transfer of business locations and registered and non-registered individuals under an internal reorganization involving the amalgamation of two dealers that are now 100% owned, directly or indirectly, by the same parent company, Perimeter Financial Corp.

**Applicable Rule**

Multilateral Instrument 33-109 Registration Information.

January 31, 2006

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

**AND**

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

**AND**

**IN THE MATTER OF  
CBID MARKETS INC.  
AND  
MARKETS SECURITIES INC.**

**MRRS DECISION DOCUMENT**

**Background**

The local securities regulatory authority or regulator (**Decision Maker**) in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick, Prince Edward Island, Newfoundland and Labrador, (the **Jurisdictions**) has received an application from CBID Markets Inc. (**CBID**) and Markets Securities Inc. (**Markets**, together with CBID, the **Filers**) for a decision pursuant to Part 7 of Multilateral Instrument 33-109 *Registration Information (MI 33-109)* exempting the Applicants from MI 33-109 so as to permit, under a plan of amalgamation, a bulk transfer to Perimeter Markets Inc. (**Perimeter**) of the business locations and individuals (**Representatives**) that are associated on the National Registration Database (**NRD**) with CBID and Markets, as referred to in Section 3.1 of the Companion Policy to MI 33-109 (the **Companion Policy**):

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**Decisions, Orders and Rulings**

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Under the Mutual Reliance Review System for Exemptive Relief Applications:

- (a) the Ontario Securities Commission is the principal regulator for this application, and
- (b) the MRRS decision document evidences the decision of each 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**

- 1. CBID is currently registered as an Investment Dealer and Futures Commission Merchant in each of Alberta, British Columbia, Manitoba, Nova Scotia, Ontario and Quebec.
- 2. Markets is currently registered as an Investment Dealer in each of Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland, Nova Scotia, Ontario, Prince Edward Island, Quebec and Saskatchewan.
- 3. CBID and Markets are both currently members of the Investment Dealers Association of Canada (**IDA**).
- 4. CBID and Markets are both corporations under the laws of Ontario with their head offices in Toronto, Ontario. The principal business of each of the Filers is the operation of an alternative trading system. CBID has approximately 6 employees, including 6 officers and directors registered in one or more of the Jurisdictions. Markets has approximately 4 employees, including 4 officers and directors registered in one or more of the Jurisdictions.
- 5. CBID and Markets propose to amalgamate on January 1, 2006 (the **Amalgamation Date**) and their respective securities businesses will be carried on in a similar manner by their amalgamated successor, Perimeter. In accordance with this amalgamation, all Representatives will be transferred to Perimeter. There should be no change to the Representatives' employment or responsibilities and each of the Representatives will be transferred under the same registration category.
- 6. It would be difficult to transfer each of the Representatives to Perimeter as per the requirements set out in the MI 33-109 given the multiple jurisdictions in which the Representatives are currently registered. Moreover, it is imperative that the transfer of the Representatives occur on the same date, in order to ensure that there is no break in registration.

- 7. The amalgamation of the Filers is not contrary to the public interest and will have no negative consequences on the ability of the Filers to comply with all applicable regulatory requirements or the ability to satisfy any obligations to clients of the Filers.
- 8. Within two months of the Amalgamation Date, the Filers will complete the bulk transfer of all Representatives and business locations.

**Decision**

Each of the Decision Makers is satisfied that the tests contained in MI 33-109 that provide the Decision Maker with the jurisdiction to make the Decision has been met;

The decision of the Decision Makers pursuant to MI 33-109 is that the following requirements of MI 33-109 shall not apply to the Filers:

- 9. the requirement to submit a notice regarding the termination of each employment, partner, or agency relationship under section 4.3 of MI 33-109;
- 10. the requirement to submit a notice regarding each individual who ceases to be a non-registered individual under section 5.2 of MI 33-109;
- 11. the requirement to submit a registration application for each individual applying to become a registered individual under section 2.2 of MI 33-109;
- 12. the requirement to submit a Form 33-109F4 for each non-registered individual under section 3.3 of MI 33-109; and
- 13. the requirement under section 3.2 of MI 33-109 to notify the regulator of a change to the business location information in Form 33-109F3,

provided that the Filers make acceptable arrangements with CDS Inc. for the payment of the costs associated with the bulk transfer, as referred to in section 3.1(5) of the Companion Policy and make such payment within 10 business days of the completion of the bulk transfer.

“David Gilkes”

**2.1.4 Mackenzie Financial Corporation et al. - MRRS Decision**

**Headnote**

Mutual Reliance Review System for Exemptive Relief Applications – investment fund exempt from preparing one Management Report of Fund Performance (MRFP) that includes information for all of the fund's series of securities outstanding provided that two MRFPs are prepared based on different distribution networks.

**Rules Cited**

National Instrument 81-106 Investment Fund Continuous Disclosure, ss. 7.2(1), 17.1.

**September 28, 2005**

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

**AND**

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

**AND**

**IN THE MATTER OF  
MACKENZIE FINANCIAL CORPORATION  
(Mackenzie )**

**AND**

**MACKENZIE UNIVERSAL U.S.  
GROWTH LEADERS FUND  
MACKENZIE UNIVERSAL GLOBAL FUTURE FUND  
(the Funds)**

**(the Manager and the Funds, collectively, the Filer)**

**MRRS DECISION DOCUMENT**

**Background**

The local securities regulatory authority or regulator (the Decision Maker) in each of the Jurisdictions has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) to grant an exemption, pursuant to section 17.1 of National Instrument 81-106 *Investment Funds Continuous Disclosure* (NI 81-106), from the requirement in subsection 7.2(1) of NI 81-106 that requires that each Fund prepare one Management Report of Fund Performance (MRFP)

that includes information for all of the Fund's series of securities outstanding (the Requested Relief).

Under the Mutual Reliance Review System for Exemptive Relief Applications

- (a) the Ontario Securities Commission is the principal regulator for this application, and
- (b) this MRRS decision document evidences the decision of each Decision Maker.

**Interpretation**

Defined terms contained in National Instrument 14-101 *Definitions* 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:

- (a) Mackenzie is a corporation operating under the laws of the Province of Ontario and is registered under the *Securities Act* (Ontario) (the "Act") as an adviser in the categories of investment counsel and portfolio manager and as a limited market dealer. Mackenzie is also registered under the *Commodity Futures Act* (Ontario) as a commodity trading manager. Mackenzie is also registered in the Province of Alberta as an adviser in the category of portfolio manager and investment counsel and in the Province of Manitoba as an adviser in the category of portfolio manager.
- (b) Mackenzie is the manager for several families of mutual funds (the "Mackenzie Funds") most of which are sold in every Province and Territory of Canada through independent financial advisors that are members of the Mutual Fund Dealers Association or the Investment Dealers Association.
- (c) Two Mackenzie Funds are also sold through the consultant network of Investors Group Financial Services Inc. and its affiliated companies (the "IG" or "IG Network"). These two Mackenzie Funds, Mackenzie Universal U.S. Growth Leaders Fund and Mackenzie Universal Global Future Fund (collectively, the "Funds") offer 11 and 10 series, respectively, referable to a single portfolio.
- (d) Given the large number of series outstanding for each Fund, the Manager represents that one MRFP would be long and cumbersome and would make it difficult for investors to find the information relevant to each individual series. This is inconsistent with the general intention of Form 81-106F1 *Contents of Annual and Interim Management Report of Fund Performance* (81-106F1) to provide concise disclosure and not to excessively lengthen the MRFP.

- (e) The Funds offer Series A, F, I, O, S as well as Quadrus Series and H Series units ("Mackenzie Series"), and IG Series A, IG Series B and IG Series C units. In addition, Mackenzie Universal U.S. Growth Leaders Fund offers IG Series Z units (together with IG Series A, IG Series B, IG Series C referred to as the "IG Series"). IG Series are exclusive to the IG Network. No series of securities of the other Mackenzie Funds are distributed through the IG Network. In summary, Mackenzie Universal U.S. Growth Leaders Fund has seven Mackenzie Series and four IG Series and Mackenzie Universal Global Future Fund has seven Mackenzie Series and three IG Series.
- (f) Mackenzie is the manager of each of the Mackenzie Series units and I.G. Investment Management, Ltd. ("IGIM") is the manager of the IG Series units.
- (g) The Mackenzie Series of the Funds are offered:
- in the case of Series A, F, I and O units, pursuant to the Mackenzie Global Funds' simplified prospectus dated December 10, 2004, as amended;
  - in the case of Quadrus Series and H Series units, pursuant to the Quadrus Group of Funds' simplified prospectus dated June 27, 2005; and
  - in the case of Series S units, on a private placement basis.
- (h) The IG Series of the Funds are offered only through the IG Network pursuant to a simplified prospectus dated June 30, 2005 that also offers units of other Investors Group Funds, except for IG Series Z units which is offered on a private placement basis .
- (b) the first page of each MRFP contains prominent disclosure of the existence of the other MRFP relating to the series of the Fund and clearly indicates how the other MRFP may be obtained, and
- (c) each MRFP contains the management expense ratio (MER) calculated in accordance with NI 81-106 for the current year for the Mackenzie Series or IG Series, whichever the case may be, not included in the MRFP with a statement that full MER information for those series is available in the Fund's other MRFP.

"Leslie Byberg "  
Manager, Investment Funds Branch  
Ontario Securities Commission

### Decision

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

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

- (a) each Fund issues two separate MRFPs, one MRFP for the Mackenzie Series, including other series of each Fund that may be offered by each Fund and Mackenzie from time to time, and one MRFP for the IG Series, including other series of each Fund that may be offered by each Fund and IGIM from time to time,



**2.1.5 CIBC Asset Management Inc. and CIBC Global Asset Management Inc. - MRRS Decision**

**Headnote**

Standard exemption from subsection 4.1(1) of National Instrument 81-102 Mutual Funds (NI 81-102) to enable the Dealer Managed Funds, as defined in section 1.1 of NI 81-102, to invest in the shares of an issuer during the distribution period and the 60 days after the period in which an affiliate of the Dealer Manager, as defined in section 1.1 of NI 81-102, has acted as an underwriter in connection with an offering of trust units by the issuer.

**Rule Cited**

National Instrument 81-102 Mutual Funds, ss. 4.1(1), 19.1.

January 23, 2006

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

**AND**

**IN THE MATTER OF  
THE MUTUAL RELIANCE REVIEW SYSTEM ("MRRS")  
FOREXEMPTIVE RELIEF APPLICATIONS**

**AND**

**CIBC ASSET MANAGEMENT INC. and  
CIBC GLOBAL ASSET MANAGEMENT INC.  
(the "Applicants")**

**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 Applicants (or "**Dealer Managers**"), the portfolio advisers of the mutual funds named in Appendix "A" (the "**Funds**" or "**Dealer Managed Funds**") for a decision under section 19.1 of *National Instrument 81-102 – Mutual Funds* ("**NI 81-102**") granting:

- an exemption from subsection 4.1(1) of NI 81-102 (the "**Investment Restriction**") to enable the Dealer Managed Funds to invest in units (the "**Units**") of the Jazz Air Income Fund (the "**Issuer**") during the period of distribution for the Offering (as defined below) (the "**Distribution**") and the 60-day period following the completion of the Distribution (the "**60-Day Period**") (the Distribution and the 60-Day Period together, the

"**Prohibition Period**") notwithstanding that the Dealer Managers or their associates or affiliates act or have acted as an underwriter in connection with the initial public offering (the "**Offering**") of the Units of the Issuer pursuant to a final long form prospectus filed by the Issuer in accordance with the securities legislation of each of the Jurisdictions (the "**Requested Relief**").

Under the Mutual Reliance Review System for Exemptive Relief Applications:

- (a) the Ontario Securities Commission (the "**OSC**") is the principal regulator for this application, and
- (b) this MRRS decision document evidences the decision of each Decision Maker.

It is the responsibility of each of the Decision Makers to make a global assessment of the risks involved in granting exemptive relief from the Investment Restriction in relation to the specific facts of each application.

**Interpretation**

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

**Representations**

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

1. Each Dealer Manager is a "dealer manager" with respect to the Dealer Managed Funds, and each Dealer Managed Fund is a "dealer managed fund", as such terms are defined in section 1.1 of NI 81-102.
2. The head office of CIBC Asset Management Inc. is in Toronto, Ontario and the head office of CIBC Global Asset Management Inc. is in Montreal, Quebec.
3. The securities of the Dealer Managed Funds are qualified for distribution in one or more of the provinces and territories of Canada pursuant to simplified prospectuses that have been prepared and filed in accordance with their respective securities legislation.
4. The Issuer filed an amended and restated preliminary prospectus (the "**Preliminary Prospectus**") dated December 22, 2005 with each of the Decision Makers, for which an MRRS decision document evidencing receipt by the each of the Decision Makers was issued on December 22, 2005.
5. The Offering is being underwritten, subject to certain terms, by an underwriting syndicate that includes CIBC World Markets Inc. (the "**Related**")

- Underwriter**”), RBC Dominion Securities Inc., BMO Nesbitt Burns Inc., TD Securities Inc., Citigroup Global Markets Canada Inc., Merrill Lynch Canada Inc., Conaccord Capital Corporation, Orion Securities Inc., Research Capital Corporation, Versant Partners Inc., Westwind Partners Inc., Dundee Securities Corporation and Wellington West Capital Markets Inc. (the Related Underwriter together with the other underwriters, which are now or may become part of the syndicate prior to closing, the “**Underwriters**”).
6. The Related Underwriter is an affiliate of the Dealer Managers.
  7. According to a Confidential Information Memorandum dated January 2006 provided to institutional investors, as reported on in the Globe & Mail on January 10, 2006 on page B3, *Air Canada’s Jazz IPO road show takes flight*, and information contained in the Preliminary Prospectus, the Units are expected to be priced at \$10.00 per Unit. The Underwriters are to be granted an over-allotment option (the “**Over-Allotment Option**”) to purchase additional Units representing up to 15% of the amount of Units sold in the Offering at a price of \$10.00 per Unit to be exercised in full within 30 days following the closing date (the “**Closing Date**”) which is expected to occur during the week of January 30, 2006. The Offering is expected to be for approximately 17.5 million Units (or for approximately 20.1 million Units if the Over-Allotment Option is exercised in full) with the gross proceeds of the Offering expected to be approximately \$175 million (or approximately \$201 million if the Over-Allotment Option is exercised in full).
  8. As disclosed in the Preliminary Prospectus, the Issuer is an unincorporated, open-ended trust established under the laws of the Province of Ontario. According to the Preliminary Prospectus, the Issuer will acquire an interest in Jazz Air LP and Jazz Air Holding GP Inc. (“**Jazz GP**”), the general partner of Jazz Air LP. On closing, Jazz Air GP will own and operate the largest regional airline in Canada, based on fleet size and the number of routes operated.
  9. The Preliminary Prospectus states that the Issuer will use the gross proceeds from the Offering to subscribe for trust units and Series 1 trust notes of the Jazz Air Trust, an open-ended trust established under the laws of Ontario, which will, in turn, acquire limited partnership units in the Jazz Air LP and shares in the capital of Jazz GP indirectly from ACE Aviation Holdings Inc. (“**ACE**”). If exercised in full, the gross proceeds from the Over-Allotment Option will be used by the Issuer to subscribe for trust units and Series 1 trust notes of the Jazz Air Trust which will, in turn, acquire from ACE, additional limited partnership units in Jazz LP and shares in the capital of Jazz GP. Following the closing, the Issuer is expected to indirectly hold approximately 15% to 20% of the outstanding partnership units of Jazz Air LP with the remaining interest being held by ACE.
  10. The Issuer, Jazz Air Trust, Jazz LP, Jazz GP and the Underwriters will enter into an underwriting agreement (the “**Underwriting Agreement**”) in respect of the Offering prior to the Issuer filing the final prospectus for the Offering. Pursuant to the terms of the Underwriting Agreement, the Issuer will agree to sell to the Underwriters, and the Underwriters will agree to purchase on the Closing Date, as principals, from the Issuer on the Closing Date all of the Units offered under the Offering at a price of \$10.00 per Unit.
  11. According to the Preliminary Prospectus, the Issuer has applied to list the Units that will be distributed under the final prospectus on the Toronto Stock Exchange (“**TSX**”). This listing is subject to the Issuer’s compliance with all of the relevant TSX requirements.
  12. The Preliminary Prospectus does not disclose that the Issuer is a “related issuer” as defined in National Instrument 33-105 – *Underwriting Conflicts* (“**NI 33-105**”).
  13. According to the Preliminary Prospectus, the Issuer and ACE may be considered “connected issuers”, as defined in NI 33-105, of the Related Underwriter for the reasons set forth in the Preliminary Prospectus. As disclosed in the Preliminary Prospectus, these reasons include the fact that (i) the Related Underwriter and certain of the other Underwriters will be subsidiaries or affiliates of lenders of syndicates of financial institutions that will have made available a \$300 million secured revolving credit facility to Air Canada and \$475 million in secured credit facilities available to Aeroplan Limited Partnership (Air Canada is a wholly owned subsidiary of ACE and Aeroplan Limited Partnership is a subsidiary of ACE); and (ii) the Canadian chartered banks affiliated with the Related Underwriter and RBC Dominion Securities Inc. have entered into a commitment letter in respect of the establishment of a \$165 million in new secured credit facilities in favour of the Issuer. As discussed in the Preliminary Prospectus, none of the Issuer, Air Canada or Aeroplan Limited Partnership is in default of its obligations to financial institutions that have made the facilities described above available and as of December 20, 2005, approximately \$300 million was owing by Aeroplan Limited Partnership under its facilities and no amounts were owing under the Air Canada facilities. Following closing the Issuer is expected to be indebted under its facilities in the amount of approximately \$115 million.

14. According to the Preliminary Prospectus, the decision to issue the Units and the determination of the terms of the distribution were made through negotiation between the Issuer, Jazz GP, Jazz LP and each of their respective subsidiaries on the one hand, and the Underwriters, on the other hand. According to the Preliminary Prospectus, the financial institutions related to the Underwriters (including the Related Underwriter) did not have any involvement in the decision or determination. As a consequence of the Offering the Related Underwriter will receive its proportionate share of the underwriters' fee. In addition, ACE may use all or part of the proceeds it receives under the Offering to repay any indebtedness owing by Air Canada under the Air Canada facility.
15. Despite the affiliation between the Dealer Managers and the Related Underwriter, they operate independently of each other. In particular, the investment banking and related dealer activities of the Related Underwriter and the investment portfolio management activities of each of the Dealer Managers are separated by "ethical" walls. Accordingly, no information flows from one to the other concerning their respective business operations or activities generally, except in the following or similar circumstances:
- (a) in respect of compliance matters (for example, each Dealer Manager and the Related Underwriter may communicate to enable the Dealer Managers to maintain up to date restricted-issuer lists to ensure that the Dealer Managers comply with applicable securities laws); and
  - (b) each Dealer Manager and the Related Underwriter may share general market information such as discussion on general economic conditions, bank rates, etc.
16. The Dealer Managed Funds are not required or obligated to purchase any Units during the Prohibition Period.
17. Each Dealer Manager may cause the Dealer Managed Funds to invest in the Units during the Prohibition Period. Any purchase of the Units will be consistent with the investment objectives of the Dealer Managed Funds and represent the business judgment of the Dealer Manager of the Dealer Managed Funds uninfluenced by considerations other than the best interests of the Dealer Managed Fund or in fact be in the best interests of the Dealer Managed Fund.
18. To the extent that the same portfolio manager or team of portfolio managers of a Dealer Manager manages two or more Dealer Managed Funds and other client accounts that are managed on a discretionary basis (the "**Managed Accounts**"), the Units purchased for them will be allocated:
- (a) in accordance with the allocation factors or criteria stated in the written policies or procedures put in place by the Dealer Manager for its Dealer Managed Funds and Managed Accounts, and
  - (b) taking into account the amount of cash available to each Dealer Managed Fund for investment.
19. There will be an independent committee (the "**Independent Committee**") appointed in respect of each Dealer Manager's Dealer Managed Funds to review such Dealer Managed Funds' investments in the Units during the Prohibition Period.
20. The Independent Committee will have at least three members and every member must be independent. A member of the Independent Committee is not independent if the member has a direct or indirect material relationship with its Dealer Manager, the Dealer Managed Funds, or any affiliate or associate thereof. For the purpose of this Decision, a material relationship means a relationship which could, in the view of a reasonable person, reasonably interfere with the exercise of the member's independent judgment regarding conflicts of interest facing the Dealer Manager.
21. The members of the Independent Committee will exercise their powers and discharge their duties honestly, in good faith, and in the best interests of investors in the Dealer Managed Funds and, in so doing, exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances.
22. The Dealer Manager, in respect of the Dealer Managed Funds, will notify a member of staff in the Investment Funds Branch of the AMF, in writing of any SEDAR Report (as defined below) filed on SEDAR, as soon as practicable after the filing of such a report, and the notice shall include the SEDAR project number of the SEDAR Report and the date on which it was filed.
23. The Dealer Manager has not been involved in the work of the Related Underwriter and the Related Underwriter has not been and will not be involved in the decisions of the Dealer Manager as to whether the Dealer Manager's Dealer Managed Funds will purchase Units during the Prohibition Period.

**Decision**

Each of the Decision Makers has assessed the conflict of interest risks associated with granting an exemption in this

## Decisions, Orders and Rulings

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instance from the Investment Restriction and is satisfied that, at the time this Decision is granted, the potential risks are sufficiently mitigated.

Each of the Decision Makers is satisfied that the test contained in NI 81-102 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, notwithstanding that the Related Underwriters act or have acted as underwriters in the Offering provided that, in respect of each Dealer Manager and its Dealer Managed Funds, the following conditions are satisfied:

I. At the time of each purchase of Units (a "Purchase") by a Dealer Managed Fund pursuant to this Decision, the following conditions are satisfied:

- (a) the Purchase
  - (i) represents the business judgment of the Dealer Manager uninfluenced by considerations other than the best interests of the Dealer Managed Fund, or
  - (ii) is, in fact, in the best interests of the Dealer Managed Fund;
- (b) the Purchase is consistent with, or is necessary to meet, the investment objective of the Dealer Managed Fund as disclosed in its simplified prospectus; and
- (c) the Dealer Managed Fund does not place the order to purchase, on a principal or agency basis, with its Related Underwriter;

II. Prior to effecting any Purchase pursuant to this Decision, the Dealer Managed Fund has in place written policies or procedures to ensure that,

- (a) there is compliance with the conditions of this Decision; and
- (b) in connection with any Purchase,
  - (i) there are stated factors or criteria for allocating the Units purchased for two or more Dealer Managed Funds and other Managed Accounts, and
  - (ii) there is full documentation of the reasons for any allocation to a Dealer Managed Fund or Managed Account that departs from the stated allocation factors or criteria;

III. The Dealer Manager does not accept solicitation by its Related Underwriter for the Purchase of Units for the Dealer Managed Funds;

IV. The Related Underwriter does not purchase Units in the Offering for its own account except Units sold by the Related Underwriter on Closing;

V. The Dealer Managed Fund has an Independent Committee to review the Dealer Managed Funds' investments in the Units during the Prohibition Period;

VI. The Independent Committee has a written mandate describing its duties and standard of care which, as a minimum, sets out the conditions of this Decision;

VII. The members of the Independent Committee exercise their powers and discharge their duties honestly, in good faith, and in the best interests of investors in the Dealer Managed Funds and, in so doing, exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances;

VIII. The Dealer Managed Fund does not relieve the members of the Independent Committee from liability for loss that arises out of a failure to satisfy the standard of care set out in paragraph VII above;

IX. The Dealer Managed Fund does not incur the cost of any portion of liability insurance that insures a member of the Independent Committee for a liability for loss that arises out of a failure to satisfy the standard of care set out in paragraph VII above;

X. The cost of any indemnification or insurance coverage paid for by the Dealer Manager, any portfolio manager of the Dealer Managed Funds, or any associate or affiliate of the Dealer Manager or any portfolio manager of the Dealer Managed Funds to indemnify or insure the members of the Independent Committee in respect of a loss that arises out of a failure to satisfy the standard of care set out in paragraph VII above is not paid either directly or indirectly by the Dealer Managed Funds;

XI. The Dealer Manager files a certified report on SEDAR (the "SEDAR Report") in respect of each Dealer Managed Fund, no later than 30 days after the end of the Prohibition Period, that contains a certification by the Dealer Manager that contains:

- (a) the following particulars of each Purchase:
  - (i) the number of Units purchased by the Dealer Managed Funds of the Dealer Manager;

- (ii) the date of the Purchase and purchase price;
  - (iii) whether it is known whether any underwriter or syndicate member has engaged in market stabilization activities in respect of the Units;
  - (iv) if the Units were purchased for two or more Dealer Managed Funds and other Managed Accounts of the Dealer Manager, the aggregate amount so purchased and the percentage of such aggregate amount that was allocated to each Dealer Managed Fund; and
  - (v) the dealer from whom the Dealer Managed Fund purchased the Units and the fees or commissions, if any, paid by the Dealer Managed Fund in respect of such Purchase;
- (b) a certification by the Dealer Manager that the Purchase:
- (i) was made free from any influence by the Related Underwriter or any affiliate or associate thereof and without taking into account any consideration relevant to the Related Underwriter or any associate or affiliate thereof; and
  - (ii) represented the business judgment of the Dealer Manager uninfluenced by considerations other than the best interest of the Dealer Managed Fund, or
  - (iii) was, in fact, in the best interests of the Dealer Managed Fund;
- (c) confirmation of the existence of the Independent Committee to review the Purchase of the Units by the Dealer Managed Funds, the names of the members of the Independent Committee, the fact that they meet the independence requirements set forth in this Decision, and whether and how they were compensated for their review;
- (d) a certification by each member of the Independent Committee that after reasonable inquiry the member formed
- the opinion that the policies and procedures referred to in Condition II(a) above are adequate and effective to ensure compliance with this Decision and that the decision made on behalf of each Dealer Managed Fund by the Dealer Manager to purchase Units for the Dealer Managed Funds and each Purchase by the Dealer Managed Fund:
- (i) was made in compliance with the conditions of this Decision;
  - (ii) was made by the Dealer Manager free from any influence by the Related Underwriter or any affiliate or associate thereof and without taking into account any consideration relevant to the Related Underwriter or any associate or affiliate thereof; and
  - (iii) represented the business judgment of the Dealer Manager uninfluenced by considerations other than the best interests of the Dealer Managed Fund, or
  - (iv) was, in fact, in the best interests of the Dealer Managed Fund.
- XII. The Independent Committee advises the Decision Makers in writing of:
- (a) any determination by it that the condition set out in paragraph XI(d) has not been satisfied with respect to any Purchase of the Units by a Dealer Managed Fund;
  - (b) any determination by it that any other condition of this Decision has not been satisfied;
  - (c) any action it has taken or proposes to take following the determinations referred to above; and
  - (d) any action taken, or proposed to be taken, by the Dealer Manager or a portfolio manager of a Dealer Managed Fund, in response to the determinations referred to above.
- XIII. For Purchases of Units during the Distribution only, the Dealer Manager:
- (a) expresses an interest to purchase on behalf of Dealer Managed Funds and Managed Accounts a fixed number of Units (the "Fixed Number") to an Underwriter other than its Related Underwriter;

- (b) agrees to purchase the Fixed Number or such lesser amount as has been allocated to the Dealer Manager no more than five (5) business days after the final prospectus has been filed;
- (c) does not place an order with an underwriter of the Offering to purchase an additional number of Units under the Offering prior to the completion of the Distribution, provided that if the Dealer Manager was allocated less than the Fixed Number at the time the final prospectus was filed for the purposes of the Closing, the Dealer Manager may place an additional order for such number of additional Units equal to the difference between the Fixed Number and the number of Units allotted to the Dealer Manager at the time of the final prospectus in the event the Underwriters exercise the Over-Allotment Option; and
- (d) does not sell Units purchased by the Dealer Manager under the Offering, prior to the listing of such Units on the TSX.

XIV. Each Purchase of Units during the 60-Day Period is made on the TSX; and

XV. For Purchases of Units during the 60-Day Period only, an underwriter provides to the Dealer Manager written confirmation that the "dealer restricted period" in respect of the Offering, as defined in Ontario Securities Commission Rule 48-501, *Trading During Distributions, Formal Bids and Share Exchange Transactions*, has ended.

"Rhonda Goldberg"  
Assistant Manager  
Investment Funds Branch  
Ontario Securities Commission

**APPENDIX "A"**

**THE MUTUAL FUNDS**

**Imperial Pools**

Imperial Canadian Dividend Pool  
Imperial Canadian Dividend Income Pool  
Imperial Canadian Equity Pool  
Imperial Canadian Income Trust Pool

**Renaissance Talvest Mutual Funds**

Renaissance Canadian Balanced Fund  
Renaissance Canadian Balanced Value Fund  
Renaissance Canadian Dividend Income Fund  
Renaissance Canadian Core Value Fund  
Renaissance Canadian Growth Fund  
Renaissance Canadian Income Trust Fund  
Renaissance Canadian Income Trust Fund II  
Renaissance Canadian Small Cap Fund  
Talvest Cdn. Asset Allocation Fund  
Talvest Cdn. Equity Growth Fund  
Talvest Cdn. Equity Value Fund  
Talvest Dividend Fund  
Talvest Millennium High Income Fund  
Talvest Millennium Next Generation Fund  
Talvest Small Cap Cdn. Equity Fund

**CIBC Mutual Funds**

Canadian Imperial Equity Fund  
CIBC Balanced Fund  
CIBC Canadian Emerging Companies Fund  
CIBC Canadian Small Companies Fund  
CIBC Capital Appreciation Fund  
CIBC Core Canadian Equity Fund  
CIBC Diversified Income Fund  
CIBC Dividend Fund  
CIBC Financial Companies Fund  
CIBC Monthly Income Fund

**Frontiers Pools**

Frontiers Canadian Equity Pool  
Frontiers Canadian Monthly Income Pool

**2.1.6 TD Asset Management Inc. et al. - MRRS Decision**

**Headnote**

Mutual Reliance Review System for Exemptive Relief Applications – exemption from subsection 4.1(1) of National Instrument 81-102 Mutual Funds to allow dealer managed mutual funds to invest in securities of an issuer during the period, and 60 days after the period, in which an affiliate of the dealer managers acts or has acted as an underwriter in connection with the distribution of securities of the issuer.

**Applicable Legislative Provisions**

National Instrument 81-102 Mutual Funds, ss. 4.1(1), 19.1.

**February 3, 2006**

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

**AND**

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

**AND**

**TD ASSET MANAGEMENT INC.,  
CIBC ASSET MANAGEMENT INC.  
AND CIBC GLOBAL ASSET MANAGEMENT INC.  
(the “Filers” or “Dealer Manager(s)”)**

**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 Filers, on behalf of the portfolio advisers of the funds listed in appendix “A” (the “Fund(s)” or “Dealer Managed Fund(s)”) for a decision under section 19.1 of National Instrument 81-102 *Mutual Funds* (“NI 81-102”) for:

- an exemption from subsection 4.1(1) of NI 81-102 to enable the Dealer Managed Funds to invest in the common shares (the “Shares”) of Addax Petroleum Corporation (the “Issuer”) during the period of distribution for the Offering (as defined below) (the “Distribution”) and the 60-day period following the completion of

the Distribution (the “60-Day Period”) (the Distribution and the 60-Day Period together, the “Prohibition Period”) notwithstanding that an associate or affiliate of the Dealer Managers acts or has acted as an underwriter in connection with the offering (the “Offering”) of Shares of the Issuer pursuant to the second amended and restated preliminary base prep prospectus filed by the Issuer and a final base prep prospectus that the Issuer will file in accordance with the securities legislation of each of the provinces of Canada Provinces (the “Requested Relief”).

Under the Mutual Reliance Review System for Exemptive Relief Applications:

- (a) the Ontario Securities Commission (the “OSC”) is the principal regulator for this application, and
- (b) this MRRS decision document evidences the decision of each Decision Maker.

It is the responsibility of each of the Decision Makers to make a global assessment of the risks involved in granting exemptive relief from subsection 4.1 of NI 81-102 in relation to the specific facts of each application.

**Interpretation**

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

**Representations**

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

1. Each Dealer Manager is a “dealer manager” with respect to the Dealer Managed Fund, and the Dealer Managed Fund is a “dealer managed fund”, as such terms are defined in section 1.1 of NI 81-102.
2. The head offices of the Dealer Managers are in Toronto, Ontario, except for the head office of CIBC Global Asset Management Inc., which is located in Montreal, Quebec.
3. The securities of the Dealer Managed Funds are qualified for distribution in all of the provinces and territories of Canada pursuant to a simplified prospectus that has been prepared and filed in accordance with the applicable securities legislation.
4. A second amended and restated preliminary base prep prospectus (the “Preliminary Prospectus”) of the Issuer dated January 16, 2006 has been filed

with the Decision Makers in each of the provinces of Canada for which an MRRS decision document evidencing receipt by the regulators in each of the provinces was issued on January 17, 2006.

5. According to a term sheet dated January 2006 (the "Term Sheet"), the Offering is expected to be for 21 million Shares. The gross proceeds of the Offering are expected to range from \$315 million to \$389 million. In addition, according to the Preliminary Prospectus, the Underwriters will be granted an over-allotment option (the "Over-Allotment Option") to purchase an amount equal to a percentage of the Shares issued in the Offering which may be exercised within 30 days following the closing date of the Offering (the "Closing Date"). According to the Term Sheet, the Over-Allotment Option is expected to be for an amount equal to approximately 10% of the number of Shares offered in the Offering. If the Over-Allotment Option is exercised in full, the gross proceeds of the Offering are expected to range from \$346.5 million to 427.9 million.
6. In addition to the Related Underwriters, the Underwriters include RBC Dominion Securities Inc., Merrill Lynch Canada Inc., Scotia Capital Inc., CIBC World Markets Inc., National Bank Financial Inc., Canaccord Capital Corporation, First Energy Capital Corp., and Peters & Co. Limited.
7. As disclosed in the Preliminary Prospectus, the Issuer is a Canadian corporation, incorporated to acquire all of the Shares of Addax Petroleum N.V. in connection with the Offering. Addax Petroleum N.V. is an international oil and gas exploration and production company focused on Africa and the Middle East and is the largest independent oil producer in Nigeria and has increased its crude oil production from an average of 8,800 barrels per day in 1998 to 74,450 barrels per day for October 2005.
8. According to the Preliminary Prospectus, the net proceeds of the Offering will be used to fund the Issuer's purchase of the issued and outstanding shares of the Addax Petroleum N.V., to fund the Issuer's 2006 capital expenditure programs and for working capital purposes. Following the Offering, the Issuer will temporarily use a portion of the net proceeds to repay amounts outstanding under a secured reducing revolving credit facility granted to Addax Petroleum N.V. and its subsidiaries by B.N.P. Paribas and other lenders (that do not include the Related Underwriter's affiliated chartered bank) pending application of the funds for capital expenditures and working capital purposes.
9. Pursuant to an underwriting agreement (the "Underwriting Agreement") the Issuer and the Underwriters will enter into in respect of the Offering prior to the Issuer filing the final prospectus for the Offering, the Issuer will agree to sell to the Underwriters, and the Underwriters will agree to purchase, as principals, all of the Shares offered under the Offering.
10. According to the Preliminary Prospectus, there is presently no market through which the common shares of the Issuer may be sold and purchasers may not be able to resell the Shares purchased. However, the Issuer has applied to have the Shares listed on the Toronto Stock Exchange (the "TSX").
11. According to the Preliminary Prospectus, the Issuer may be a "connected issuer" of RBC Dominion Securities Inc. as defined in National Instrument 33-105 – *Underwriting Conflicts* ("NI 33-105"). The Preliminary Prospectus does not disclose that the Issuer is a "related issuer" or "connected issuer" of the Related Underwriters.
12. Despite the affiliation between the Dealer Managers and the Related Underwriters, they operate independently of each other. In particular, the investment banking and related dealer activities of the Related Underwriters and the investment portfolio management activities of the Dealer Managers are separated by "ethical" walls. Accordingly, no information flows from one to the other concerning their respective business operations or activities generally, except in the following or similar circumstances:
  - (a) in respect of compliance matters (for example, the Dealer Manager and the Related Underwriter may communicate to enable the Dealer Manager to maintain an up to date restricted-issuer list to ensure that the Dealer Manager complies with applicable securities laws); and
  - (b) the Dealer Manager and the Related Underwriter may share general market information such as discussion on general economic conditions, bank rates, etc.
13. The Dealer Managed Funds are not required or obligated to purchase any Shares during the Prohibition Period.
14. The Dealer Managers may cause the Dealer Managed Funds to invest in Shares during the Prohibition Period. Any purchase of the Shares will be consistent with the investment objectives of the Dealer Managed Funds and represent the business judgment of the Dealer Manager uninfluenced by considerations other than the best interests of the Dealer Managed Funds or in fact be in the best interests of the Dealer Managed Funds.



15. To the extent that the same portfolio manager or team of portfolio managers of the Dealer Manager manages the Dealer Managed Funds and other client accounts that are managed on a discretionary basis (the "Managed Accounts"), the Shares purchased for them will be allocated:
  - (a) in accordance with the allocation factors or criteria stated in the written policies or procedures put in place by the Dealer Manager for the Dealer Managed Funds and Managed Accounts, and
  - (b) taking into account the amount of cash available to each Dealer Managed Fund for investment.
16. There will be an independent committee (the "Independent Committee") appointed in respect of the Dealer Managed Funds to review the investments of the Dealer Managed Funds in Shares during the Prohibition Period.
17. The Independent Committee will have at least three members and every member must be independent. A member of the Independent Committee is not independent if the member has a direct or indirect material relationship with its Dealer Manager, the Dealer Managed Funds, or any affiliate or associate thereof. For the purpose of this Decision, a material relationship means a relationship which could, in the view of a reasonable person, reasonably interfere with the exercise of the member's independent judgment regarding conflicts of interest facing the Dealer Manager.
18. The members of the Independent Committee will exercise their powers and discharge their duties honestly, in good faith, and in the best interests of investors in the Dealer Managed Funds and, in so doing, exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances.
19. Each Dealer Manager, in respect of the Dealer Managed Funds, will notify a member of staff in the Investment Funds Branch of the Ontario Securities Commission, of the filing of the SEDAR Report (as defined below) on SEDAR, as soon as practicable after the filing of such report, and the notice shall include the SEDAR project number of the SEDAR Report and the date on which it was filed.
20. Each Dealer Manager has not been involved in the work of the Related Underwriter and the Related Underwriter has not been and will not be involved in the decisions of the Dealer Manager as to whether the Dealer Managed Funds will purchase Shares during the Prohibition Period.

**Decision**

Each of the Decision Makers has assessed the conflict of interest risks associated with granting an exemption in this instance from subsection 4.1(1) of NI 81-102 and is satisfied that, at the time this Decision is granted, the potential risks are sufficiently mitigated.

Each of the Decision Makers is satisfied that the test contained in the NI 81-102 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, notwithstanding that the Related Underwriter acts or has acted as underwriter in the Offering provided that the following conditions are satisfied:

- I. At the time of each purchase (the "Purchase") of Shares by a Dealer Managed Fund pursuant to this Decision, the following conditions are satisfied:
  - (a) the Purchase
    - (i) represents the business judgment of the Dealer Manager uninfluenced by considerations other than the best interests of the Dealer Managed Fund, or
    - (ii) is, in fact, in the best interests of the Dealer Managed Fund;
  - (b) the Purchase is consistent with, or is necessary to meet, the investment objective of the Dealer Managed Fund as disclosed in its simplified prospectus; and
  - (c) the Dealer Managed Fund does not place the order to purchase, on a principal or agency basis, with its Related Underwriter;
- II. Prior to effecting any Purchase pursuant to this Decision, the Dealer Managed Fund has in place written policies or procedures to ensure that,
  - (a) there is compliance with the conditions of this Decision; and
  - (b) in connection with any Purchase,
    - (i) there are stated factors or criteria for allocating the Shares purchased for the Dealer Managed Fund and other Managed Accounts, and
    - (ii) there is full documentation of the reasons for any allocation to a Dealer Managed Fund or

- |  |              |   |
|--|--------------|---|
| <p>Managed Account that departs from the stated allocation factors or criteria;</p>  | <p>(a)</p>   | <p>the following particulars of each Purchase:</p>  |
| <p>III. The Dealer Manager does not accept solicitation by its Related Underwriter for the Purchase of Shares for the Dealer Managed Fund;</p>   | <p>(i)</p>   | <p>the number of Shares purchased by the Dealer Managed Fund;</p>   |
| <p>IV. The Related Underwriter does not purchase Shares in the Offering for its own account except Shares sold by the Related Underwriter on Closing;</p>  | <p>(ii)</p>  | <p>the date of the Purchase and purchase price;</p>   |
| <p>V. The Dealer Managed Fund has an Independent Committee to review the Dealer Managed Fund's investments in Shares during the Prohibition Period;</p>  | <p>(iii)</p> | <p>whether it is known whether any underwriter or syndicate member has engaged in market stabilization activities in respect of the Shares;</p>   |
| <p>VI. The Independent Committee has a written mandate describing its duties and standard of care which, as a minimum, sets out the conditions of this Decision;</p>   | <p>(iv)</p>  | <p>if Shares were purchased for the Dealer Managed Fund and other Managed Accounts of the Dealer Manager, the aggregate amount so purchased and the percentage of such aggregate amount that was allocated to the Dealer Managed Fund; and</p>  |
| <p>VII. The members of the Independent Committee exercise their powers and discharge their duties honestly, in good faith, and in the best interests of investors in the Dealer Managed Fund and, in so doing, exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances;</p>  | <p>(v)</p>   | <p>the dealer from whom the Dealer Managed Fund purchased the Shares and the fees or commissions, if any, paid by the Dealer Managed Fund in respect of such Purchase;</p>  |
| <p>VIII. The Dealer Managed Fund does not relieve the members of the Independent Committee from liability for loss that arises out of a failure to satisfy the standard of care set out in paragraph VII above;</p>  | <p>(b)</p>   | <p>a certification by the Dealer Manager that the Purchase:</p>   |
| <p>IX. The Dealer Managed Fund does not incur the cost of any portion of liability insurance that insures a member of the Independent Committee for a liability for loss that arises out of a failure to satisfy the standard of care set out in paragraph VII above;</p>  | <p>(i)</p>   | <p>was made free from any influence by the Related Underwriter or any affiliate or associate thereof and without taking into account any consideration relevant to the Related Underwriter or any associate or affiliate thereof; and</p>   |
| <p>X. The cost of any indemnification or insurance coverage paid for by the Dealer Manager, any portfolio manager of the Dealer Managed Fund, or any associate or affiliate of the Dealer Manager or any portfolio manager of the Dealer Managed Fund to indemnify or insure the members of the Independent Committee in respect of a loss that arises out of a failure to satisfy the standard of care set out in paragraph VII above is not paid either directly or indirectly by the Dealer Managed Fund;</p> | <p>(ii)</p>  | <p>represented the business judgment of the Dealer Manager uninfluenced by considerations other than the best interest of the Dealer Managed Fund, or</p>   |
| <p>XI. The Dealer Manager files a certified report on SEDAR (the "SEDAR Report") no later than 30 days after the end of the Prohibition Period, that contains a certification by the Dealer Manager that contains:</p>   | <p>(iii)</p> | <p>was, in fact, in the best interests of the Dealer Managed Fund;</p>  |
|  | <p>(c)</p>   | <p>confirmation of the existence of the Independent Committee to review the Purchase of the Shares by the Dealer Managed Fund, the names of the members of the Independent Committee, the fact that they meet the independence requirements set forth in this Decision, and whether and how they were compensated for their review;</p> |

- (d) a certification by each member of the Independent Committee that after reasonable inquiry the member formed the opinion that the policies and procedures referred to in Condition II(a) above are adequate and effective to ensure compliance with this Decision and that the decision made on behalf of the Dealer Managed Fund by the Dealer Manager to purchase Shares for the Dealer Managed Fund and each Purchase by the Dealer Managed Fund:
    - (i) was made in compliance with the conditions of this Decision;
    - (ii) was made by the Dealer Manager free from any influence by the Related Underwriter or any affiliate or associate thereof and without taking into account any consideration relevant to the Related Underwriter or any associate or affiliate thereof; and
    - (iii) represented the business judgment of the Dealer Manager uninfluenced by considerations other than the best interests of the Dealer Managed Fund, or
    - (iv) was, in fact, in the best interests of the Dealer Managed Fund.
- XII. The Independent Committee advises the Decision Makers in writing of:
- (a) any determination by it that the condition set out in paragraph XI(d) has not been satisfied with respect to any Purchase of the Shares by the Dealer Managed Fund;
  - (b) any determination by it that any other condition of this Decision has not been satisfied;
  - (c) any action it has taken or proposes to take following the determinations referred to above; and
  - (d) any action taken, or proposed to be taken, by the Dealer Manager or a portfolio manager of the Dealer Managed Fund, in response to the determinations referred to above.
- XIII. For Purchases of Shares during the Distribution only, the Dealer Manager:
- (a) expresses an interest to purchase on behalf of the Dealer Managed Fund and Managed Accounts a fixed number of
- Shares (the "Fixed Number") to an Underwriter other than its Related Underwriter;
- (b) agrees to purchase the Fixed Number or such lesser amount as has been allocated to the Dealer Manager no more than five (5) business days after the final prospectus has been filed;
  - (c) does not place an order with an underwriter of the Offering to purchase an additional number of Shares under the Offering prior to the completion of the Distribution, provided that if the Dealer Manager was allocated less than the Fixed Number at the time the final prospectus was filed for the purposes of the Closing, the Dealer Manager may place an additional order for such number of additional Shares equal to the difference between the Fixed Number and the number of Shares allotted to the Dealer Manager at the time of the final prospectus in the event the Underwriters exercise the Over-Allotment Option; and
  - (d) does not sell Shares purchased by the Dealer Manager under the Offering, prior to the listing of such Shares on the TSX.
- XIV. Each Purchase of Shares during the 60-Day Period is made on the TSX; and
- XV. For Purchases of Shares during the 60-Day Period only, an underwriter provides to the Dealer Manager written confirmation that the "dealer restricted period" in respect of the Offering, as defined in Ontario Securities Commission Rule 48-501. Trading During Distributions, Formal Bids and Share Exchange Transactions, has ended.

"Rhonda Goldberg"  
Assistant Manager, Investment Funds Branch  
Ontario Securities Commission

**THE MUTUAL FUNDS**

**TD Mutual Funds**

TD Canadian Equity Fund  
TD Resource Fund  
TD Precious Metals Fund  
TD Energy Fund

**Frontiers Pools**

Frontiers Canadian Equity Pool  
Frontiers Canadian Monthly Income Pool

**Renaissance Talvest Mutual Funds**

Renaissance Canadian Balanced Fund  
Renaissance Canadian Growth Fund  
Talvest Global Resource Fund

**CIBC Mutual Funds**

CIBC Energy Fund  
CIBC Canadian Resources Fund  
CIBC Precious Metals Fund

## 2.1.7 CIBC Asset Management Inc. and CIBC Global Asset Management Inc. - MRRS Decision

### Headnote

Mutual Reliance Review System for Exemptive Relief Applications – ss. 227 and 233 of the Regulation (*Ontario*) – exemption from the prohibition to act as an adviser in respect of securities of a connected issuer of the registrant – the adviser wants to invest in an offering, on behalf of dealer managed mutual funds, in which the issuer would be considered a connected issuer – the exemption is granted on the basis that the adviser establish an independent review committee for each of the dealer managed mutual funds to review the investments in the connected issuer subject to conditions.

### Applicable Legislative Provisions

Ontario Regulation 1015, R.R.O. 1990, as am., ss. 227, 233.

January 20, 2006

IN THE MATTER OF  
THE SECURITIES LEGISLATION OF  
ONTARIO, NOVA SCOTIA, AND  
NEWFOUNDLAND AND LABRADOR,  
(the Jurisdictions)

AND

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

AND

CIBC ASSET MANAGEMENT INC. and  
CIBC GLOBAL ASSET MANAGEMENT INC.  
(the Applicants)

MRRS DECISION DOCUMENT

### Background

The local securities regulatory authority or regulator (the **Decision Makers**) in each of the Jurisdictions has received an application from the Applicants (or **Dealer Managers**), the portfolio advisers of the mutual funds named in Appendix A (the **Funds** or **Dealer Managed Funds**) for a decision from each of the Decision Makers under section 233 of General Regulation, R.R.O. 1990, Reg. 1015 as amended (the **Regulation**) in Ontario and the equivalent provision in the Jurisdictions of the other Decision Makers, as set out in Appendix “B”, for an exemption from complying with Section 227 of the Regulation and the equivalent provisions in the securities legislation of the Jurisdictions of the other Decision Makers, as set out in Appendix “B” (collectively referred to as the **Adviser Restriction**), to enable the Dealer Managers to act as adviser to the Dealer Managed Funds in respect of trust units (the **Units**) of Jazz Air Income Fund (the **Issuer**), during the course of the distribution (the **Distribution**) of the Units offered pursuant to a final long form prospectus to be filed by the Issuer in accordance with the securities legislation of each of the provinces and territories of Canada (the **Offering**), despite the fact that the Issuer may be a connected issuer of the Dealer Managers during the course of the distribution (the **Adviser Restriction Relief**).

Under the Mutual Reliance Review System for Exemptive Relief Applications:

- (a) the Ontario Securities Commission (the **OSC**) is the principal regulator for the Adviser Restriction Relief; and
- (b) this MRRS decision document evidences the decision of each of the Decision Makers.

### Interpretation

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

## Representations

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

1. Each Dealer Manager is a “dealer manager” with respect to the Dealer Managed Funds, and each Dealer Managed Fund is a “dealer managed fund”, as such terms are defined in section 1.1 of National Instrument 81-102 – *Mutual Fund Distributions*.
2. The securities of the Dealer Managed Funds are qualified for distribution in one or more of the provinces and territories of Canada pursuant to simplified prospectuses that have been prepared and filed in accordance with their respective securities legislation.
3. The Issuer filed an amended and restated preliminary prospectus (the **Preliminary Prospectus**) dated December 22, 2005 with each of the Decision Makers, for which an MRRS decision document evidencing receipt by the each of the Decision Makers was issued on December 22, 2005.
4. The Offering is being underwritten, subject to certain terms, by an underwriting syndicate that includes CIBC World Markets Inc. (the **Related Underwriter**), RBC Dominion Securities Inc., BMO Nesbitt Burns Inc., TD Securities Inc., Citigroup Global Markets Canada Inc., Merrill Lynch Canada Inc., Conaccord Capital Corporation, Orion Securities Inc., Research Capital Corporation, Versant Partners Inc., Westwind Partners Inc., Dundee Securities Corporation and Wellington West Capital Markets Inc. (the Related Underwriter together with the other underwriters, which are now or may become part of the syndicate prior to closing, the **Underwriters**).
5. The Related Underwriter is an affiliate of the Dealer Managers.
6. According to a Confidential Information Memorandum dated January 2006 provided to institutional investors, as reported on in the Globe & Mail on January 10, 2006 on page B3, *Air Canada’s Jazz IPO road show takes flight*, and information contained in the Preliminary Prospectus, the Units are expected to be priced at \$10.00 per Unit. The Underwriters are to be granted an over-allotment option (the **Over-Allotment Option**) to purchase additional Units representing up to 15% of the amount of Units sold in the Offering at a price of \$10.00 per Unit to be exercised in full within 30 days following the closing date (the **Closing Date**) which is expected to occur during the week of January 30, 2006. The Offering is expected to be for approximately 17.5 million Units (or for approximately 20.1 million Units if the Over-Allotment Option is exercised in full) with the gross proceeds of the Offering expected to be approximately \$175 million (or approximately \$201 million if the Over-Allotment Option is exercised in full).
7. As disclosed in the Preliminary Prospectus, the Issuer is an unincorporated, open-ended trust established under the laws of the Province of Ontario. According to the Preliminary Prospectus, the Issuer will acquire an interest in Jazz Air LP and Jazz Air Holding GP Inc. (**Jazz GP**), the general partner of Jazz Air LP. On closing, Jazz Air GP will own and operate the largest regional airline in Canada, based on fleet size and the number of routes operated.
8. The Preliminary Prospectus states that the Issuer will use the gross proceeds from the Offering to subscribe for trust units and Series 1 trust notes of the Jazz Air Trust, an open-ended trust established under the laws of Ontario, which will, in turn, acquire limited partnership units in the Jazz Air LP and shares in the capital of Jazz GP indirectly from ACE Aviation Holdings Inc. (**ACE**). If exercised in full, the gross proceeds from the Over-Allotment Option will be used by the Issuer to subscribe for trust units and Series 1 trust notes of the Jazz Air Trust which will, in turn, acquire from ACE, additional limited partnership units in Jazz LP and shares in the capital of Jazz GP. Following the closing, the Issuer is expected to indirectly hold approximately 15% to 20% of the outstanding partnership units of Jazz Air LP with the remaining interest being held by ACE.
9. The Issuer, Jazz Air Trust, Jazz LP, Jazz GP, and the Underwriters will enter into an underwriting agreement (the **Underwriting Agreement**) in respect of the Offering prior to the Issuer filing the final prospectus for the Offering. Pursuant to the terms of the Underwriting Agreement, the Issuer will agree to sell to the Underwriters, and the Underwriters will agree to purchase on the Closing Date, as principals, from the Issuer on the Closing Date all of the Units offered under the Offering at a price of \$10.00 per Unit.
10. According to the Preliminary Prospectus, the Issuer has applied to list the Units that will be distributed under the final prospectus on the Toronto Stock Exchange (**TSX**). This listing is subject to the Issuer’s compliance with all of the relevant TSX requirements.
11. The Preliminary Prospectus does not disclose that the Issuer is a “related issuer” as defined in National Instrument 33-105 – *Underwriting Conflicts* (**NI 33-105**).

12. According to the Preliminary Prospectus, the Issuer and ACE may be considered “connected issuers”, as defined in NI 33-105, of the Related Underwriter for the reasons set out in the Preliminary Prospectus. As disclosed in the Preliminary Prospectus, these reasons include the fact that:

- (a) the Related Underwriter and certain of the other Underwriters will be subsidiaries or affiliates of lenders of syndicates of financial institutions that will have made available a \$300 million secured revolving credit facility to Air Canada and \$475 million in secured credit facilities available to Aeroplan Limited Partnership (Air Canada is a wholly owned subsidiary of ACE and Aeroplan Limited Partnership is a subsidiary of ACE); and
- (b) the Canadian chartered banks affiliated with the Related Underwriter and RBC Dominion Securities Inc. have entered into a commitment letter in respect of the establishment of \$165 million in new secured credit facilities in favour of the Issuer.

As discussed in the Preliminary Prospectus, none of the Issuer, Air Canada or Aeroplan Limited Partnership is in default of its obligations to financial institutions that have made the facilities described above available and as of December 20, 2005, approximately \$300 million was owing by Aeroplan Limited Partnership under its facilities and no amounts were owing under the Air Canada facilities. Following closing the Issuer is expected to be indebted under its facilities in the amount of approximately \$115 million.

13. According to the Preliminary Prospectus, the decision to issue the Units and the determination of the terms of the distribution were made through negotiation between the Issuer, Jazz GP, Jazz LP, and each of their respective subsidiaries on the one hand, and the Underwriters, on the other hand. According to the Preliminary Prospectus, the financial institutions related to the Underwriters (including the Related Underwriter) did not have any involvement in the decision or determination. As a consequence of the Offering the Related Underwriter will receive its proportionate share of the underwriters' fee. In addition, ACE may use all or part of the proceeds it receives under the Offering to repay any indebtedness owing by Air Canada under the Air Canada facility.

14. Despite the affiliation between the Dealer Managers and the Related Underwriter, they operate independently of each other. In particular, the investment banking and related dealer activities of the Related Underwriter and the investment portfolio management activities of each of the Dealer Managers are separated by “ethical” walls. Accordingly, no information flows from one to the other concerning their respective business operations or activities generally, except in the following or similar circumstances:

- (a) in respect of compliance matters (for example, each Dealer Manager and the Related Underwriter may communicate to enable the Dealer Managers to maintain up to date restricted-issuer lists to ensure that the Dealer Managers comply with applicable securities laws); and
- (b) each Dealer Manager and the Related Underwriter may share general market information such as discussion on general economic conditions, bank rates, etc.

15. The Dealer Managed Funds are not required or obligated to purchase any Units during the Distribution.

16. Each Dealer Manager may cause the Dealer Managed Funds to invest in the Units during the Distribution. Any purchase of the Units will be consistent with the investment objectives of the Dealer Managed Funds and represent the business judgment of the Dealer Manager of the Dealer Managed Funds uninfluenced by considerations other than the best interests of the Dealer Managed Fund or in fact be in the best interests of the Dealer Managed Fund.

17. To the extent that the same portfolio manager or team of portfolio managers of a Dealer Manager manages two or more Dealer Managed Funds and other client accounts that are managed on a discretionary basis (the **Managed Accounts**), the Units purchased for them will be allocated:

- (a) in accordance with the allocation factors or criteria stated in the written policies or procedures put in place by the Dealer Manager for its Dealer Managed Funds and Managed Accounts, and
- (b) taking into account the amount of cash available to each Dealer Managed Fund for investment.

18. There will be an independent committee (the **Independent Committee**) appointed in respect of each Dealer Manager's Dealer Managed Funds to review such Dealer Managed Funds' investments in the Units during the Distribution.

19. The Independent Committee will have at least three members and every member must be independent. A member of the Independent Committee is not independent if the member has a direct or indirect material relationship with its Dealer Manager, the Dealer Managed Funds, or any affiliate or associate thereof. For the purpose of this Decision, a

material relationship means a relationship which could, in the view of a reasonable person, reasonably interfere with the exercise of the member's independent judgment regarding conflicts of interest facing the Dealer Manager.

20. The members of the Independent Committee will exercise their powers and discharge their duties honestly, in good faith, and in the best interests of investors in the Dealer Managed Funds and, in so doing, exercise the degree of care, diligence, and skill that a reasonably prudent person would exercise in the circumstances.
21. The Dealer Manager, in respect of the Dealer Managed Funds, will notify a member of staff in the Investment Funds Branch of the AMF, in writing of any SEDAR Report (as defined below) filed on SEDAR, as soon as practicable after the filing of such a report, and the notice shall include the SEDAR project number of the SEDAR Report and the date on which it was filed.
22. The Dealer Manager has not been involved in the work of the Related Underwriter and the Related Underwriter has not been and will not be involved in the decisions of the Dealer Manager as to whether the Dealer Manager's Dealer Managed Funds will purchase Units during the Distribution.

**Decision**

The Decision of the Decision Makers is that the Adviser Restriction Relief is granted, notwithstanding that the Issuer may be a connected issuer of the Dealer Managers or that the Related Underwriters act or have acted as underwriters in the Offering, provided that, the following conditions are satisfied:

- I. At the time of each purchase of Units (a **Purchase**) by a Dealer Managed Fund pursuant to this Decision, the following conditions are satisfied:
  - (a) the Purchase
    - (i) represents the business judgment of the Dealer Manager uninfluenced by considerations other than the best interests of the Dealer Managed Fund, or
    - (ii) is, in fact, in the best interests of the Dealer Managed Fund;
  - (b) the Purchase is consistent with, or is necessary to meet, the investment objective of the Dealer Managed Fund as disclosed in its simplified prospectus; and
  - (c) the Dealer Managed Fund does not place the order to purchase, on a principal or agency basis, with its Related Underwriter;
- II. Prior to effecting any Purchase pursuant to this Decision, the Dealer Managed Fund has in place written policies or procedures to ensure that,
  - (a) there is compliance with the conditions of this Decision; and
  - (b) in connection with any Purchase,
    - (i) there are stated factors or criteria for allocating the Units purchased for two or more Dealer Managed Funds and other Managed Accounts, and
    - (ii) there is full documentation of the reasons for any allocation to a Dealer Managed Fund or Managed Account that departs from the stated allocation factors or criteria;
- III. The Dealer Manager does not accept solicitation by its Related Underwriter for the Purchase of Units for the Dealer Managed Funds;
- IV. The Related Underwriter does not purchase Units in the Offering for its own account except Units sold by the Related Underwriter on Closing;
- V. The Dealer Managed Fund has an Independent Committee to review the Dealer Managed Funds' investments in the Units during the Distribution;
- VI. The Independent Committee has a written mandate describing its duties and standard of care which, as a minimum, sets out the conditions of this Decision;



## Decisions, Orders and Rulings

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- VII. The members of the Independent Committee exercise their powers and discharge their duties honestly, in good faith, and in the best interests of investors in the Dealer Managed Funds and, in so doing, exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances;
- VIII. The Dealer Managed Fund does not relieve the members of the Independent Committee from liability for loss that arises out of a failure to satisfy the standard of care set out in paragraph VII above;
- IX. The Dealer Managed Fund does not incur the cost of any portion of liability insurance that insures a member of the Independent Committee for a liability for loss that arises out of a failure to satisfy the standard of care set out in paragraph VII above;
- X. The cost of any indemnification or insurance coverage paid for by the Dealer Manager, any portfolio manager of the Dealer Managed Funds, or any associate or affiliate of the Dealer Manager or any portfolio manager of the Dealer Managed Funds to indemnify or insure the members of the Independent Committee in respect of a loss that arises out of a failure to satisfy the standard of care set out in paragraph VII above is not paid either directly or indirectly by the Dealer Managed Funds;
- XI. The Dealer Manager files a certified report on SEDAR (the **SEDAR Report**) in respect of each Dealer Managed Fund, no later than 90 days after the end of the Distribution, that contains a certification by the Dealer Manager that contains:
- (a) the following particulars of each Purchase:
    - (i) the number of Units purchased by the Dealer Managed Funds of the Dealer Manager;
    - (ii) the date of the Purchase and purchase price;
    - (iii) whether it is known whether any underwriter or syndicate member has engaged in market stabilization activities in respect of the Units;
    - (iv) if the Units were purchased for two or more Dealer Managed Funds and other Managed Accounts of the Dealer Manager, the aggregate amount so purchased and the percentage of such aggregate amount that was allocated to each Dealer Managed Fund; and
    - (v) the dealer from whom the Dealer Managed Fund purchased the Units and the fees or commissions, if any, paid by the Dealer Managed Fund in respect of such Purchase;
  - (b) a certification by the Dealer Manager that the Purchase:
    - (i) was made free from any influence by the Related Underwriter or any affiliate or associate thereof and without taking into account any consideration relevant to the Related Underwriter or any associate or affiliate thereof; and
    - (ii) represented the business judgment of the Dealer Manager uninfluenced by considerations other than the best interest of the Dealer Managed Fund, or
    - (iii) was, in fact, in the best interests of the Dealer Managed Fund;
  - (c) confirmation of the existence of the Independent Committee to review the Purchase of the Units by the Dealer Managed Funds, the names of the members of the Independent Committee, the fact that they meet the independence requirements set forth in this Decision, and whether and how they were compensated for their review;
  - (d) a certification by each member of the Independent Committee that after reasonable inquiry the member formed the opinion that the policies and procedures referred to in Condition II(a) above are adequate and effective to ensure compliance with this Decision and that the decision made on behalf of each Dealer Managed Fund by the Dealer Manager to purchase Units for the Dealer Managed Funds and each Purchase by the Dealer Managed Fund:
    - (i) was made in compliance with the conditions of this Decision;
    - (ii) was made by the Dealer Manager free from any influence by the Related Underwriter or any affiliate or associate thereof and without taking into account any consideration relevant to the Related Underwriter or any associate or affiliate thereof; and

- (iii) represented the business judgment of the Dealer Manager uninfluenced by considerations other than the best interests of the Dealer Managed Fund, or
- (iv) was, in fact, in the best interests of the Dealer Managed Fund.

XII. The Independent Committee advises the Decision Makers in writing of:

- (a) any determination by it that the condition set out in paragraph XI(d) has not been satisfied with respect to any Purchase of the Units by a Dealer Managed Fund;
- (b) any determination by it that any other condition of this Decision has not been satisfied;
- (c) any action it has taken or proposes to take following the determinations referred to above; and
- (d) any action taken, or proposed to be taken, by the Dealer Manager or a portfolio manager of a Dealer Managed Fund, in response to the determinations referred to above.

XIII. The Dealer Manager:

- (a) expresses an interest to purchase on behalf of Dealer Managed Funds and Managed Accounts a fixed number of Units (the **Fixed Number**) to an Underwriter other than its Related Underwriter;
- (b) agrees to purchase the Fixed Number or such lesser amount as has been allocated to the Dealer Manager no more than five business days after the final prospectus has been filed;
- (c) does not place an order with an underwriter of the Offering to purchase an additional number of Units under the Offering prior to the completion of the Distribution, provided that if the Dealer Manager was allocated less than the Fixed Number at the time the final prospectus was filed for the purposes of the Closing, the Dealer Manager may place an additional order for such number of additional Units equal to the difference between the Fixed Number and the number of Units allotted to the Dealer Manager at the time of the final prospectus in the event the Underwriters exercise the Over-Allotment Option; and
- (d) does not sell Units purchased by the Dealer Manager under the Offering, prior to the listing of such Units on the TSX.

"Carol S. Perry"  
Commissioner  
Ontario Securities Commission

"Robert L. Shirriff"  
Commissioner  
Ontario Securities Commission

**APPENDIX A**

**THE MUTUAL FUNDS**

**Imperial Pools**

Imperial Canadian Dividend Pool  
Imperial Canadian Dividend Income Pool  
Imperial Canadian Equity Pool  
Imperial Canadian Income Trust Pool

**Renaissance Talvest Mutual Funds**

Renaissance Canadian Balanced Fund  
Renaissance Canadian Balanced Value Fund  
Renaissance Canadian Dividend Income Fund  
Renaissance Canadian Core Value Fund  
Renaissance Canadian Growth Fund  
Renaissance Canadian Income Trust Fund  
Renaissance Canadian Income Trust Fund II  
Renaissance Canadian Small Cap Fund  
Talvest Cdn. Asset Allocation Fund  
Talvest Cdn. Equity Growth Fund  
Talvest Cdn. Equity Value Fund  
Talvest Dividend Fund  
Talvest Millennium High Income Fund  
Talvest Millennium Next Generation Fund  
Talvest Small Cap Cdn. Equity Fund

**CIBC Mutual Funds**

Canadian Imperial Equity Fund  
CIBC Balanced Fund  
CIBC Canadian Emerging Companies Fund  
CIBC Canadian Small Companies Fund  
CIBC Capital Appreciation Fund  
CIBC Core Canadian Equity Fund  
CIBC Diversified Income Fund  
CIBC Dividend Fund  
CIBC Financial Companies Fund  
CIBC Monthly Income Fund

**Frontiers Pools**

Frontiers Canadian Equity Pool  
Frontiers Canadian Monthly Income Pool

**APPENDIX "B"**

The Adviser Restriction

JURISDICTION	REGULATIONS	SECTION OF REGULATIONS	SECTION UNDER WHICH RELIEF IS BEING SOUGHT
Ontario	Regulation 1015	227	233
Newfoundland	Securities Regulations 805/96	191	197
Nova Scotia	Securities Regulations	67	74

**2.1.8 BMO Harris Opportunity Bond Portfolio et al. - MRRS Decision**

**Headnote**

Mutual Reliance Review System for Exemptive Relief Applications – s. 19.1 of National Instrument 81-102 Mutual Funds – exemption from section 2.7 (1)(a) of NI 81-102 insofar as it requires an interest rate swap to have a remaining term to maturity of 3 years (or 5 years in certain circumstances) to permit the Funds to enter into an interest rate swap with a remaining term to maturity of greater than 3 years; exemption from section 2.8(1) of NI 81-102 to the extent that cash cover is required in respect of specified derivatives to permit the Funds to cover specified derivative positions with: i) any bonds, debentures, notes or other evidences of indebtedness that are liquid with a remaining term of 365 days or less or ii) floating rate evidences of indebtedness; and exemption from sections 2.8(1)(d) and (f)(i) NI 81-102 to permit the Funds when they open or maintain a long position in a standardized future or forward contract or when they enter into or maintain an interest rate swap position and during the periods when the Funds are entitled to receive payments under the swap, to use as cover, an option to sell an equivalent quantity of the underlying interest of the standardized future, forward or swap – the relief will increase the possibility of enhancing returns to investors while still providing adequate safeguards.

**Applicable Legislative Provisions**

National Instrument 81-102 Mutual Funds, ss. 2.7(1)(a), 2.8(1), 2.8(1)(d), 2.8(1)(f)(i), 19.1

**February 1, 2006**

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

**AND**

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

**AND**

**IN THE MATTER OF  
BMO HARRIS OPPORTUNITY BOND PORTFOLIO,  
BMO HARRIS INCOME OPPORTUNITY BOND  
PORTFOLIO AND BMO HARRIS INVESTMENT  
MANAGEMENT INC. (COLLECTIVELY, THE FILERS)**

**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 Filers for a decision under the securities legislation of the Jurisdictions (the Legislation) exempting BMO Harris Opportunity Bond Portfolio and BMO Harris Income Opportunity Bond Portfolio (collectively, the Funds) pursuant to Section 19.1 of National Instrument 81-102 *Mutual Funds* (NI 81-102) from the requirement in:

1. section 2.7 (1)(a) of NI 81-102 insofar as it requires an interest rate swap to have a remaining term to maturity of 3 years (or 5 years in certain circumstances) to permit the Funds to enter into an interest rate swap with a remaining term to maturity of greater than 3 years;
  2. section 2.8(1) of NI 81-102 to the extent that cash cover is required in respect of specified derivatives to permit the Funds to cover specified derivative positions with:
    - a) any bonds, debentures, notes or other evidences of indebtedness that are liquid (Fixed Income Securities);
    - b) floating rate evidences of indebtedness; and
  3. sections 2.8(1)(d) and (f)(i) NI 81-102 to permit the Funds when:
    - a) they open or maintain a long position in a debt-like security that has a component that is a long position in a forward contract or in a standardized future or forward contract; or
    - b) they enter into or maintain an interest rate swap position and during the periods when the Funds are entitled to receive payments under the swap;  
  
to use as cover, a right or obligation to sell an equivalent quantity of the underlying interest of the standardized future, forward or swap.
- (paragraphs 1, 2 and 3 collectively will be referred to as the Requested Relief)
- Under the Mutual Reliance Review System for Exemptive Relief Applications:
- (a) Ontario 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 Funds

1. The Funds will be mutual fund trusts established in Ontario for which BMO Harris Investment Management Inc. (the Manager) will be the manager and the investment manager and Pacific Investment Management Company LLC (PIMCO) is the sub-adviser. The Funds will be offered by prospectus in all the Jurisdictions. The Funds have filed a preliminary prospectus dated December 16, 2005 in the Jurisdictions under Sedar Project No. 870918. The Manager's head office is in Toronto, Ontario.
2. The investment objectives of the Funds are to invest primarily in a diversified pool of fixed income securities, such as bonds and debentures issued by governments and corporations or gain exposure to such securities. The Funds may also invest in inflation protected securities, securities backed by mortgages or other financial assets and instruments that provided exposure to these fixed income securities.
3. The Funds may use derivative instruments to gain exposure to securities and markets instead of investing in the securities directly. The Funds may also use derivative instruments to reduce risk by protecting the Funds against potential losses from changes in interest rates and reducing the impact of currency fluctuations on the Funds' portfolio holdings.

### PIMCO

4. PIMCO is one of the world's largest fixed income managers. PIMCO is an adviser, registered under the Investment Advisers Act in the US. Organized in 1971, PIMCO provides investment management and advisory services to private accounts of institutional and individual clients and to mutual funds around the world.
5. PIMCO has discussed with BMO Harris Investment Management Inc. the investment guidelines for the Funds and as a result PIMCO will be able to use tools consistent with NI 81-102 and this exemption in managing the Funds.
6. Strategies employed by PIMCO in managing fixed income portfolios in the United States (U.S.) including U.S. mutual funds, in European

jurisdictions complying with UCITS and other regulators, are currently prohibited by NI 81-102.

### Swaps

7. Section 2.7(1)(a) of NI 81-102 prohibits mutual funds from entering into certain over-the-counter derivatives transactions, including interest rate swaps, with terms to maturity of greater than three years, or greater than five years if the contract provides the fund with a right to eliminate its exposure within three years. The Filers seek the ability to enter into swaps on behalf of the Funds without a restriction as to term of the swap. The Filers believe that the limit of 3 years for interest rate swaps may have to do with regulatory concerns regarding liquidity risk and credit risk which are addressed below.
8. The term of a swap equals the maturity of its exposure, in contrast to other over-the-counter transactions, such as options and forwards, where the contract term and maturity of the underlying security are not related. As a result, there is no restriction under NI 81-102, for example, on a forward with an underlying interest having a term of 10 years whereas there is a restriction if the derivative is in the form of a swap.
9. The interest rate swap market is the largest interest rate market in the world, and one of the most liquid. Swap markets are generally as liquid as government bonds and more liquid than corporate bonds. The Bank of International Settlements reports \$127 trillion in interest rate swaps outstanding as of June 30, 2004. In Canada, there are over \$1 trillion of interest rate swaps outstanding, more than double the federal and provincial debt.
10. Because swap contracts are private agreements between two counterparties, a secondary market for the agreements would be a cumbersome process whereby one counterparty would have to find a new counterparty willing to take over its contract at a fair market price, get the original counterparty to approve the new counterparty, and exchange a whole new set of documents. To avoid that process, market participants unwind their positions by simply entering into an opposing swap with an acceptable counterparty at market value. In this way, the original market or interest rate risk is negated.
11. Credit risk exposure to a counterparty on a swap transaction is generally a small fraction of the underlying notional exposure, equal to the cumulative price change since the inception of the swap. Even that small risk will be mitigated because the counterparty will be required to have an approved credit rating prescribed by NI 81-102.

12. By permitting the Funds to enter into swaps beyond 3 year terms, it increases the possibility for the Funds to increase returns due to the fact that the opportunity set of swaps is expanded and it enables the Funds to target exposure that might not otherwise be available in the cash bond markets. Further, it enables the Funds to effect hedging transactions that are more efficient and tailored.

**Using Fixed Incomes Securities and Floating Rate Debt as Cover**

13. Section 2.8 of NI 81-102 requires that mutual funds cover their derivative positions with "cash cover".

14. The current definition of "cash cover" in NI 81-102 includes:

(a) commercial paper that has a term to maturity of 365 days or less and an approved credit rating and that was issued by a person or company other than a government or permitted supranational agency; and

(b) cash equivalent that is an evidence of indebtedness with a remaining term to maturity of 365 days or less, and that is issued, or fully and unconditionally guaranteed as to principal and interest, by government entities that are listed in the definition of "cash equivalent" as defined in NI 81-102.

15. The purpose of the cash cover requirement in NI 81-102 is to limit a mutual fund from leveraging its assets when using certain specified derivatives under section 2.8 and to ensure that the mutual fund is in a position to meet its obligations on the settlement date.

16. The Filers propose to use liquid Fixed Income Securities and floating rate evidences of indebtedness as cover for specified derivative transactions with respect to the Funds.

17. While money market instruments which are required by NI 81-102 as cash cover are highly liquid, the price paid for that liquidity comes in the form of very low yields relative to longer dated instruments and even relative to similar risk alternatives.

18. The definition of "cash cover" addresses regulatory concerns of interest rate risk and credit risk by limiting the term of the instruments and requiring the instruments to have an approved credit rating. The Filers submit that by permitting the use of Fixed Income Securities with a remaining term to maturity of 365 days or less and an approved credit rating as cover for specified

derivative transactions with respect to the Funds, the regulatory concerns are met since the term and credit rating will be the same as other instruments currently permitted as use as "cash cover". Further, the longer dated instruments will enhance yields for the Funds.

19. Floating rate evidences of indebtedness, also known as floating rate notes (FRNs), are debt securities issued by the federal or provincial governments, Crown corporations or other corporations and other entities with floating interest rates that reset periodically, usually every 30 to 90 days. However, the term to maturity of FRNs can be more than 365 days.

20. The Filers propose to meet the cash cover requirement in section 2.8 of NI 81-102 by investing in FRNs that have a remaining term to maturity of more than 365 days and with interest rates that reset no longer than every 185 days.

21. The Filers submit that the use of FRNs as cash cover can enhance the return of the Funds without reducing the quality of "cash cover" for the purposes of specified derivatives.

22. For the purposes of money market funds (as defined in NI 81-102) meeting the 90 days dollar-weighted average term to maturity, the term of a floating rate evidence of indebtedness is the period remaining to the date of the next rate setting.

23. There is considered to be minimal interest rate risk associated with FRNs as floating interest rates generally reset on a short term basis, such as every 30 days to 90 days. Credit risk aside, if a FRN resets every 365 days, then the interest rate risk of the FRN is about the same as a fixed rate instrument with a term to maturity of 365 days.

24. Further, financial instruments that meet the current "cash cover" requirement have low credit risk. The current "cash cover" requirements provide that evidences of indebtedness of issuers, other than government agencies, must have approved credit ratings. As a result, if the issuer of FRNs is an entity other than a government agency, the FRNs will have an approved credit rating as required in NI 81-102.

25. FRNs will have adequate liquidity and will otherwise meet the requirement for derivative transactions carried out in accordance with Section 2.8.

**Using Put Options as Cover for Long Positions in Futures, Forwards and Swaps**

26. Sections 2.8(1)(d) and 2.8(1)(f)(i) of NI 81-102 do not permit covering the position in long positions in futures and forwards and long positions in

swaps for a period when a Fund is entitled to receive payments under the swap, in whole or in part with a right or obligation to sell an equivalent quantity of the underlying interest of the future, forward or swap. In other words, those sections of NI 81-102 do not permit the use of put options or short future positions to cover long future, forward or swap positions.

27. Regulatory regimes in other countries recognize the hedging properties of options for all categories of derivatives, including long positions evidenced by standardized futures or forwards or in respect of swaps where a fund is entitled to receive payments from the counterparty, provided they are covered by an amount equal to the difference between the market price of a holding and the strike price of the option that was bought or sold to hedge it. NI 81-102 effectively imposes the requirement to overcollateralize, since the maximum liability to the fund under the scenario described is equal to the difference between the market value of the long and the exercise price of the option. Overcollateralization imposes a cost on a fund.
28. Section 2.8(1)(c) of NI 81-102 permits a mutual fund to write a put option and cover it with buying a put option on an equivalent quantity of the underlying interest of the written put option. This position has similar risks as a long position in a future, forward or swap and therefore, the Filers submit that the Funds should be permitted to cover a long position in a future, forward or swap with a put option or short future position.

**Derivative Policies and Risk Management**

29. The Manager allows for the use of derivatives under certain conditions and limitations. The Manager has written guidelines that set out the objectives and goals for derivatives trading which are established and reviewed annually by the board of directors of the Manager.
30. The Manager has written policies and procedures in place on the use of, and to supervise the investment adviser in the use of, derivatives as investments within the Funds. These policies and procedures set out specific procedures for the authorization, documentation, reporting, monitoring and review of derivative strategies and positions. These policies and procedures are reviewed as required, with a minimum annual review.
31. The Manager has a Derivatives Review Committee (“DRC”) that reports quarterly, and more frequently if required, to the Board of Directors of the Manager. The DRC is expected to be comprised of the Chief Investment Officer of the Manager, the Chief Compliance Officer of the Manager and other senior members of the

Manager research team. Through the DRC, the Manager monitors the trading, holdings and positions of the derivatives portfolio, in conjunction with the investment policies of the Funds, and is responsible for applying and enforcing controls.

32. The derivative contracts entered into by the investment adviser on behalf of the Funds must be in accordance with the investment objectives and strategies of each of the Funds. The investment adviser is also required to adhere to NI 81-102. The Trustee sets and reviews the investment policies of the Funds, which also allows the trading in derivatives.
33. The Manager requires that the investment adviser use risk management processes to monitor and measure the risks of all portfolio holdings, including the derivatives positions in the Funds. The investment adviser will use risk measurement procedures or simulations to test the derivatives holdings of the Funds under stress.
34. The prospectus and annual information form of the Funds will include disclosure of the nature of the exemptions granted in respect of the Funds.
35. Without these exemptions, the Funds will not have the flexibility to enhance yield and to manage more effectively the exposures under specified derivatives.

**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 Fixed Income Securities have a remaining term to maturity of 365 days or less and have an “approved credit rating” as defined in NI 81-102;
- (ii) the FRNs meet the following requirements:
  - (a) the floating interest rates of the FRNs reset no later than every 185 days;
  - (b) the FRNs are floating rate evidences of indebtedness with the principal amounts of the obligations that will continue to have a market value of approximately par at the time of each change in the rate to be paid to the holders of the evidences of indebtedness;
  - (c) if the FRNs are issued by a person or company other than a government or “permitted supranational agency” as defined in NI 81-102, the FRNs must



- have an "approved credit rating" as defined in NI 81-102;
  - (d) if the FRNs are issued by a government or permitted supranational agency, the FRNs have their principal and interest fully and unconditionally guaranteed by
    - (I) the government of Canada or the government of a jurisdiction in Canada; or
    - (II) the government of the United States of America, the government of one of the states of the United States of America, the government of another sovereign state or a "permitted supranational agency" as defined in NI 81-102, if, in each case, the FRN has an "approved credit rating" as defined in NI 81-102; and
  - (e) the FRNs meet the definition of "conventional floating rate debt instrument" in section 1.1 of NI 81-102;
- (iii) a Fund shall not open or maintain a long position in a debt-like security that has a component that is a long position in a forward contract, or in a standardized future or forward contract unless a Fund holds
  - a) cash cover in an amount that, together with margin on account for the specified derivative and the market value of the specified derivative, is not less than, on a daily mark-to-market basis, the underlying market exposure of the specified derivative;
  - b) a right or obligation to sell an equivalent quantity of the underlying interest of the future or forward contract, and cash cover that together with margin on account for the position, is not less than the amount, if any, by which the strike price of the future or forward contract exceeds the strike price of the right or obligation to sell the underlying interest;
  - c) a combination of the positions referred to in subparagraphs a) and b) that is sufficient, without recourse to other assets of the Fund, to enable the Fund to acquire the underlying interest of the future or forward contract.
- (iv) a Fund shall not enter into or maintain an interest rate swap position unless for periods when the Fund would be entitled to receive fixed payments under the swap, the Fund holds
  - a) cash cover in an amount that, together with margin on account for the swap and the market value of the swap, is not less than, on a daily mark-to-market basis, the underlying market exposure of the swap;
  - b) a right or obligation to enter into an offsetting interest rate swap on an equivalent quantity and with an equivalent term and cash cover that together with margin on account for the position is not less than the aggregate amount, if any, of the obligations of the Fund under the interest rate swap less the obligations of the Fund under such offsetting interest rate swap.
  - c) a combination of the positions referred to in clauses a) and b) that is sufficient, without recourse to other assets of the Fund, to enable the Fund to satisfy its obligations under the interest rate swap.
- (v) the Funds shall disclose the nature and terms of this relief in the Funds' prospectus under the Investment Strategies section and in the Funds' annual information form.

"Leslie Byberg"  
Manager  
Investment Funds Branch  
Ontario Securities Commission

**2.1.9 Claymore Investments, Inc. and MFC Global Investment Management (Canada), a Division of Elliott & Page Limited - MRRS Decision**

**Headnote**

Mutual Reliance Review System for Exemptive Relief Applications - Portfolio manager exempted from self-dealing provision prohibiting it from knowingly causing any investment portfolio managed by it to invest in any issuer in which a "responsible person" (as defined in the Securities Act (Ontario)) is an officer and/or director unless the specific fact is disclosed to the client and the written consent of the client to the investment is obtained before the purchase. - Investment advisory board will review all investments caught by the self-dealing provision to ensure such investments are in the best interests of the investment fund. - Paragraph 118(2)(a) of the Securities Act (Ontario).

**Applicable Legislative Provisions**

Securities Act, R.S.O. 1990 c. S.5, as am., ss. 118(2)(a), 21(2).

**February 2, 2006**

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

**AND**

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

**AND**

**CLAYMORE INVESTMENTS, INC. AND  
MFC GLOBAL INVESTMENT MANAGEMENT  
(CANADA),  
A DIVISION OF ELLIOTT & PAGE LIMITED**

**MRRS DECISION DOCUMENT**

**Background**

The local securities regulatory authority or regulator (the "Decision Maker") in each of the Jurisdictions has received an application from Claymore Investments, Inc. (the "Manager") and MFC Global Investment Management (Canada), a division of Elliott & Page Limited ("MFC Global", and together with the Manager, the "Filers") for a decision (the "Decision") under the securities legislation of the Jurisdictions (the "Legislation") that:

- the provision prohibiting a portfolio manager from causing any investment portfolio managed by it to invest in any issuer in which a "responsible

person" as defined in the Legislation, or an associate of a responsible person, is an officer or director unless the specific fact is disclosed to the client and the written consent of the client to the investment is obtained before the purchase (the "Investment Restrictions")

shall not apply to investments made by MFC Global in securities of Manulife Financial Corporation ("Manulife") and other affiliates of Manulife (collectively, the "Manulife Securities") for the portfolios of investment funds managed by the Manager for which MFC Global acts as investment advisor and/or provides portfolio management services (the "Requested Relief").

Under the Mutual Reliance Review System for Exemptive Relief Applications:

- (a) the Ontario Securities Commission is the principal regulator for this application; and
- (b) this MRRS decision document evidences the decision of each Decisions 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 Manager**

1. The Manager is a corporation established under the federal laws of Canada and is registered as an adviser in Ontario in the categories of investment counsel and portfolio manager.
2. The Manager is the manager of various investment trusts established under the laws of the Province of Ontario, including Canadian Financial Income Fund. The Manager, Canadian Financial Income Fund and MFC Global obtained relief from the Investment Restrictions to permit MFC Global to invest in Manulife Securities on behalf of Canadian Financial Income Fund by MRRS Decision Document dated September 2, 2005. Canadian Financial Income Fund is not in default under the Legislation.
3. The Manager has filed a preliminary prospectus dated December 28, 2005 in all of the provinces and territories of Canada (the "Preliminary Prospectus") under SEDAR Project No. 874488 to qualify the distribution of units of Canadian Financial Dividend & Income Fund (the "Current Fund"), a new investment trust that the Manager expects to create in January 2006 and for which

MFC Global will be engaged as investment advisor.

4. As disclosed in the Preliminary Prospectus, the investment objectives of the Current Fund will be: (i) to maximize total return for holders of Units, consisting of distributions and capital appreciation; and (ii) to provide holders of Units with a stable stream of monthly cash distributions. The investment strategy of the Current Fund will be to invest in a diversified and actively managed portfolio comprised primarily of common shares, preferred shares, corporate bonds and income trust units of issuers in the Canadian financial sector. Therefore, the investment by MFC Global in Manulife Securities on behalf of the Current Fund would be consistent with the investment objectives and strategies of the Current Fund.
5. The Manager expects to create other investment funds from time to time for which MFC Global will be engaged to act as investment advisor and/or to provide portfolio management services (the "Future Funds") (the Future Funds and the Current Fund being hereinafter referred to individually as a "Fund" and collectively as the "Funds"). The investment by MFC Global in Manulife Securities on behalf of one or more Future Funds may be consistent with the investment objectives and/or strategies of such Future Funds.
6. The Manager has disclosed in the Preliminary Prospectus of the Current Fund that, subject to the receipt of any required regulatory approval, the Current Fund may, from time to time, invest in or continue to hold securities of related parties of MFC Global, provided that the decision to buy, sell or hold such securities is in the best interests of the Fund, and is made in accordance with: (i) the investment objectives and restrictions of the Current Fund; and (ii) applicable regulatory rules and the terms of any regulatory approval, if necessary.
7. The Manager will disclose in the prospectus or offering document of any Future Fund that MFC Global obtained regulatory approval to invest in Manulife Securities and that the Future Fund may, from time to time, invest in or continue to hold securities of related parties of MFC Global, provided that the decision to buy, sell or hold such securities is in the best interests of the Future Fund, and is made in accordance with: (i) the investment objectives and restrictions of the Future Fund; and (ii) the terms of this decision and any additional regulatory rules, if applicable.

#### **MFC Global**

8. MFC Global will act as the investment advisor of the Current Fund and may be engaged by the Manager to act as investment advisor and/or to

provide portfolio management services to one or more Future Funds.

9. MFC Global is a division of Elliott & Page Limited ("EPL"). EPL is a corporation incorporated under the laws of Ontario. The principal office of EPL is located in Toronto, Ontario. EPL is registered as an adviser in Ontario in the categories of investment counsel and portfolio manager and is registered under the equivalent categories in the other Jurisdictions except Newfoundland and Labrador.
10. In 1982, EPL was acquired by North American Life Assurance Company, which is now The Manufacturers Life Insurance Company ("MLIC"). Manulife holds all of the outstanding shares of MLIC and therefore, EPL is an indirect wholly-owned subsidiary of Manulife.
11. Certain directors and/or officers of EPL who are, or may be, "responsible persons" in respect of the Fund, are or may be officers and/or directors of Manulife or its affiliates (the "Related Officers and Directors"). The Related Officers and Directors will not participate in the formulation of, or generally have access prior to implementation to, the day to day investment decisions made by MFC Global on behalf of the Funds.
12. All Related Officers and Directors will not provide investment advice to the Funds. Furthermore, no trading officer of EPL who will provide portfolio management services to the Funds is under the direct supervision of a Related Officer or Director in respect of the provision of such portfolio management services.
13. All Related Officers and Directors who have access to material information in relation to Manulife that has not been generally disclosed (an "Access Person") are subject to Manulife's written policies including Manulife's Code of Business Conduct and Ethics and/or MFC Global's Code of Ethics, which, among other things, prohibit Access Persons from engaging in any trading of Manulife Securities while the trading window is closed or while the Access Person is in possession of undisclosed material information in relation to Manulife.

#### **Proposed Investments by the Funds in Manulife Securities**

14. Manulife, the indirect parent company of EPL, is one of the leading life insurance based financial services organizations in Canada.
15. MFC Global believes that it would be in the best interests of holders of Units of the Funds for the Funds to be permitted to invest in Manulife Securities, provided such investment is in keeping

with the investment objectives, strategies and restrictions of each Fund.

16. Because the Units of the Current Fund are being offered to the public through a syndicate of investment dealers and will be listed for trading on The Toronto Stock Exchange, it is impractical to obtain the written consent of each holder of Units to the investment by MFC Global in Manulife Securities on behalf of the Current Fund. Likewise, securities of the Future Funds may be offered to the public pursuant to a prospectus or otherwise distributed broadly, so that it may be impractical to obtain the written consent of each investor in the Future Funds to the investment by MFC Global in Manulife Securities on behalf of such Future Funds.
17. The Manager has appointed an advisory board (the "Independent Advisory Board"), which will review the Funds' purchases, sales and continued holdings of Manulife Securities to ensure that these investment decisions: have been made free from any influence by Manulife, have not taken into account any consideration relevant to Manulife or any associate or affiliate of Manulife, and do not cause the portfolios of the Funds to exceed any investment concentration limits for the Funds for any one issuer.
18. In reviewing each Fund's purchases, sales and continued holdings of Manulife Securities, the Independent Advisory Board will take into account the best interests of the Fund and no other factors.
19. All fees and expenses of the Independent Advisory Board incurred in connection with its duties with respect to a Fund will be paid by that Fund.
20. In the absence of the Requested Relief, because it is impractical to obtain the consent of investors in the Funds, MFC Global would be prohibited from investing in Manulife Securities on behalf of the Funds because certain directors and/or officers of EPL who are or may be "responsible persons" in respect of the Funds, are or may be officers and/or directors of Manulife or its affiliates.

**Decision**

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

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

1. The Manager has appointed an Independent Advisory Board to review each Fund's purchases,

sales and continued holdings of Manulife Securities;

2. The Independent Advisory Board has at least three members, and every member of the Independent Advisory Board will be independent of Manulife, the Manager, MFC Global, EPL, and any associate or affiliate of Manulife, the Manager, MFC Global and EPL.

A member of the Independent Advisory Board is not independent if the member has a direct or indirect material relationship with the Funds, the Filers, or an entity related to the Filers. A material relationship is any relationship that a reasonable person would consider might interfere with the exercise of the member's independent judgement of regarding conflicts of interest facing the Filers;

3. The trust agreement or other constating document of each Fund prescribes the duties and standard of care of the Independent Advisory Board and the Independent Advisory Board has been provided with a copy of this Decision;
4. The members of the Independent Advisory Board exercise their powers and discharge their duties honestly, in good faith and in the best interests of the Funds and, in doing so, exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances;
5. The Funds do not relieve the members of the Independent Advisory Board from liability for losses that arise out of a failure to satisfy the standard of care set out in paragraph 4 above;
6. The Funds do not indemnify the members of the Independent Advisory Board against legal fees, judgments and amounts paid in settlement as a result of a breach of the standard of care set out in paragraph 4 above;
7. The Funds do not incur the cost of any portion of liability insurance that insures a member of the Independent Advisory Board for a liability for loss that arises out of a failure to satisfy the standard of care set out in paragraph 4 above;
8. The cost of any indemnification or insurance coverage paid for by the Manager, MFC Global, EPL or any other investment advisor of any Fund, or any associate or affiliate of the Manager, MFC Global, EPL or any other investment advisor of that Fund, to indemnify or insure the members of the Independent Advisory Board of that Fund in respect of a loss that arises out of a failure to satisfy the standard of care set out in paragraph 4 above is not paid either directly or indirectly by that Fund;
9. Prior to effecting a purchase pursuant to this Decision, the Manager has in place written

- policies and procedures to ensure that there is compliance with the conditions of this Decision;
10. The Manager will ensure that there is compliance with the conditions of this Decision;
11. The Independent Advisory Board reviews each Fund's purchases, sales and continued holdings of Manulife Securities on a regular basis, but not less frequently than once every calendar quarter;
12. The Independent Advisory Board forms the opinion, after reasonable inquiry, that any decision made on behalf of each Fund by MFC Global to purchase, sell or continue to hold Manulife Securities was, and continues to be, in the best interests of that Fund and:
- (a) represents the business judgement of MFC Global, uninfluenced by considerations other than the best interests of that Fund,
  - (b) was made free from any influence by Manulife and without taking into account any consideration relevant to Manulife or any associate or affiliate of Manulife, and
  - (c) does not exceed the limitations of the applicable legislation;
13. The determination made by the Independent Advisory Board pursuant to paragraph 12 above is included in detailed written minutes provided to MFC Global not less frequently than quarterly;
14. Within 30 days after the end of each quarter in which MFC Global purchases or sells Manulife Securities on behalf of any Fund that is a reporting issuer, a Filer will file on SEDAR:
- (a) a report disclosing:
    - (i) the date of each purchase and sale,
    - (ii) the volume weighted average price paid or received for the Manulife Securities by that Fund on a given date, and
    - (iii) whether a purchase, sale or equity position was determined by the Independent Advisory Board to not comply with paragraph 12 above and, if so, why the purchase, sale or equity position was either completed, continued or not liquidated notwithstanding the Independent Advisory Board's determination;
- (b) a certificate of MFC Global certifying that:
- (i) at the time of each trade the trade represented the business judgement of MFC Global uninfluenced by considerations other than the best interest of that Fund and was, in fact, in the best interests of that Fund,
  - (ii) the trades were made free from any influence by Manulife or any affiliate or associate thereof and without taking any consideration relevant to Manulife or any associate or affiliate thereof, and
  - (iii) the trades were not part of a series of transactions aiming to support or otherwise influence the price of the Manulife Securities; and
- (c) a certificate by each member of the Independent Advisory Board certifying that after reasonable inquiry the member formed the opinion that the policies and procedures referred to in paragraph 9 above are adequate and effective to ensure compliance with this Decision and that the decision made on behalf of that Fund by MFC Global to purchase Manulife Securities for that Fund and the purchase by that Fund:
- (i) was made in compliance with the conditions of this Decision;
  - (ii) represented the business judgment of MFC Global uninfluenced by considerations other than the best interests of that Fund; and
  - (iii) was, in fact, in the best interests of that Fund;
15. The Independent Advisory Board advises the Decision Makers in writing of:
- (a) any determination by it that paragraph 12 has not been satisfied with respect to any purchase, sale or holding of Manulife Securities,
  - (b) any determination by it that any other condition of this Decision has not been satisfied,
  - (c) any action it has taken or proposes to take following the determinations referred to above, and

- (d) any action taken, or proposed to be taken, by the Manager or MFC Global in response to the determinations referred to above;
16. The existence, purpose, duties and obligations of the Independent Advisory Board, the names of its members, whether and how they are compensated by each Fund, and the fact that they are independent are disclosed:
- (a) in the prospectus or other offering document of the Fund, and
- (b) on the Manager's internet website; and
17. The Decision, as it relates to the Jurisdiction of a Decision Maker, will terminate one year after the publication in final form of any legislation or rule of that Decision Maker dealing with investment fund governance in a manner that conflicts with or makes inapplicable any provision of this Decision.

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

"Suresh Thakrar"  
Commissioner  
Ontario Securities Commission

## 2.1.10 Scotia Capital Inc. - MRRS Decision

### Headnote

Mutual Reliance Review System for Exemptive Relief Applications – Registered dealer exempted from the requirements of section 36 of the Act, subject to certain conditions, to send trade confirmations for trades that the dealer executes on behalf of employees where: employees are participating in employer-sponsored stock investment plans; fees paid by the client, if any, are trade commissions, and are not based on the trading activity in the account; the client agreed in writing that confirmation statements will not be delivered to them; and, the client is sent monthly statements that include the confirmation information.

### Applicable Ontario Statutory Provisions

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

February 3, 2006

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

**AND**

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

**AND**

**IN THE MATTER OF  
SCOTIA CAPITAL INC. (the FILER)**

**MRRS DECISION DOCUMENT**

### Background

The local securities regulatory authority or regulator (the **Decision Maker**) in each of the Jurisdictions has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the **Legislation**) for an exemption from the requirement contained in the Legislation that a registered dealer send to its clients a written confirmation of any trade in securities that the Filer conducts on behalf of clients participating in employer-sponsored stock investment plans (the **Confirmation Relief**).

Under the Mutual Reliance Review System for Exemptive Relief Applications:

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

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

### Interpretation

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

### Representations

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

1. The Filer is a corporation incorporated under the laws of Ontario and has its head office in the City of Toronto, Ontario. The Filer is registered in each of the Jurisdictions as an investment dealer or equivalent and is a member of the Investment Dealers' Association of Canada (the **IDA**).
2. The Filer has been requested by certain employers (**Employers**) to serve as the administrator and registered dealer for employer-sponsored stock investment plans (the **Plans**). The Plans are designed to allow the employees of the Employers (**Employees**) to acquire the securities of their Employers in the secondary market, in many cases, with the aid of matching contributions made by the Employers.
3. To participate in the Plan, an Employee completes:
  - (a) an application form authorizing the Employer to make regular deductions from the Employee's pay; and
  - (b) a pre-authorized trading form instructing the Filer to purchase shares of the Employer on behalf of the Employee.
4. Under the Plan:
  - (a) the Employer remits to the Filer Employee deductions, together with Employer contributions;
  - (b) the Filer purchases shares of the Employer and credits each Employee's Plan appropriately; and
  - (c) the Employee waives receipt of trade confirmations ordinarily required under the Legislation.
5. The fee structure of certain Plans will require Employees to pay a commission for the purchase of Employer shares while in other Plans, this commission will be covered by the Employer. The Filer may also charge certain Plans an annual administration fee which will be paid by the Employer.

6. In accordance with section 200.1(c) of IDA Regulations, the Filer sends to each Employee participating in the Plans a statement summarizing the activity in the Employee's account (the **Statement**) no less frequently than quarterly, and where there has been activity in the Employee's account during the month, on a monthly basis. Since in most cases, payroll deductions made under the Plans occur on at least a monthly basis, the Filer actually sends most Employees summaries of their trades no less frequently than monthly.
7. The Statements will contain the information that the Filer would otherwise have been required to provide to an Employee in a trade confirmation in accordance with the Legislation, except for the following information (the **Omitted Information**):
  - (a) the stock exchange upon which the trade took place; and
  - (b) the name or number of the salesperson who effected the trade.
8. The Filer will maintain the Omitted Information with respect to each Employee in its books and records and will make the Omitted Information available to the Employee on request.

### Decision

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

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

1. the Employee has previously informed the Filer that the Employee does not wish to receive trade confirmations for the Employee's accounts under the Plans; and
2. in the case of each trade for an account under the Plans, the Filer sends to the Employee no less frequently than the time required by the IDA, a Statement that includes the information referred to in paragraph 6.

"Robert L. Shirriff"  
Commissioner  
Ontario Securities Commission

"Paul K. Bates"  
Commissioner  
Ontario Securities Commission

2.2 Orders

2.2.1 Pyramis Global Advisors, LLC et al. - s. 78(1)

Headnote

Order under section 78(1) of the Commodity Futures Act (Ontario) to revoke previous orders and replace with amended order granting relief from the adviser registration requirements of subsection 22(1)(b) of the CFA granted to a sub-adviser not ordinarily resident in Ontario in respect of advising certain mutual funds, non-redeemable investment funds and similar investment vehicles, subject to certain terms and conditions.

Statutes Cited

Commodity Futures Act, R.S.O. 1990, c. C.20, as am., ss. 22(1)(b), 80.

Securities Act, R.S.O. 1990, c. S.5, as am. -- Rule 35-502 - Non Resident Advisers.

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

AND

IN THE MATTER OF  
PYRAMIS GLOBAL ADVISORS, LLC,  
FIDELITY INVESTMENTS MONEY MANAGEMENT, INC.  
AND  
FIDELITY INVESTMENTS CANADA LIMITED

ORDER  
(Section 78(1))

UPON the application of Pyramis Global Advisors, LLC (**Pyramis**), Fidelity Investments Money Management, Inc. (the **Sub-Adviser**) and Fidelity Investments Canada Limited (**Fidelity**) (each of Pyramis and Fidelity is a **Principal Adviser** and collectively they are **Principal Advisers**) to the Ontario Securities Commission (the **Commission**) for an order, pursuant to subsection 78(1) of the CFA, to revoke an order (the **Initial Order**) of the Commission dated March 12, 2004 made under subsection 80 of the CFA, and revoke the order of the Commission dated April 6, 2004 which amends the Initial Order, made under subsection 78(1) of the CFA (the **Amending Order**)(the Initial Order and the Amending Order are collectively referred to as the **Previous Orders**), in the matter of Pyramis, the Sub-Adviser and Fidelity;

**AND WHEREAS** the Previous Orders provide that neither the Sub-Adviser nor any of its directors, officers or employees (**Sub-Adviser Representatives**) acting on its behalf as an adviser, is subject to paragraph 22(1)(b) of the CFA in respect of their acting as an adviser to Fidelity in its capacity as the principal adviser in connection with Fidelity acting as an adviser to (a) certain mutual funds offered from time to time to the public in Canada, and (b) certain pooled funds offered from time to time to pension plans and other institutional investors (**Private Clients**) (each such

mutual fund or pooled fund, a **Fund** and collectively, the **Funds**);

**AND WHEREAS** Fidelity is to be replaced by Pyramis as the principal adviser to certain of the Funds and Fidelity is to remain as principal adviser to the other Funds;

**AND WHEREAS** the Initial Order is scheduled to expire on March 12, 2007;

**AND WHEREAS** Pyramis, the Sub-Adviser and Fidelity seek to revoke the Previous Orders and replace them with this consolidated and restated order which incorporates the change in the principal adviser to the Funds and sets a new expiry date;

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

**AND UPON** it having been represented to the Commission that:

1. Pyramis is a limited liability company organized under the laws of the State of Delaware and is resident in the United States of America. Pyramis is registered as an investment adviser with the United States Securities and Exchange Commission.
2. The Sub-Adviser is a corporation organized under the laws of the State of New Hampshire and is resident in the United States of America.
3. The Sub-Adviser is not registered under the CFA as either an adviser or dealer.
4. The Sub-Adviser is not required under applicable commodity futures legislation in the United States of America to be registered as a commodity trading adviser with the United States Commodity Futures Trading Commission, nor is the Sub-Adviser required to be a member of the National Futures Association, in order to provide the services to the Principal Adviser described in paragraph 8 below.
5. Fidelity was incorporated under the laws of Canada, thereafter continued under the laws of Ontario and subsequently amalgamated under the laws of Ontario. Fidelity is resident in Ontario.
6. Fidelity is registered with the Commission as a dealer in the category of mutual fund dealer and as an adviser in the categories of investment counsel and portfolio manager under the *Securities Act* (Ontario) (the **OSA**), and as an adviser in the category of commodity trading manager under the CFA.
7. Each Principal Adviser may, pursuant to a written agreement to be entered into between the Principal Adviser and a Fund or Private Client:



- (a) act as an adviser (as defined in the OSA) to the Fund or Private Client, in respect of securities, and
- (b) act as an adviser to the Fund or Private Client, in respect of trading commodity futures contracts and commodity futures options,

by exercising discretionary authority in respect of the investment portfolio of the Fund, with discretionary authority to purchase or sell on behalf of the Fund:

- (i) securities, and
- (ii) commodity futures contracts and commodity futures options.

8. In connection with a Principal Adviser acting as an adviser to a Fund or Private Client, in respect of the purchase or sale of commodity futures contracts and commodity futures options, that Principal Adviser may, from time to time, pursuant to a written agreement made between the Principal Adviser and the Sub-Adviser, retain the Sub-Adviser to act as an adviser to it, by exercising discretionary authority on behalf of the Principal Adviser, in respect of the investment portfolio of the Fund, with discretionary authority to buy or sell commodity futures options and commodity futures contracts for the Fund, provided that:

- (a) in each case, the option or contract must be cleared through an acceptable clearing corporation; and
- (b) in no case will any trading in commodity futures options or commodity futures contracts constitute the primary focus or investment objective of the Fund.

9. There is presently no rule under the CFA that provides an exemption from the adviser registration requirement in paragraph 22(1)(b) of the CFA, for a person or company acting as an adviser to another registered adviser in respect of commodity futures options and commodity futures contracts that is similar to the exemption from the adviser registration requirement in clause 25(1)(b) of the OSA for acting as an adviser (as defined in the OSA) in respect of securities, in section 7.3 of Commission Rule 35-502 - *Non-Resident Advisers*.

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

**IT IS ORDERED**, pursuant to section 80 of the CFA, that the Previous Orders are revoked;

**IT IS FURTHER ORDERED**, pursuant to section 80 of the CFA, that neither the Sub-Adviser, nor any Sub-Adviser Representative acting on behalf of the Sub-Adviser, is subject to paragraph 22(1)(b) of the CFA, in respect of their acting as an adviser to a Principal Adviser, in connection with that Principal Adviser acting as an adviser to one or more Funds or Private Clients, provided that, at the relevant time and in the case of each Fund:

- (a) the relevant Principal Adviser is registered under the CFA as an adviser in the category of commodity trading manager;
- (b) the duties and obligations of the Sub-Adviser are set out in a written agreement with the relevant Principal Adviser;
- (c) the relevant Principal Adviser has contractually agreed with the Fund to be responsible for any loss that arises out of any failure of the Sub-Adviser:
  - (i) to exercise the powers and discharge the duties of its office honestly, in good faith and in the best interests of the Fund and its securityholders, or
  - (ii) to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances;
- (d) the relevant Principal Adviser cannot be relieved by the Fund or its securityholders (including Private Clients) from its responsibility for any loss referred to in paragraph (c), above;
- (e) the securityholders of the Fund (including Private Clients) have received written disclosure, in a prospectus or other offering document to the extent applicable, disclosing:
  - (i) the responsibility of the relevant Principal Adviser for losses arising out of any failure of the Sub-Adviser referred in paragraph (c), above, and
  - (ii) that there may be difficulty in enforcing legal rights against the Sub-Adviser because it is resident outside Canada and all or substantially all of the Sub-Adviser's assets may be situated outside of Canada; and

- (f) this Order shall terminate on the day that is three years after the date of the Order.

Dated at Toronto, Ontario, this 30<sup>th</sup> day of December, 2005.

“Wendell S. Wigle”  
Commissioner

“Paul K. Bates”  
Commissioner

## 2.2.2 Pyramis Global Advisors, LLC et al. - s. 78(1)

### Headnote

Order under section 78(1) of the Commodity Futures Act (Ontario) to revoke previous orders and replace with amended order granting relief from the adviser registration requirements of subsection 22(1)(b) of the CFA granted to a sub-adviser not ordinarily resident in Ontario in respect of advising certain mutual funds, non-redeemable investment funds and similar investment vehicles, subject to certain terms and conditions.

### Statutes Cited

Commodity Futures Act, R.S.O. 1990, c. C.20, as am., ss. 22(1)(b), 80.  
Securities Act, R.S.O. 1990, c. S.5, as am. -- Rule 35-502 -  
- Non Resident Advisers.

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

**AND**

**IN THE MATTER OF  
PYRAMIS GLOBAL ADVISORS, LLC,  
FIDELITY INTERNATIONAL LIMITED AND  
FIDELITY INVESTMENTS CANADA LIMITED**

**ORDER  
(Section 78(1))**

**UPON** the application of Pyramis Global Advisors, LLC (**Pyramis**), Fidelity International Limited (the **Sub-Adviser**) and Fidelity Investments Canada Limited (**Fidelity**) (each of Pyramis and Fidelity is a **Principal Adviser** and collectively they are **Principal Advisers**) to the Ontario Securities Commission (the **Commission**) for an order, pursuant to subsection 78(1) of the CFA, to revoke an order (the **Initial Order**) of the Commission dated March 12, 2004 made under subsection 80 of the CFA, and revoke the order of the Commission dated April 6, 2004 which amends the Initial Order, made under subsection 78(1) of the CFA (the **Amending Order**)(the Initial Order and the Amending Order are collectively referred to as the **Previous Orders**), in the matter of Pyramis, the Sub-Adviser and Fidelity;

**AND WHEREAS** the Previous Orders provide that neither the Sub-Adviser nor any of its directors, officers or employees (**Sub-Adviser Representatives**) acting on its behalf as an adviser, is subject to paragraph 22(1)(b) of the CFA in respect of their acting as an adviser to Fidelity in its capacity as the principal adviser in connection with Fidelity acting as an adviser to (a) certain mutual funds offered from time to time to the public in Canada, and (b) certain pooled funds offered from time to time to pension plans and other institutional investors (**Private Clients**) (each such mutual fund or pooled fund, a **Fund** and collectively, the **Funds**);

**AND WHEREAS** Fidelity is to be replaced by Pyramis as the principal adviser to certain of the Funds and Fidelity is to remain as principal adviser to the other Funds;

**AND WHEREAS** the Initial Order is scheduled to expire on March 12, 2007;

**AND WHEREAS** Pyramis, the Sub-Adviser and Fidelity seek to revoke the Previous Orders and replace them with this consolidated and restated order which incorporates the change in the principal adviser to the Funds, and sets a new expiry date;

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

**AND UPON** it having been represented to the Commission that:

1. Pyramis is a limited liability company organized under the laws of the State of Delaware and is resident in the United States of America. Pyramis is registered as an investment adviser with the United States Securities and Exchange Commission.
2. The Sub-Adviser is a corporation organized under the laws of Bermuda and is resident in Bermuda.
3. The Sub-Adviser is not registered under the CFA as either an adviser or dealer.
4. The Sub-Adviser is not registered pursuant to any applicable commodity futures legislation in Bermuda and such registration is not required in order to provide the services to the Principal Adviser described in paragraph 8 below.
5. Fidelity was incorporated under the laws of Canada, thereafter continued under the laws of Ontario and subsequently amalgamated under the laws of Ontario. Fidelity is resident in Ontario.
6. Fidelity is registered with the Commission as a dealer in the category of mutual fund dealer and as an adviser in the categories of investment counsel and portfolio manager under the *Securities Act* (Ontario) (the **OSA**), and as an adviser in the category of commodity trading manager under the CFA.
7. Each Principal Adviser may, pursuant to a written agreement to be entered into between the Principal Adviser and a Fund or Private Client:
  - (a) act as an adviser (as defined in the OSA) to the Fund or Private Client, in respect of securities, and
  - (b) act as an adviser to the Fund or Private Client, in respect of trading commodity futures contracts and commodity futures options,

by exercising discretionary authority in respect of the investment portfolio of the Fund, with discretionary authority to purchase or sell on behalf of the Fund:

- (i) securities, and
- (ii) commodity futures contracts and commodity futures options.

8. In connection with a Principal Adviser acting as an adviser to a Fund or Private Client, in respect of the purchase or sale of commodity futures contracts and commodity futures options, that Principal Adviser may, from time to time, pursuant to a written agreement made between the Principal Adviser and the Sub-Adviser, retain the Sub-Adviser to act as an adviser to it, by exercising discretionary authority on behalf of the Principal Adviser, in respect of the investment portfolio of the Fund, with discretionary authority to buy or sell commodity futures options and commodity futures contracts for the Fund, provided that:

- (a) in each case, the option or contract must be cleared through an acceptable clearing corporation; and
- (b) in no case will any trading in commodity futures options or commodity futures contracts constitute the primary focus or investment objective of the Fund.

9. There is presently no rule under the CFA that provides an exemption from the adviser registration requirement in paragraph 22(1)(b) of the CFA, for a person or company acting as an adviser to another registered adviser in respect of commodity futures options and commodity futures contracts that is similar to the exemption from the adviser registration requirement in clause 25(1)(b) of the OSA for acting as an adviser (as defined in the OSA) in respect of securities, in section 7.3 of Commission Rule 35-502 - *Non-Resident Advisers*.

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

**IT IS ORDERED**, pursuant to section 80 of the CFA, that the Previous Orders are revoked;

**IT IS FURTHER ORDERED**, pursuant to section 80 of the CFA, that neither the Sub-Adviser, nor any Sub-Adviser Representative acting on behalf of the Sub-Adviser, is subject to paragraph 22(1)(b) of the CFA, in respect of their acting as an adviser to a Principal Adviser, in connection with that Principal Adviser acting as an adviser to one or more Funds or Private Clients, provided that, at the relevant time and in the case of each Fund:

- (a) the relevant Principal Adviser is registered under the CFA as an adviser in the category of commodity trading manager;
- (b) the duties and obligations of the Sub-Adviser are set out in a written agreement with the relevant Principal Adviser;
- (c) the relevant Principal Adviser has contractually agreed with the Fund to be responsible for any loss that arises out of any failure of the Sub-Adviser:
  - (i) to exercise the powers and discharge the duties of its office honestly, in good faith and in the best interests of the Fund and its securityholders, or
  - (ii) to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances;
- (d) the relevant Principal Adviser cannot be relieved by the Fund or its securityholders (including Private Clients) from its responsibility for any loss referred to in paragraph (c), above;
- (e) the securityholders of the Fund (including Private Clients) have received written disclosure, in a prospectus or other offering document to the extent applicable, disclosing:
  - (i) the responsibility of the relevant Principal Adviser for losses arising out of any failure of the Sub-Adviser referred in paragraph (c), above, and
  - (ii) that there may be difficulty in enforcing legal rights against the Sub-Adviser because it is resident outside Canada and all or substantially all of the Sub-Adviser's assets may be situated outside of Canada; and
- (f) this Order shall terminate on the day that is three years after the date of the Order.

Dated at Toronto, Ontario, this 30<sup>th</sup> day of December, 2005.

"Wendell S. Wigle"  
Commissioner

"Paul K. Bates"  
Commissioner

## 2.2.3 Pyramis Global Advisors, LLC et al. - s. 78(1)

### Headnote

Order under section 78(1) of the Commodity Futures Act (Ontario) to revoke previous orders and replace with amended order granting relief from the adviser registration requirements of subsection 22(1)(b) of the CFA granted to a sub-adviser not ordinarily resident in Ontario in respect of advising certain mutual funds, non-redeemable investment funds and similar investment vehicles, subject to certain terms and conditions.

### Statutes Cited

Commodity Futures Act, R.S.O. 1990, c. C.20, as am., ss. 22(1)(b), 80.  
Securities Act, R.S.O. 1990, c. S.5, as am. -- Rule 35-502 -  
- Non Resident Advisers.

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

AND

### IN THE MATTER OF PYRAMIS GLOBAL ADVISORS, LLC, FMR CO., INC. AND FIDELITY INVESTMENTS CANADA LIMITED

### ORDER (Section 78(1))

UPON the application of Pyramis Global Advisors, LLC (**Pyramis**), FMR Co., Inc. (the **Sub-Adviser**) and Fidelity Investments Canada Limited (**Fidelity**) (each of Pyramis and Fidelity is a **Principal Adviser** and collectively they are **Principal Advisers**) to the Ontario Securities Commission (the **Commission**) for an order, pursuant to subsection 78(1) of the CFA, to revoke two orders of the Commission dated April 6, 2001 and June 19, 2001 (the **Initial Orders**) and revoke an amending order of the Commission dated April 6, 2004 made under section 78(1) of the CFA (the **Amending Order**)(the Initial Orders and the Amending Order are collectively referred to as the **Previous Orders**), in the matter of Pyramis, the Sub-Adviser and Fidelity;

AND WHEREAS the Previous Orders provide that neither the Sub-Adviser nor any of its directors, officers or employees (**Sub-Adviser Representatives**) acting on its behalf as an adviser, is subject to paragraph 22(1)(b) of the CFA in respect of their acting as an adviser to Fidelity in its capacity as the principal adviser in connection with Fidelity acting as an adviser to (a) certain mutual funds offered from time to time to the public in Canada, and (b) certain pooled funds offered from time to time to pension plans and other institutional investors (**Private Clients**) (each such mutual fund or pooled fund, a **Fund** and collectively, the **Funds**);

**AND WHEREAS** Fidelity is to be replaced by Pyramis as the principal adviser to certain of the Funds and Fidelity is to remain as principal adviser to the other Funds;

**AND WHEREAS** the Amending Order is scheduled to expire on April 6, 2007;

**AND WHEREAS** Pyramis, the Sub-Adviser and Fidelity seek to revoke the Previous Orders and replace them with this consolidated and restated order which incorporates the change in the principal adviser to the Funds, and sets a new expiry date;

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

**AND UPON** it having been represented to the Commission that:

1. Pyramis is a limited liability company organized under the laws of the State of Delaware and is resident in the United States of America. Pyramis is registered as an investment adviser with the United States Securities and Exchange Commission.
2. The Sub-Adviser is a corporation organized under the laws of the Commonwealth of Massachusetts in the United States and is resident in the U.S.
3. The Sub-Adviser is not registered under the CFA as either an adviser or dealer.
4. The Sub-Adviser is not required under applicable commodity futures legislation in the U.S. to be registered as a commodity trading adviser with the U.S. Commodity Futures Trading Commission, nor is the Sub-Adviser required to be a member of the National Futures Association, in order to provide the services to the Principal Adviser described in paragraph 8 below.
5. Fidelity was incorporated under the laws of Canada, thereafter continued under the laws of Ontario and subsequently amalgamated under the laws of Ontario. Fidelity is resident in Ontario.
6. Fidelity is registered with the Commission as a dealer in the category of mutual fund dealer and as an adviser in the categories of investment counsel and portfolio manager under the *Securities Act* (Ontario) (the **OSA**), and as an adviser in the category of commodity trading manager under the CFA.
7. Each Principal Adviser may, pursuant to a written agreement to be entered into between the Principal Adviser and a Fund or Private Client:
  - (a) act as an adviser (as defined in the OSA) to the Fund or Private Client, in respect of securities, and

- (b) act as an adviser to the Fund or Private Client, in respect of trading commodity futures contracts and commodity futures options,

by exercising discretionary authority in respect of the investment portfolio of the Fund, with discretionary authority to purchase or sell on behalf of the Fund:

- (i) securities, and
- (ii) commodity futures contracts and commodity futures options.

8. In connection with a Principal Adviser acting as an adviser to a Fund or Private Client, in respect of the purchase or sale of commodity futures contracts and commodity futures options, that Principal Adviser may, from time to time, pursuant to a written agreement made between the Principal Adviser and the Sub-Adviser, retain the Sub-Adviser to act as an adviser to it, by exercising discretionary authority on behalf of the Principal Adviser, in respect of the investment portfolio of the Fund, with discretionary authority to buy or sell commodity futures options and commodity futures contracts for the Fund, provided that:

- (a) in each case, the option or contract must be cleared through an acceptable clearing corporation; and
- (b) in no case will any trading in commodity futures options or commodity futures contracts constitute the primary focus or investment objective of the Fund.

9. There is presently no rule under the CFA that provides an exemption from the adviser registration requirement in paragraph 22(1)(b) of the CFA, for a person or company acting as an adviser to another registered adviser in respect of commodity futures options and commodity futures contracts that is similar to the exemption from the adviser registration requirement in clause 25(1)(b) of the OSA for acting as an adviser (as defined in the OSA) in respect of securities, in section 7.3 of Commission Rule 35-502 - *Non-Resident Advisers*.

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

**IT IS ORDERED**, pursuant to section 80 of the CFA, that the Previous Orders are revoked;

**IT IS FURTHER ORDERED**, pursuant to section 80 of the CFA, that neither the Sub-Adviser, nor any Sub-Adviser Representative acting on behalf of the Sub-Adviser, is subject to paragraph 22(1)(b) of the CFA, in respect of their acting as an adviser to a Principal Adviser,

## Decisions, Orders and Rulings

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in connection with that Principal Adviser acting as an adviser to one or more Funds or Private Clients, provided that, at the relevant time and in the case of each Fund:

“Wendell S. Wigle”  
Commissioner

“Paul K. Bates”  
Commissioner

- (a) the relevant Principal Adviser is registered under the CFA as an adviser in the category of commodity trading manager;
- (b) the duties and obligations of the Sub-Adviser are set out in a written agreement with the relevant Principal Adviser;
- (c) the relevant Principal Adviser has contractually agreed with the Fund to be responsible for any loss that arises out of any failure of the Sub-Adviser:
  - (i) to exercise the powers and discharge the duties of its office honestly, in good faith and in the best interests of the Fund and its securityholders, or
  - (ii) to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances;
- (d) the relevant Principal Adviser cannot be relieved by the Fund or its securityholders (including Private Clients) from its responsibility for any loss referred to in paragraph (c), above;
- (e) the securityholders of the Fund (including Private Clients) have received written disclosure, in a prospectus or other offering document to the extent applicable, disclosing:
  - (i) the responsibility of the relevant Principal Adviser for losses arising out of any failure of the Sub-Adviser referred to in paragraph (c), above, and
  - (ii) that there may be difficulty in enforcing legal rights against the Sub-Adviser because it is resident outside Canada and all or substantially all of the Sub-Adviser’s assets may be situated outside of Canada; and
- (f) his Order shall terminate on the day that is three years after the date of the Order.

Dated at Toronto, Ontario, this 30th day of December, 2005.

2.2.4 Martin Tremblay - Direction - s. 126(5)

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

AND

IN THE MATTER OF  
MARTIN TREMBLAY

DIRECTION  
(Section 126(5))

TO: RBC Investments  
Royal Trust Tower, 9th Floor  
77 King Street West  
Toronto, Ontario  
M5W 1P9

**TAKE NOTICE** that, pursuant to subsection 126(5) of the *Securities Act* (the "Act"), you are hereby directed to retain all funds, securities or property which you may have on deposit in the following accounts: Adrenaline Gestion, Dominion Investments, Investech Group, Irish Rover Inc., Pelleas Investments, Roseland Inc. and Total Investment Corp., or any other account in the name of or otherwise under the control of Martin Tremblay and to hold same until the Ontario Securities Commission in writing revokes this Direction or consents to a release to a particular fund, security or property subject to this Direction, or until the Ontario Superior Court of Justice orders otherwise.

**AND TAKE FURTHER NOTICE** that this Direction applies to any and all funds, securities or property in a recognized clearing agency, and to any and all securities in the process of transfer by a transfer agent.

**AND TAKE FURTHER NOTICE** that this Direction may be served by fax or courier to the last known address of the parties named herein as indicated in the records of RBC Investments.

**DATED** at Toronto this 1st day of February, 2006.

"Susan Wolburgh Jenah"

2.2.5 Fidelity Management Trust Company - s. 80

Headnote

Section 80 of the Commodity Futures Act (Ontario) -- relief from the adviser registration requirements of subsection 22(1)(b) of the CFA granted to a sub-adviser not ordinarily resident in Ontario in respect of advising certain mutual funds, non-redeemable investment funds and similar investment vehicles, subject to certain terms and conditions.

Statutes Cited

Commodity Futures Act, R.S.O. 1990, c. C.20, as am., ss. 22(1)(b), 80.  
Securities Act, R.S.O. 1990, c. S.5, as am. - Rule 35-502 - Non Resident Advisers.

IN THE MATTER OF  
COMMODITY FUTURES ACT,  
R.S.O. 1990 c. 20 (the CFA)

AND

IN THE MATTER OF  
FIDELITY MANAGEMENT TRUST COMPANY

ORDER  
(Subsection 80)

**UPON** the application of Fidelity Management Trust Company, Inc. (the **Sub-Adviser**) to the Ontario Securities Commission (the **Commission**) for an order pursuant to section 80 of the CFA that, with respect to the Sub-Adviser acting as an adviser to Pyramis Global Advisors, LLC (**Pyramis**) or to Fidelity Investments Canada Limited (**Fidelity**) (each of Pyramis and Fidelity is a **Principal Adviser** and collectively they are the **Principal Advisers**) in connection with the Principal Advisers acting as an adviser to certain Funds (as defined below), neither the Sub-Adviser, nor any of its directors, officers and employees (**Sub-Adviser Representatives**) acting on its behalf as an adviser, shall be subject to the requirement of paragraph 22(1)(b) of the CFA;

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

**AND UPON** the Sub-Adviser having represented to the Commission that:

1. The Sub-Adviser is a trust company chartered under the laws of the Commonwealth of Massachusetts and is resident in the United States.
2. The Sub-Adviser is currently not registered under the CFA as either an adviser or dealer and is not required under U.S. law to be registered with the U.S. Commodity Futures Trading Commission as a commodity trading adviser nor is the Sub-Adviser required to be a member of the National

- Futures Association in order to provide the Advisory Services described in paragraph 7 below.
3. Pyramis is a limited liability company organized under the laws of the State of Delaware and is resident in the U.S. Pyramis is registered as an investment adviser with the U.S. Securities and Exchange Commission.
  4. Pyramis has filed an application (**Registration Application**) with the Commission for registration in Ontario as a non-Canadian adviser and commodity trading manager. Subject to approval of such registrations, Pyramis will be appointed as a Principal Adviser in connection with: (a) certain retail mutual funds offered from time to time to the public in Canada, and (b) certain pooled funds offered from time to time to pension plans and other institutional clients in Canada (**Private Clients**) (the retail mutual funds and pooled funds are herein collectively referred to as the Funds).
  5. Fidelity was incorporated under the laws of Canada, thereafter continued under the laws of Ontario and subsequently amalgamated under the laws of Ontario. Fidelity is resident in Ontario.
  6. Fidelity is registered under the *Securities Act* (Ontario) (OSA) as a dealer in the category of mutual fund dealer and as an adviser in the categories of investment counsel and portfolio manager, and under the CFA as an adviser in the category of commodity trading manager.
  7. The Sub-Adviser will, subject to certain conditions, act as sub-adviser to one or both of the Principal Advisers to provide investment advice and investment management to certain of the Funds, including providing ancillary activities in respect of the purchase and sale of commodity futures contracts or related products traded on commodity futures exchanges and cleared through acceptable clearing corporations (the **Proposed Advisory Services**).
  8. Each Principal Adviser may, pursuant to a written agreement to be entered into between the Principal Adviser and a Fund or Private Client:
    - (a) act as an adviser (as defined in the OSA) to the Fund or Private Client, in respect of securities, and
    - (b) act as an adviser to the Fund or Private Client, in respect of trading commodity futures contracts and commodity futures options,by exercising discretionary authority in respect of the investment portfolio of the Fund, with discretionary authority to purchase or sell on behalf of the Fund:
    - (i) securities, and
    - (ii) commodity futures contracts and commodity futures options.
9. In connection with a Principal Adviser acting as an adviser to a Fund or Private Client in respect of the purchase or sale of commodity futures contracts and commodity futures options, that Principal Adviser may, from time to time, pursuant to a written agreement made between the Principal Adviser and the Sub-Adviser, retain the Sub-Adviser to act as an adviser to it, by exercising discretionary authority on behalf of that Principal Adviser, in respect of the investment portfolio of the Fund, with discretionary authority to buy or sell commodity futures options and commodity futures contracts for the Fund, provided that:
    - (a) in each case, the option or contract must be cleared through an acceptable clearing corporation; and
    - (b) in no case will any trading in commodity futures options or commodity futures contracts constitute the primary focus or investment objective of the Fund.
  10. There is presently no rule under the CFA that provides an exemption from the adviser registration requirement in paragraph 22(1)(b) of the CFA, for a person or company acting as an adviser to another registered adviser in respect of commodity futures options and commodity futures contracts that is similar to the exemption from the adviser registration requirement in clause 25(1)(b) of the OSA for acting as an adviser (as defined in the OSA) in respect of securities, in section 7.3 of Commission Rule 35-502 - Non-Resident Advisers.

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

**IT IS ORDERED**, pursuant to section 80 of the CFA, that neither the Sub-Adviser, nor any Sub-Adviser Representative acting on behalf of the Sub-Adviser, is subject to paragraph 22(1)(b) of the CFA, in respect of their acting as an adviser to a Principal Adviser, in connection with that Principal Adviser acting as an adviser to one or more Funds or Private Clients, provided that, at the relevant time and in the case of each Fund:
    - (a) the relevant Principal Adviser is registered under the CFA as an adviser in the category of commodity trading manager;
    - (b) the duties and obligations of the Sub-Adviser are set out in a written agreement with the relevant Principal Adviser;



- (c) the relevant Principal Adviser has contractually agreed with the Fund to be responsible for any loss that arises out of any failure of the Sub-Adviser:
  - (i) to exercise the powers and discharge the duties of its office honestly, in good faith and in the best interests of the Fund and its securityholders, or
  - (ii) to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances;
- (d) the relevant Principal Adviser cannot be relieved by the Fund or its securityholders (including Private Clients) from its responsibility for any loss referred to in paragraph (c), above;
- (e) the securityholders of the Fund (including Private Clients) have received written disclosure, in a prospectus or other offering document to the extent applicable, disclosing:
  - (i) the responsibility of the relevant Principal Adviser for losses arising out of any failure of the Sub-Adviser referred to in paragraph (c), above, and
  - (ii) that there may be difficulty in enforcing legal rights against the Sub-Adviser because it is resident outside Canada and all or substantially all of the Sub-Adviser's assets may be situated outside of Canada; and
- (f) this Order shall terminate on the day that is three years after the date of the Order.

Dated at Toronto, Ontario, this 30th day of December, 2005.

"Wendell S. Wigle"  
Commissioner

"Paul K. Bates"  
Commissioner

**2.2.6 Martin Tremblay - Direction - s. 126(5)**

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

**AND**

**IN THE MATTER OF  
MARTIN TREMBLAY**

**DIRECTION  
(Section 126(5))**

TO: TD Waterhouse  
77 Bloor Street West  
2nd Floor  
Toronto, ON  
M5S 1M2

**TAKE NOTICE** that, pursuant to subsection 126(5) of the *Securities Act* (the "Act"), you are hereby directed to retain all funds, securities or property which you may have on deposit in the following accounts: Stonehedge Enterprises Limited and Seaview Corporate Services Inc. or any other account in the name of or otherwise under the control of Martin Tremblay and to hold same until the Ontario Securities Commission in writing revokes this Direction or consents to a release to a particular fund, security or property subject to this Direction, or until the Ontario Superior Court of Justice orders otherwise.

**AND TAKE FURTHER NOTICE** that this Direction applies to any and all funds, securities or property in a recognized clearing agency, and to any and all securities in the process of transfer by a transfer agent.

**AND TAKE FURTHER NOTICE** that this Direction may be served by fax or courier to the last known address of the parties named herein as indicated in the records of TD Waterhouse.

**DATED** at Toronto this 2nd day of February, 2006.

"Susan Wolburgh Jenah"

2.2.7 James Patrick Boyle, Lawrence Melnick and John Michael Malone - ss. 127, 127.1

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

**AND**

**IN THE MATTER OF  
JAMES PATRICK BOYLE, LAWRENCE MELNICK  
AND JOHN MICHAEL MALONE**

**ORDER**

**WHEREAS** on August 5, 2005, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing and Statement of Allegations pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act");

**AND WHEREAS** the hearing of this matter was scheduled to be heard on September 15, 2005;

**AND WHEREAS** by order of the Commission on September 15, 2005, this matter was adjourned to October 27, 2005;

**AND WHEREAS** counsel for Staff and the respondents appeared on October 27, 2005 whereupon a motion was set down for January 25, 2006;

**AND WHEREAS** on December 21, 2005, the Commission ordered, *inter alia*, that the motion to be brought by the respondent James Patrick Boyle ("Boyle"), and by one or both of the other respondents should they so advise, in respect of section 129.1 of the Act would be heard on Friday, February 3, 2006, and that the parties to the motion would agree to a schedule for the exchange of materials, failing which a schedule for the exchange of materials would be set by the Office of the Secretary;

**AND WHEREAS** on February 2, 2006, the Secretary heard submissions by counsel for Staff of the Commission and counsel for the moving parties Boyle and Lawrence Melnick at which counsel agreed to a schedule for the exchange of materials, subject to confirmation with the Secretary on Tuesday, February 7, 2006;

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

**IT IS HEREBY ORDERED THAT:**

The motion in respect of section 129.1 of the Act will be adjourned to Thursday, February 23 and Friday, February 24, 2006.

**DATED** at Toronto this 3<sup>rd</sup> day of February, 2006.

"Paul M. Moore"

2.2.8 Pyramis Global Advisors Trust Company - s. 80

**Headnote**

Section 80 of the Commodity Futures Act (Ontario) -- relief from the adviser registration requirements of subsection 22(1)(b) of the CFA granted to a sub-adviser not ordinarily resident in Ontario in respect of advising certain mutual funds, non-redeemable investment funds and similar investment vehicles, subject to certain terms and conditions.

**Statutes Cited**

Commodity Futures Act, R.S.O. 1990, c. C.20, as am., ss. 22(1)(b), 80.  
Securities Act, R.S.O. 1990, c. S.5, as am. -- Rule 35-502 - Non Resident Advisers.

**IN THE MATTER OF  
THE COMMODITY FUTURES ACT,  
R.S.O. 1990 c. C.20 (the CFA)**

**AND**

**IN THE MATTER OF  
PYRAMIS GLOBAL ADVISORS TRUST COMPANY**

**ORDER  
(Subsection 80)**

**UPON** the application of Pyramis Global Advisors Trust Company, Inc. (the **Sub-Adviser**) to the Ontario Securities Commission (the **Commission**) for an order pursuant to section 80 of the CFA that, with respect to the Sub-Adviser acting as an adviser to Pyramis Global Advisors, LLC (**Pyramis**) or to Fidelity Investments Canada Limited (**Fidelity**) (each of Pyramis and Fidelity is a **Principal Adviser** and collectively they are the **Principal Advisers**) in connection with the Principal Advisers acting as an adviser to certain Funds (as defined below), neither the Sub-Adviser, nor any of its directors, officers and employees (**Sub-Adviser Representatives**) acting on its behalf as an adviser, shall be subject to the requirement of paragraph 22(1)(b) of the CFA;

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

**AND UPON** the Sub-Adviser having represented to the Commission that:

1. The Sub-Adviser is a limited purpose trust company chartered under the laws of the State of New Hampshire and is resident in the United States.
2. The Sub-Adviser is currently not registered under the CFA as either an adviser or dealer and is not required under U.S. law to be registered with the U.S. Commodity Futures Trading Commission as a commodity trading adviser nor is the Sub-

Adviser required to be a member of the National Futures Association in order to provide the Advisory Services described in paragraph 7 below.

3. Pyramis is a limited liability company organized under the laws of the State of Delaware and is resident in the U.S. Pyramis is registered as an investment adviser with the U.S. Securities and Exchange Commission.

4. Pyramis has filed an application (**Registration Application**) with the Commission for registration in Ontario as a non-Canadian adviser and commodity trading manager. Subject to approval of such registrations, Pyramis will be appointed as a Principal Adviser in connection with: (a) certain retail mutual funds offered from time to time to the public in Canada, and (b) certain pooled funds offered from time to time to pension plans and other institutional clients in Canada (**Private Clients**) (the retail mutual funds and pooled funds are herein collectively referred to as the Funds).

5. Fidelity was incorporated under the laws of Canada, thereafter continued under the laws of Ontario and subsequently amalgamated under the laws of Ontario. Fidelity is resident in Ontario.

6. Fidelity is registered under the *Securities Act* (Ontario) (OSA) as a dealer in the category of mutual fund dealer and as an adviser in the categories of investment counsel and portfolio manager, and under the CFA as an adviser in the category of commodity trading manager.

7. The Sub-Adviser will, subject to certain conditions, act as sub-adviser to one or both of the Principal Advisers to provide investment advice and investment management to certain of the Funds, including providing ancillary activities in respect of the purchase and sale of commodity futures contracts or related products traded on commodity futures exchanges and cleared through acceptable clearing corporations (the **Proposed Advisory Services**).

8. Each Principal Adviser may, pursuant to a written agreement to be entered into between the Principal Adviser and a Fund or Private Client:

- (a) act as an adviser (as defined in the OSA) to the Fund or Private Client, in respect of securities, and
- (b) act as an adviser to the Fund or Private Client, in respect of trading commodity futures contracts and commodity futures options,

by exercising discretionary authority in respect of the investment portfolio of the Fund, with

discretionary authority to purchase or sell on behalf of the Fund:

- (i) securities, and
- (ii) commodity futures contracts and commodity futures options.

9. In connection with a Principal Adviser acting as an adviser to a Fund or Private Client in respect of the purchase or sale of commodity futures contracts and commodity futures options, that Principal Adviser may, from time to time, pursuant to a written agreement made between the Principal Adviser and the Sub-Adviser, retain the Sub-Adviser to act as an adviser to it, by exercising discretionary authority on behalf of that Principal Adviser, in respect of the investment portfolio of the Fund, with discretionary authority to buy or sell commodity futures options and commodity futures contracts for the Fund, provided that:

- (a) in each case, the option or contract must be cleared through an acceptable clearing corporation; and
- (b) in no case will any trading in commodity futures options or commodity futures contracts constitute the primary focus or investment objective of the Fund.

10. There is presently no rule under the CFA that provides an exemption from the adviser registration requirement in paragraph 22(1)(b) of the CFA, for a person or company acting as an adviser to another registered adviser in respect of commodity futures options and commodity futures contracts that is similar to the exemption from the adviser registration requirement in clause 25(1)(b) of the OSA for acting as an adviser (as defined in the OSA) in respect of securities, in section 7.3 of Commission Rule 35-502 - *Non-Resident Advisers*.

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

**IT IS ORDERED**, pursuant to section 80 of the CFA, that neither the Sub-Adviser, nor any Sub-Adviser Representative acting on behalf of the Sub-Adviser, is subject to paragraph 22(1)(b) of the CFA, in respect of their acting as an adviser to a Principal Adviser, in connection with that Principal Adviser acting as an adviser to one or more Funds or Private Clients, provided that, at the relevant time and in the case of each Fund:

- (a) the relevant Principal Adviser is registered under the CFA as an adviser in the category of commodity trading manager;

- (b) the duties and obligations of the Sub-Adviser are set out in a written agreement with the relevant Principal Adviser;
- (c) the relevant Principal Adviser has contractually agreed with the Fund to be responsible for any loss that arises out of any failure of the Sub-Adviser:
  - (i) to exercise the powers and discharge the duties of its office honestly, in good faith and in the best interests of the Fund and its securityholders, or
  - (ii) to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances;
- (d) the relevant Principal Adviser cannot be relieved by the Fund or its securityholders (including Private Clients) from its responsibility for any loss referred to in paragraph (c), above;
- (e) the securityholders of the Fund (including Private Clients) have received written disclosure, in a prospectus or other offering document to the extent applicable, disclosing:
  - (i) the responsibility of the relevant Principal Adviser for losses arising out of any failure of the Sub-Adviser referred in paragraph (c), above, and
  - (ii) that there may be difficulty in enforcing legal rights against the Sub-Adviser because it is resident outside Canada and all or substantially all of the Sub-Adviser's assets may be situated outside of Canada; and
- (f) this Order shall terminate on the day that is three years after the date of the Order.

Dated at Toronto, Ontario, this 30th day of December, 2005.

"Wendell S. Wigle"  
Commissioner

"Paul K. Bates"  
Commissioner

## 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
Greenshield Resources Ltd.	06 Feb 06	17 Feb 06		

### 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
Allen-Vanguard Corporation	04 Jan 06	17 Jan 06	17 Jan 06	01 Feb 06	
South American Gold and Copper Company Limited	10 Jan 06	23 Jan 06	23 Jan 05	08 Feb 06	

### 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
Allen-Vanguard Corporation	04 Jan 06	17 Jan 06	17 Jan 06	01 Feb 06	
Argus Corporation Limited	25 May 04	03 Jun 04	03 Jun 04		
BFS Entertainment & Multimedia Limited	04 Jan 06	17 Jan 06	17 Jan 06		
Brainhunter Inc.	03 Jan 06	16 Jan 06	16 Jan 06		
Cervus Financial Group Inc.	30 Dec 05	12 Jan 06	12 Jan 06		
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		
Novelis Inc.	18 Nov 05	01 Dec 05	01 Dec 05		
South American Gold and Copper Company Limited	10 Jan 06	23 Jan 06	23 Jan 05	08 Feb 06	

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## Chapter 7

# Insider Reporting

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This chapter is available in the print version of the OSC Bulletin, as well as as in Carswell's internet service SecuritiesSource (see [www.carswell.com](http://www.carswell.com)).

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

To obtain Insider Reporting information, please visit the SEDI website ([www.sedi.ca](http://www.sedi.ca)).

## Chapter 8

# Notice of Exempt Financings

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### REPORTS OF TRADES SUBMITTED ON FORM 45-501F1

Transaction Date	# of Purchasers	Issuer/Security	Total Pur. Price (\$)	# of Securities Distributed
04/01/2005 to 09/01/2005	1	Absolute Return Trust - Trust Units	4,178,758.07	3,077.38
01/01/2005 to 12/31/2005	12	Acuity Pooled Canadian Balanced Fund - Trust Units	1,994,888.55	102,430.38
01/01/2005 to 12/31/2005	38	Acuity Pooled Canadian Equity Fund - Trust Units	2,899,473.82	118,981.69
01/01/2005 to 12/31/2005	94	Acuity Pooled Canadian Small Cap Fund - Trust Units	9,778,979.00	38,668.85
01/01/2005 to 12/31/2005	160	Acuity Pooled Conservative Asset Allocation - Trust Units	21,050,877.71	1,198,368.68
01/01/2005 to 12/31/2005	259	Acuity Pooled Fixed Income Fund - Trust Units	51,015,228.88	3,371,597.52
01/01/2005 to 12/31/2005	1	Acuity Pooled Global Equity Fund - Trust Units	23,242.00	1,422.90
01/01/2005 to 12/31/2005	120	Acuity Pooled Growth and Income Fund - Trust Units	12,805,591.33	994,747.83
01/01/2005 to 12/31/2005	1471	Acuity Pooled High Income Fund - Trust Units	173,371,482.31	8,289,634.73
01/01/2005 to 12/31/2005	259	Acuity Pooled Income Trust Fund - Trust Units	24,338,693.76	1,208,092.09
01/01/2005 to 12/31/2005	14	Acuity Pooled Pure Canadian Equity Fund - Trust Units	803,697.84	39,766.50
01/01/2005 to 12/31/2005	23	Acuity Pooled Short Term Fund - Trust Units	3,823,122.24	472,499.32
01/01/2005 to 12/31/2005	16	Acuity Pooled Social Values Canadian Equity Fund - Trust Units	4,571,573.48	297,993.72
05/01/2005	2	AGII Bond Fund - Units	368,990.53	36,426.00
10/01/2005 to 11/01/2005	35	AGII Performance Fund - Units	2,682,528.65	382,794.58
01/24/2006	27	Alto Ventures Ltd. - Units	7,540,000.00	75,400,000.00
01/18/2006	3	AMADOR GOLD CORP. - Flow-Through Units	65,000.00	650,000.00
01/24/2006	2	Auramex Resource Corp. - Units	10,000.00	100,000.00



**Notice of Exempt Financings**

<b>Transaction Date</b>	<b># of Purchasers</b>	<b>Issuer/Security</b>	<b>Total Pur. Price (\$)</b>	<b># of Securities Distributed</b>
01/23/2006	1	Braintech, Inc. - Units	580,520.00	1,008,548.00
01/04/2006 to 09/01/2006	5	Bridgewater Pure Alpha Funds, Ltd. - Common Shares	146,302,362.70	76,483.00
01/04/2005 to 09/01/2005	5	Bridgewater Pure Alpha Funds, Ltd. - Units	146,302,362.70	76,483.59
01/31/2006	1	Burlington Partners I LP. - L.P. Units	200,000.00	200.00
01/31/2005 to 10/31/2005	4	Canso Catalina Fund - Units	154,453.49	28,675.66
11/24/2005	2	Canso Core Plus Fund - Units	12,500.00	2,500.00
01/31/2005	1	Canso Corporate Bond Fund - Units	4,718.50	915.85
01/31/2005 to 12/31/2005	12	Canso Corporate Securities Fund - Units	2,170,710.14	270,141.08
06/30/2005 to 12/30/2005	3	Canso Corporate Value Fund - Units	138,031.02	21,934.70
06/30/2005 to 12/20/2005	3	Canso Dividend and Income Fund - Units	113,672.37	22,719.99
01/31/2005 to 03/31/2005	7	Canso Fund - Units	1,529,401.64	261,256.33
06/30/2005	5	Canso Harrier Fund - Units	679,629.64	135,925.93
02/28/2005 to 06/30/2005	6	Canso Hurricane Fund - Units	35,750.00	7,008.96
01/31/2005 to 07/29/2005	4	Canso Income Fund - Units	620,741.05	121,152.00
04/29/2005 to 12/20/2005	4	Canso Inflation-Linked Fund - Units	332,647.87	56,949.36
02/28/2005 to 12/20/2005	3	Canso North Star Fund - Units	196,054.87	30,788.43
06/30/2005	5	Canso Preservation Fund - Units	524,546.04	82,535.65
11/24/2005	2	Canso Private Debt Fund - Units	12,500.00	2,500.00
01/31/2005 to 07/29/2005	1	Canso Reconnaissance Fund - Units	120,000.00	24,038.63
02/28/2005 to 08/12/2005	4	Canso Retirement and Savings Fund - Units	203,273.26	37,799.62
01/24/2006	18	CareVest Blended Mortgage Investment Corporation - Preferred Shares	323,268.00	323,268.00
01/24/2006	23	CareVest First Mortgage Investment Corporation - Preferred Shares	619,897.00	619,897.00

**Notice of Exempt Financings**

<b>Transaction Date</b>	<b># of Purchasers</b>	<b>Issuer/Security</b>	<b>Total Pur. Price (\$)</b>	<b># of Securities Distributed</b>
01/24/2006	9	CareVest Second Mortgage Investment Corporation - Preferred Shares	155,168.00	155,168.00
02/01/2006	22	Christopher James Gold Corp. - Units	1,590,000.00	5,300,000.00
01/18/2006	105	Dejour Enterprises Ltd. - Units	6,216,394.85	N/A
01/31/2005 to 12/31/2005	68	Delaney Capital Equity Fund - Units	3,782,334.00	26,307.58
12/09/2005	3	DGAM Canadian Equity Fund L.P. - L.P. Units	51,000,000.00	510,000.00
01/01/2005 to 12/31/2005	2	DIM Private Alternative Strategies Fund - Trust Units	9,543,615.00	950,635.00
01/01/2005 to 12/31/2005	2	DIM Private Balanced Fund - Trust Units	4,207,245.00	412,150.00
01/01/2005 to 12/31/2005	2	DIM Private Bond Fund - Trust Units	48,430,209.00	4,712,290.00
01/01/2005 to 12/31/2005	2	DIM Private Canadian Large Cap Equity Fund - Trust Units	31,568,304.00	2,951,014.00
01/01/2005 to 12/31/2005	2	DIM Private Canadian Small Cap Equity Fund - Trust Units	4,516,726.00	398,034.00
01/01/2005 to 12/31/2005	2	DIM Private Corporate Bond Fund - Trust Units	82,730,754.00	8,202,244.00
01/01/2005 to 12/31/2005	2	DIM Private EAFE Equity Fund - Trust Units	22,113,037.00	1,873,885.00
01/01/2005 to 12/31/2005	2	DIM Private Government Bond Fund - Trust Units	82,002,503.00	8,198,682.00
01/01/2005 to 12/31/2005	2	DIM Private U.S. Equity Fund - Trust Units	30,446,368.00	4,857,553.00
01/01/2005 to 12/31/2005	2	DIM Private U.S. Equity Fund - Trust Units	11,782,295.00	1,685,851.00
04/26/2005 to 11/22/2005	2	Dynex Capital Limited Partnership - Units	400,000.00	400.00
01/19/2006	3	EchoStar DBS Corporation - Notes	15,653,029.68	13,500.00
01/07/2005 to 12/30/2005	154	Facet Funds Canada - Units	208,750.27	21,076.00
11/10/2005 to 12/19/2005	17	Faircourt Pooled Monthly High Income Fund - Units	770,000.00	77,010.00
12/31/2005	13	Flatiron Trust - Trust Units	1,035,000.00	718.54
01/23/2006 to 01/27/2006	16	General Motors Acceptance Corporation of Canada, Limited - Notes	5,336,105.90	53,361.05
04/01/2005	1	Global Opportunities Portfolio - Units	1,000,000.00	10,000.00

**Notice of Exempt Financings**

<b>Transaction Date</b>	<b># of Purchasers</b>	<b>Issuer/Security</b>	<b>Total Pur. Price (\$)</b>	<b># of Securities Distributed</b>
01/18/2006	1	GMO Developed World Equity Investment Fund PLC - Units	92,466.94	3,088.77
01/01/2005 to 12/31/2005	3	Gryphon International Investment Corporation - Units	19,418,433.05	1,546,555.35
01/17/2006	1	Habanero Resources Inc. - Flow-Through Shares	167,441.75	478,405.00
01/01/2005 to 12/31/2005	4	Heathbridge U.S. Pooled Fund - Units	1,206,000.00	110,923.65
01/23/2006 to 01/30/2006	10	IMAGIN Diagnostic Centres, Inc. - Preferred Shares	111,000.00	55,500.00
01/04/2005 to 07/04/2005	3	International Focus Portfolio - Units	305,000.00	3,050.00
02/04/2005 to 12/22/2005	2	International Finance Participation Trust (2004) - Units	62,998,408.57	N/A
01/11/2006	1	International Health Partners Inc. - Debentures	100,000.00	1,680,672.26
01/25/2006 to 01/27/2006	2	IsoRay Inc. - Units	140,694.00	6.00
01/28/2005 to 06/29/2005	34	JC Clark Commonwealth Loyalist Trust - Units	2,193,900.92	18,075.28
01/28/2005 to 12/29/2005	61	JC Clark Commonwealth Patriot Trust - Units	4,832,602.90	37,310.37
06/01/2005 to 12/29/2005	13	JC Clark Focused Opportunities Fund - Units	513,022.80	5,102.53
01/28/2005 to 10/28/2005	56	JC Clark Loyalist Preservation Trust - Units	4,703,013.53	45,037.66
02/05/2005 to 12/29/2005	22	JC Clark Preservation Trust - Units	2,392,364.54	35,215.34
01/13/2006	4	Journey Resources Corp. - Units	760,999.80	2,356,666.00
01/21/2005 to 12/30/2005	109	Letko Brosseau Balanced Fund - Units	36,151,331.18	3,498,167.32
05/21/2006 to 12/30/2005	16	Letko Brosseau Bond Fund - Units	7,620,417.97	761,253.64
09/23/2005 to 12/30/2005	2	Letko Brosseau Equity Fund - Global Investors - Units	1,181,607.92	117,548.71
01/21/2005 to 12/16/2005	70	Letko Brosseau Equity Fund - Units	20,573,231.08	1,947,265.01
01/21/2005 to 12/16/2005	31	Letko Brosseau International Equity Fund - Units	8,334,733.94	815,874.37
06/03/2005 to 12/30/2005	70	Letko Brosseau RSP Balanced Fund - Units	63,953,914.67	6,420,306.47

**Notice of Exempt Financings**

<b>Transaction Date</b>	<b># of Purchasers</b>	<b>Issuer/Security</b>	<b>Total Pur. Price (\$)</b>	<b># of Securities Distributed</b>
06/23/2005 to 12/30/2005	5	Letko Brosseau RSP Bond Fund - Units	6,052,598.17	605,560.36
06/23/2005 to 12/30/2005	34	Letko Brosseau RSP Equity Fund - Units	3,256,537.92	322,257.20
05/06/2005 to 12/30/2005	31	Letko Brosseau RSP International Equity Fund - Units	46,950,300.34	4,695,347.34
11/01/2005	1	LionHart Asia Fund Limited - Common Shares	23,325,000.00	11,473.00
01/01/2005 to 12/01/2005	11	Marret High Yield Hedge Limited Partnership - L.P. Units	6,905,000.00	N/A
01/01/2006	1	Member Partners' Consolidated Properties Limited Partnership - L.P. Units	230,000.00	230,000.00
01/18/0200	1	Mistral Pharma Inc. - Common Shares	500,000.00	10,000,000.00
01/24/2006	15	Moneta Porcupine Mines Inc. - Common Shares	660,000.00	6,600,000.00
01/12/2006	100	Monterey Exploration Ltd. - Common Shares	4,785,878.25	1,126,089.00
12/30/2005	130	Monterey Exploration Ltd. - Common Shares	26,428,625.00	6,218,500.00
12/30/2005	23	Monterey Exploration Ltd. - Common Shares	1,568,875.00	413,912.00
12/30/2005	29	Monterey Exploration Ltd. - Debentures	3,356,527.00	33,565.00
01/21/2005 to 12/16/2005	16	Mountainview Opportunistic Growth Fund L.P. - Units	1,298,900.00	40,428.00
01/24/2006	3	NeuroMedix Inc. - Common Shares	20,000.00	80,000.00
01/25/2006	68	New Island Resources Inc. - Units	885,500.00	8,050,000.00
10/18/2005 to 12/01/2005	3	Northern Rivers Conservative Growth Fund L.P. - L.P. Units	3,050,000.00	3,050.00
10/18/2005 to 12/01/2005	2	Northern Rivers Global Energy Fund L.P. - L.P. Units	3,025,000.00	3,025.00
01/01/2005 to 12/01/2005	14	Northern Rivers Innovation Fund L.P - L.P. Units	2,865,000.00	1,140.07
01/26/2006	4	ONCAP II L.P. - Limited Partnership Interest	20,000,000.00	N/A
01/01/2005 to 12/31/2005	6	Orchard Managed Risk L.P. - Units	5,350,000.00	535,000.00
01/01/2005 to 12/31/2005	15	Orchard Relative Value Fund L.P. - Units	5,614,835.00	56,148.00
01/01/2005 to 12/01/2005	30	Parkwood LP Fund - L.P. Units	6,726,000.00	6,726.00
01/24/2006	28	Pediment Exploration Ltd. - Units	1,096,640.00	1,713,500.00

**Notice of Exempt Financings**

<b>Transaction Date</b>	<b># of Purchasers</b>	<b>Issuer/Security</b>	<b>Total Pur. Price (\$)</b>	<b># of Securities Distributed</b>
01/01/2005	27	Performance Market Hedge Fund - Units	4,168,974.32	4,168.00
01/01/2005 to 12/31/2005	1	Phillips, Hager & North Long Bond Pension Trust - Trust Units	199,659.00	17,981.00
09/12/2005 to 05/29/2006	1	PIMCO Canada Inflation Linked Bond Trust - Units	75,000,000.00	7,210,213.87
02/03/2006	175	Portal Resources Ltd. - Units	3,247,500.00	6,755,000.00
05/09/2005 to 06/16/2005	3	QSA Value Fund - Units	250,000.00	122,529.79
12/23/2005	97	Ranger Canyon Energy Inc. - Common Shares	3,839,800.00	4,124,500.00
01/01/2005 to 12/31/2005	50	RBC Canadian Money Market Fund - Units	1,177,937,288.66	118,593,728.87
01/01/2005 to 12/31/2005	92	RBC Canadian Money Market Pool - Units	649,395,199.71	6,493,952.00
01/01/2005 to 12/31/2005	8	RBC Canadian T-Bill I Series - Units	38,122,119.70	3,812,211.97
01/01/2005 to 12/31/2005	6	RBC US Money Market Fund - Units	158,746,049.00	19,526,450.00
01/01/2005 to 12/31/2005	729	RBC \$US ARC Fund - Units	5,559,240.05	46,154.49
01/16/2006	3	Regional Power Inc. - Common Shares	1,200,000.00	1,200,000.00
12/31/2004 to 08/31/2005	10	Rosseau Limited Partnership - L.P. Units	2,397,418.84	636.00
01/04/2005 to 12/05/2005	214	Salida Multi Strategy Hedge Fund - Units	9,955,455.56	783,990.17
01/27/2006 to 01/30/2006	36	Samba Gold Inc. - Units	422,400.00	850,000.00
01/06/2005 to 12/29/2005	9	SEAMARK Pooled Balanced Fund - Units	12,561,699.92	852,898.24
03/08/2005 to 10/12/2005	4	SEAMARK Pooled Canadian Equity Fund - Units	1,100,701.72	60,431.20
05/29/2005 to 12/12/2005	3	SEAMARK Pooled Foreign Equity Fund - Units	906,000.00	91,679.15
01/20/2005 to 12/16/2005	3	SEAMARK Pooled International Equity Fund - Units	6,738,120.58	367,271.00
03/22/2005 to 11/03/2005	5	SEAMARK Pooled Money Market Fund - Units	6,064,745.39	606,474.54
03/18/2005 to 08/31/2005	1	SEAMARK Pooled U.S. Equity Fund - Units	518,001.72	30,607.20

**Notice of Exempt Financings**

<b>Transaction Date</b>	<b># of Purchasers</b>	<b>Issuer/Security</b>	<b>Total Pur. Price (\$)</b>	<b># of Securities Distributed</b>
12/01/2004 to 10/01/2005	31	Selective Asset Management GP Inc. - Units	5,122,308.50	5,122.00
01/27/2006	1	SMART Trust - Notes	135,699.69	1.00
01/01/2005 to 12/31/2005	13	Stanton Diversified Strategies LP - Units	2,753,823.66	N/A
11/22/2005	13	Starfield Resources Inc. - Flow-Through Shares	2,498,500.00	5,552,222.00
12/31/2005	5	Starfield Resources Inc. - Flow-Through Shares	1,405,700.00	3,123,777.00
01/23/2006	7	Stinson Hospitality Inc. - Notes	640,000.00	640.00
05/02/2005 to 07/04/2005	2	Strategic Reserve Portfolio - Units	1,220,000.00	12,200.00
01/17/2006	1	The Goldman Sachs Group Inc. - Notes	1,167,895.35	1,000,000.00
04/01/2005	1	The Group I Balanced Fund - Units	100,000.00	11.00
04/01/2005 to 12/31/2005	436	The GS+A Equity Hedge Fund - Trust Units	81,744,217.24	N/A
05/13/2005 to 12/31/2005	397	The GS+A Fixed Income Fund - Trust Units	197,610,422.74	N/A
04/01/2005 to 12/31/2005	511	The GS+A Income Trust Hedge Fund - Trust Units	109,262,993.23	N/A
01/01/2005 to 11/01/2005	20	The K2 Principal Fund L.P. - L.P. Units	10,612,401.66	80,019.00
01/20/2006	2	Tri-Gold Resources Corp. - Common Shares	3,800.00	20,000.00
01/24/2006	47	U308 Corp. - Common Shares	800,000.00	4,000,000.00
01/01/2005 to 12/30/2005	3	Vector Balanced Fund - Units	1,228,919.00	94,791.07
01/05/2005 to 12/30/2005	13	Vector Canadian Bond Fund - Units	6,669,938.00	139,818.75
01/04/2005 to 12/30/2005	24	Vector Canadian Equity Fund - Units	30,408,846.59	N/A
01/07/2005 to 12/30/2005	7	Vector Canadian Small/Mid Cap Fund - Units	3,340,702.00	121,847.88
01/04/2006 to 12/30/2005	16	Vector High Yield Bond Fund - Units	4,525,416.00	402,365.15
05/09/2005 to 12/30/2005	15	Vector Income Trust Fund - Units	2,190,640.00	150,808.42
12/30/2005	1	Vector Index-Enhanced Bond Fund - Units	50,157.50	4,966.09
01/11/2005 to 12/30/2005	8	Vector International Equity Fund - Units	1,569,415.22	136,524.78

**Notice of Exempt Financings**

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<b>Transaction Date</b>	<b># of Purchasers</b>	<b>Issuer/Security</b>	<b>Total Pur. Price (\$)</b>	<b># of Securities Distributed</b>
01/05/2005 to 12/30/2005	1	Vector Long Term Bond Fund - Units	731,099.03	73,585.31
01/25/2005 to 12/30/2005	6	Vector Premium Growth Fund - Units	1,100,485.00	N/A
01/08/2005 to 12/30/2005	12	Vector U.S. Equity Fund - Units	1,294,435.28	N/A
05/26/2005 to 12/30/2005	22	Vega American Equity Fund - Units	81,347.89	9,261.30
01/20/2006 to 12/30/2005	20	Vega Canadian Bond Fund - Units	703,555.00	65,182.46
02/04/2005 to 12/30/2005	37	Vega Canadian Growth Equity Fund - Units	2,234,358.00	96,848.39
05/26/2005	3	Vega Enterprise Fund - Units	119,048.00	5,643.44
08/23/2005 to 12/30/2005	11	Vega Global Equity Fund - Units	486,276.00	51,965.47
08/05/2005 to 12/30/2005	13	Vega International Equity Fund - Units	10,481.00	1,558.65
01/23/2006	3	Vulcan Minerals Inc. - Units	99,750.00	285,000.00

## Chapter 11

# IPOs, New Issues and Secondary Financings

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**Issuer Name:**

Canada Cartage Diversified Income Fund  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Prospectus dated January 31, 2006  
Mutual Reliance Review System Receipt dated February 1, 2006

**Offering Price and Description:**

\$ \* - \* Units Price: \$10.00 per Unit

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

CIBC World Markets Inc.

**Promoter(s):**

Canada Cartage System Limited  
Direct Integrated Transportation Inc.

**Project #884911**

**Issuer Name:**

Catalyst Paper Corporation  
Principal Regulator - British Columbia

**Type and Date:**

Preliminary Short Form Prospectus dated February 3, 2006  
Mutual Reliance Review System Receipt dated February 3, 2006

**Offering Price and Description:**

\$192,259,623.00 - 63,035,942 Common Shares Price:  
\$3.05 per Common Share

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

UBS Securities Canada Inc.

**Promoter(s):**

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**Project #886161**

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**Issuer Name:**

Canadian Life Companies Split Corp.  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Prospectus dated February 1, 2006  
Mutual Reliance Review System Receipt dated February 2, 2006

**Offering Price and Description:**

\$ \* - \* Preferred Shares and \* Class A Shares Price \$ \* per  
Preferred Share and \$ \* per Class A Share

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

CIBC World Markets Inc.  
RBC Dominion Securities Inc.  
TD Securities Inc.

BMO Nesbitt Burns Inc.

National Bank Financial Inc.

Desjardins Securities Inc.

HSBC Securities (Canada) Inc.

Canaccord Capital Corporation

Dundee Securities Corporation

Raymond James Ltd.

Bieber Securities Inc.

Blackmont Capital Inc.

Laurentian Bank Securities Inc.

Wellington West Capital Inc.

**Promoter(s):**

Quadravest Capital Management Inc.

**Project #885707**

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**Issuer Name:**

Crombie Real Estate Investment Trust  
Principal Regulator - Nova Scotia

**Type and Date:**

Preliminary Prospectus dated February 2, 2006  
Mutual Reliance Review System Receipt dated February 3, 2006

**Offering Price and Description:**

\$ \* - \* Units

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

CIBC World Markets Inc.  
Scotia Capital Inc.

**Promoter(s):**

ECL Properties Limited

**Project #885950**

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**Issuer Name:**

Diversified Dividend Growth Split Inc.  
Principal Regulator - Ontario

**Type and Date:**

Amended and Restated Preliminary Prospectus dated  
January 31, 2006

Mutual Reliance Review System Receipt dated February 2,  
2006

**Offering Price and Description:**

\$ \* - \* Preferred Shares; \$ \* - \* Capital Shares Prices:  
\$25.00 per Preferred Share and \$ \* per Capital Share

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

TD Securities Inc.  
Scotia Capital Inc.  
CIBC World Markets Inc.  
BMO Nesbitt Burns Inc.  
National Bank Financial Inc.  
RBC Dominion Securities Inc.  
Canaccord Capital Corporation  
HSBC Securities (Canada) Inc.  
Desjardins Securities Inc.  
Dundee Securities Corporation  
Raymond James Ltd.  
Blackmont Capital Inc.  
Wellington West Capital Inc.

**Promoter(s):**

TD Securities Inc.

**Project #870111**

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**Issuer Name:**

Dragon Capital Corporation

**Type and Date:**

Preliminary CPC Prospectus dated February 3, 2006  
Received on February 6, 2006

**Offering Price and Description:**

Minimum Offering: \$500,000.00 or 2,000,000 Common  
Shares; Maximum Offering: \$1,500,000.00 or 6,000,000  
Common Shares Price: \$0.25 per Common Share

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

Fraser Mackenzie Limited

**Promoter(s):**

Oliver Xing

**Project #886188**

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**Issuer Name:**

ENBRIDGE GAS DISTRIBUTION INC.  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Short Form Shelf Prospectus dated February 6,  
2006

Mutual Reliance Review System Receipt dated February 7,  
2006

**Offering Price and Description:**

\$750,000,000.00 - MEDIUM TERM NOTES  
(UNSECURED)

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

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

**Promoter(s):**

-

**Project #886708**

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**Issuer Name:**

Eveready Income Fund  
Principal Regulator - Alberta

**Type and Date:**

Preliminary Short Form Prospectus dated February 3, 2006  
Mutual Reliance Review System Receipt dated February 3,  
2006

**Offering Price and Description:**

\$45,500,000.00 - 6,500,000 Units Price \$7.00 per Unit

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

Blackmont Capital Inc.  
BMO Nesbitt Burns Inc.  
Acumen Capital Finance Partners Limited  
Sprott Securities Inc.

**Promoter(s):**

-

**Project #886054**

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**Issuer Name:**

Faircourt Split Trust  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Prospectus dated January 31, 2006  
Mutual Reliance Review System Receipt dated February 2, 2006

**Offering Price and Description:**

Maximum \$ \* - \* Preferred Securities and \* Units Price:  
\$10 per Preferred Securities and \$15 Per Unit

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

BMO Nesbitt Burns Inc.  
CIBC World Markets Inc.  
RBC Dominion Securities Inc.  
Scotia Capital Inc.  
TD Securities Inc.  
National Bank Financial Inc.  
Blackmont Capital Inc.  
HSBC Securities (Canada) Inc.  
Richardson Partners Financial Ltd.  
Berkshire Securities Inc.  
Canaccord Capital Corporation  
Dundee Securities Corporation  
Raymond James Ltd.  
Wellington West Capital Inc.

**Promoter(s):**

Faircourt Asset Management Inc.

**Project #885290**

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**Issuer Name:**

GGOF Global Diversified Fund  
GGOF Small Cap Growth and Income Fund  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Simplified Prospectuses dated January 30, 2006  
Mutual Reliance Review System Receipt dated February 1, 2006

**Offering Price and Description:**

Mutual Fund Units and F Class Units

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

Guardian Group of Funds Ltd.  
Guardian Group of Funds Ltd.

**Promoter(s):**

Guardian Group of Funds Ltd.

**Project #885006**

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**Issuer Name:**

International Nickel Ventures Corporation  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Prospectus dated February 2, 2006  
Mutual Reliance Review System Receipt dated February 3, 2006

**Offering Price and Description:**

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

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

CIBC World Markets Inc.  
Dundee Securities Corporation  
GMP Securities L.P.

**Promoter(s):**

James Clucas

**Project #885838**

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**Issuer Name:**

KHAN RESOURCES INC.  
Principal Regulator - Ontario

**Type and Date:**

Amended and Restated Preliminary Prospectus dated February 1, 2006  
Mutual Reliance Review System Receipt dated February 6, 2006

**Offering Price and Description:**

\$ \* - \* Units Price: \$ \* per Unit

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

Haywood Securities Inc.  
Paradigm Capital Inc.

**Promoter(s):**

-

**Project #843645**

---

**Issuer Name:**

Temple Energy Inc.  
Principal Regulator - Alberta

**Type and Date:**

Preliminary Prospectus dated January 31, 2006  
Mutual Reliance Review System Receipt dated February 1, 2006

**Offering Price and Description:**

\$ \* - \* Common Shares and 4,356,000 Common Shares  
Issuable on the Exercise of Special Warrants

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

First Energy Capital Corp.

**Promoter(s):**

-

**Project #885056**

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**Issuer Name:**

UrAsia Energy Ltd.  
Principal Regulator - British Columbia

**Type and Date:**

Preliminary Short Form Prospectus dated February 6, 2006  
Mutual Reliance Review System Receipt dated February 6, 2006

**Offering Price and Description:**

\$100,023,750.00 - 39,225,000 Common Shares Price:  
\$2.55 per Common Share

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

Canaccord Capital Corporation  
BMO Nesbitt Burns Inc.  
GMP Securities Limited

**Promoter(s):**

-

**Project #886725**

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**Issuer Name:**

Viceroy Exploration Ltd.  
Principal Regulator - British Columbia

**Type and Date:**

Preliminary Short Form Prospectus dated February 3, 2006  
Mutual Reliance Review System Receipt dated February 3, 2006

**Offering Price and Description:**

\$60,000,000.00 - 9,600,000 Common Shares Price: \$6.25  
per Common Share

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

Canaccord Capital Corporation  
Orion Securities Inc.  
Paradigm Capital Inc.  
National Bank Financial Inc.  
Haywood Securities Inc.

**Promoter(s):**

-

**Project #886217**

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**Issuer Name:**

Wellco Energy Services Trust  
Principal Regulator - Alberta

**Type and Date:**

Preliminary Short Form Prospectus dated February 6, 2006  
Mutual Reliance Review System Receipt dated February 6, 2006

**Offering Price and Description:**

\$30100,000.00 - 2,800,000 Trust Units Price: \$10.75 per  
Trust Unit

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

Canaccord Capital Corporation  
Haywood Securities Inc.  
CIBC World Markets Inc.  
Acumen Capital Finance Partners Limited  
Sprott Securities Inc.

**Promoter(s):**

-

**Project #886677**

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**Issuer Name:**

Westfield Real Estate Investment Trust  
Principal Regulator - Manitoba

**Type and Date:**

Preliminary Short Form Prospectus dated February 6, 2006  
Mutual Reliance Review System Receipt dated February 6, 2006

**Offering Price and Description:**

\$ \* - \* Units Price: \$ \* per Unit

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

Canaccord Capital Corporation  
CIBC World Markets Inc.  
National Bank Financial Inc.  
Scotia Capital Inc.  
Bieber Securities Inc.  
WestWind Partners Inc.

**Promoter(s):**

-

**Project #886523**

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**Issuer Name:**

Astral Mining Corporation  
Principal Regulator - British Columbia

**Type and Date:**

Amended and Restated Prospectus dated September 21,  
2005 as amended on February 3, 2006  
Mutual Reliance Review System Receipt dated February 6,  
2006

**Offering Price and Description:**

\$1,500,000.00 - 3,750,000 Units - \$0.40 per Unit

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

Haywood Securities Inc.

**Promoter(s):**

Manfred Kurschner

**Project #822584**

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**Issuer Name:**

BMO Harris Income Opportunity Bond Portfolio  
BMO Harris Opportunity Bond Portfolio  
Principal Regulator - Ontario

**Type and Date:**

Final Simplified Prospectuses dated February 1, 2006  
Mutual Reliance Review System Receipt dated February 2,  
2006

**Offering Price and Description:**

Mutual Fund Units @ Net Asset Value

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

BMO Investments Inc.  
BMO Investments Inc.

**Promoter(s):**

BMO Trust Company

**Project #870918**

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**Issuer Name:**

Canada Dominion Resources 2006 Limited Partnership  
(Limited Partnership Units)  
Principal Regulator - Ontario

**Type and Date:**

Final Prospectus dated February 6, 2006  
Mutual Reliance Review System Receipt dated February 7, 2006

**Offering Price and Description:**

\$150,000,000.00 (maximum) - 6,000,000 units @ \$25/unit

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

RBC Dominion Securities Inc.  
CIBC World Markets Inc.  
Dundee Securities Corporation  
BMO Nesbitt Burns Inc.  
National Bank Financial Inc.  
Scotia Capital Inc.  
TD Securities Inc.  
Berkshire Securities Inc.  
Canaccord Capital Corporation  
HSBC Securities (Canada) Inc.  
Raymond James Ltd.  
Desjardins Securities Inc.  
Wellington West Capital Inc.

**Promoter(s):**

Canada Dominion Resources 2006 Corporation  
**Project #880341**

---

**Issuer Name:**

Canadian Capital Auto Receivables Asset Trust II  
Principal Regulator - Ontario

**Type and Date:**

Final Short Form Prospectus dated February 3, 2006  
Mutual Reliance Review System Receipt dated February 3, 2006

**Offering Price and Description:**

(1) \$190,000,000.00 - 4.171% Auto Loan Receivables-Backed Notes, Series 2006-1, Class A-1;  
(2) \$235,000,000.00 - 4.277% Auto Loan Receivables-Backed Notes, Series 2006-1, Class A-2;  
(3) \$255,000,000.00 - 4.393% Auto Loan Receivables-Backed Notes, Series 2006-1, Class A-3; and  
(4) \$27,000,000.00 - 4.863% Auto Loan Receivables-Backed Notes, Series 2006-1, Class B

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

TD Securities Inc.  
Scotia Capital Inc.  
BMO NESBITT BURNS INC.  
CIBC WORLD MARKETS INC.  
RBC DOMINION SECURITIES INC.  
SOCIETE GENERALE VALEURS MOBILIERES INC.

**Promoter(s):**

General Motors Acceptance Corporation of Canada,  
Limited  
**Project #883018**

**Issuer Name:**

Coalcorp Mining Inc.  
Principal Regulator - British Columbia

**Type and Date:**

Final Short Form Prospectus dated February 1, 2006  
Mutual Reliance Review System Receipt dated February 1, 2006

**Offering Price and Description:**

\$140,000,000.00 Minimum and \$180,000,000.00 Maximum  
A minimum of 233,333,334 and a maximum of 300,000,000 Subscription Receipts, each representing the right to receive one Common Share and one-half of one Common Share purchase warrant

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

GMP Securities L.P.  
Canaccord Capital Corporation

**Promoter(s):**

-  
**Project #880548**

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**Issuer Name:**

Series A, D, E, F, and I Units (unless otherwise indicated )  
of:

Counsel Select America  
(Series A, D and I Units )  
Counsel Money Market  
(Series A Units)  
Counsel Select Canada  
(Series A, D and I Units )  
Counsel Select International  
(Series A, D and I Units )  
Counsel Fixed Income  
(Series A, D and I Units )  
Counsel Select Small Cap  
(Series A, D and I Units )  
Counsel Conservative Portfolio  
Counsel Regular Pay Portfolio  
Counsel Balanced Portfolio  
Counsel Growth Portfolio  
Counsel All Equity Portfolio  
Counsel Managed Portfolio  
Principal Regulator - Ontario

**Type and Date:**

Final Simplified Prospectuses dated January 31, 2006  
Mutual Reliance Review System Receipt dated February 7, 2006

**Offering Price and Description:**

Series A, D, E, F, and I Units at Net Asset Value

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

-  
**Promoter(s):**  
Counsel Group of Funds Inc.

**Project #873640**

**Issuer Name:**

Diversified Defensive Portfolio  
Diversified Conservative Portfolio  
Diversified Balanced Portfolio  
Diversified Growth Portfolio  
Diversified High Growth Portfolio  
Diversified All Income Portfolio  
Principal Regulator - Ontario

**Type and Date:**

Amendment #1 dated January 20, 2006 to the Simplified Prospectuses and Annual Information Forms dated May 30, 2005  
Mutual Reliance Review System Receipt dated February 1, 2006

**Offering Price and Description:**

-

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

Goodman & Company, Investment Counsel Ltd.

**Promoter(s):**

Goodman & Company, Investment Counsel Ltd.

**Project #777988**

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**Issuer Name:**

Meritas Balanced Portfolio Fund  
Meritas Canadian Bond Fund  
Meritas International Equity Fund  
Meritas Jantzi Social Index Fund  
Meritas Money Market Fund  
Meritas Monthly Dividend and Income Fund  
Meritas U.S. Equity Fund  
Principal Regulator - Ontario

**Type and Date:**

Final Simplified Prospectuses dated January 30, 2006  
Mutual Reliance Review System Receipt dated February 1, 2006

**Offering Price and Description:**

Mutual Fund Units @ Net Asset Value

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

Meritas Financial Inc.

**Promoter(s):**

Meritas Financial Inc.

**Project #868068**

**Issuer Name:**

NovaGold Resources Inc.  
Principal Regulator - British Columbia

**Type and Date:**

Final Short Form Base PREP Prospectus dated February 2, 2006  
Mutual Reliance Review System Receipt dated February 2, 2006

**Offering Price and Description:**

\$174,590,000.00 - 13,000,000 Common Shares Price:  
\$13.43 per Common Share

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

CitiGroup Global Markets Canada Inc.  
RBC Dominion Securities Inc.

**Promoter(s):**

-

**Project #881663**

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**Issuer Name:**

RBC U.S. Mid-Cap Equity Fund  
(Series A Units)  
Principal Regulator - Ontario

**Type and Date:**

Amendment #2 dated January 23, 2006 to the Simplified Prospectus and Annual Information Form dated June 28, 2005  
Mutual Reliance Review System Receipt dated February 1, 2006

**Offering Price and Description:**

Series A Units

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

Royal Mutual Funds Inc.  
Royal Mutual Funds Inc.  
RBC Asset Management Inc.  
RBC Asset Management Inc.  
RBC Dominion Securities Inc.

**Promoter(s):**

RBC Asset Management Inc.

**Project #785844**

**Issuer Name:**

Renaissance Canadian Core Value Fund  
(Class A and F Units)  
Renaissance U.S. Basic Value Fund  
(Class A and F Units)  
Renaissance U.S. Fundamental Growth Fund  
(Class A and F Units)  
Talvest Renaissance U.S. Basic Value Fund  
(Class A, F and O Units)  
Principal Regulator - Ontario

**Type and Date:**

Amendment #1 dated January 26, 2006 to the Simplified  
Prospectuses and Annual Information Forms dated  
November 29, 2005  
Mutual Reliance Review System Receipt dated February 1,  
2006

**Offering Price and Description:**

Class A, F and O Units

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

CIBC Asset Management Inc.

**Promoter(s):**

CIBC Asset Management Inc.

**Project #840741**

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**Issuer Name:**

Score Media Inc.  
Principal Regulator - Ontario

**Type and Date:**

Final Short Form Prospectus dated January 31, 2006  
Mutual Reliance Review System Receipt dated February 1,  
2006

**Offering Price and Description:**

\$10,030,000.00 - 11,800,000 Class A Subordinate Voting  
Shares Price: \$0.85 per Share

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

Genuity Capital Markets

**Promoter(s):**

-

**Project #879172**

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**Issuer Name:**

Viscount Canadian Bond Pool  
Principal Regulator - Ontario

**Type and Date:**

Amendment #2 dated January 20, 2006 to the Simplified  
Prospectus and Annual Information Form dated January  
25, 2005  
Mutual Reliance Review System Receipt dated February 1,  
2006

**Offering Price and Description:**

-

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

-

**Promoter(s):**

Goodman & Company, Investment Counsel Ltd.

**Project #732897**

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**Issuer Name:**

Western Forest Products Inc.  
Principal Regulator - British Columbia

**Type and Date:**

Final Short Form Prospectus dated January 31, 2006  
Mutual Reliance Review System Receipt dated February 3,  
2006

**Offering Price and Description:**

\$295,000,000.00 - Rights to Subscribe for up to  
178,781,770 Subscription Receipts each Subscription  
Receipt representing the right to receive one Common  
Share at a Price of \$1.65 per Subscription Receipt

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

-

**Promoter(s):**

-

**Project #881186**

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**Issuer Name:**

YM BioSciences Inc.

**Type and Date:**

Final Short Form Base Shelf Prospectus dated February 3,  
2006  
Received on February 6, 2006

**Offering Price and Description:**

U.S.\$75,000,000.00 - Common Shares Warrants Units

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

-

**Promoter(s):**

-

**Project #881818**

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**Issuer Name:**

Zoolander Corporation  
Principal Regulator - Ontario

**Type and Date:**

Final Prospectus dated January 31, 2006  
Mutual Reliance Review System Receipt dated February 6,  
2006

**Offering Price and Description:**

\$350,000.00 - 3,500,000 Common Shares PRICE: \$0.10  
per Common Share

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

Haywood Securities Inc.

**Promoter(s):**

Daniel Goodman

Michael Cooper

**Project #866279**

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**Issuer Name:**

GGOF Small Cap Growth and Income Fund  
(Mutual Fund Units)  
GGOF World Wealth Fund  
(Mutual Fund Units and F Class Units)  
Principal Jurisdiction - Ontario

**Type and Date:**

Preliminary Simplified Prospectus and Annual Information  
Form dated August 19th, 2005  
Closed on February 1st, 2006

**Offering Price and Description:**

Mutual Fund Units and F Class Units

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

Guardian Group of Funds Ltd.  
Guardian Group of Funds Ltd.

**Promoter(s):**

Guardian Group of Funds Ltd.

**Project #821052**

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## Chapter 12

# Registrations

### 12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
Suspended – Voluntary Non Renewal	ABN AMRO Development Capital (Guernsey) Limited	International Adviser (Investment Counsel & Portfolio Manager)	January 1, 2006
Suspended – Voluntary Non Renewal	ADA INVESTMENTS INC.	Commodity Trading Manager	January 1, 2006
Suspended – Voluntary Non Renewal	Adams, Harkness Financial Group, Inc.	International Dealer	January 1, 2006
Suspended – Voluntary Non Renewal	Advest, Inc.	International Dealer	January 1, 2006
Suspended – Voluntary Non Renewal	Agilerus Investment Management Limited	Investment Counsel & Portfolio Manager	January 1, 2006
Suspended – Voluntary Non Renewal	Alexander Gluskin Investments Inc.	Limited Market Dealer & Investment Counsel & Portfolio Manager	January 1, 2006
Suspended – Non Renewal	Amstel Securities N.V.	International Dealer	January 1, 2006
Suspended – Voluntary Non Renewal	Asia Strategic Investment Management Limited	International Adviser (Investment Counsel & Portfolio Manager)	January 1, 2006
Suspended – Non Renewal	Blacktree Capital Corp.	Limited Market Dealer	January 1, 2006
Suspended – Non Renewal	BNP (Canada) Valeurs Mobilieres Inc./BNP (Canada) Securities Inc.	Investment Dealer	January 1, 2006
Suspended – Non Renewal	Brean Murray & Co., Inc.	International Dealer	January 1, 2006
Suspended – Voluntary Non Renewal	Brooks, John	Limited Market Dealer	January 1, 2006
Suspended – Voluntary Non Renewal	Calsi Investments Inc.	Limited Market Dealer	January 1, 2006



**Registrations**

<b>Type</b>	<b>Company</b>	<b>Category of Registration</b>	<b>Effective Date</b>
Suspended – Voluntary Non Renewal	Campbell Valuation Partners Limited	Limited Market Dealer	January 1, 2006
Suspended – Voluntary Non Renewal	Capstone Consultants Limited	Mutual Fund Dealer	January 1, 2006
Suspended – Voluntary Non Renewal	Cartier Capital Group Inc.	Limited Market Dealer	January 1, 2006
Suspended – Non Renewal	Campbell & Partners Capital Inc.	Limited Market Dealer	January 1, 2006
Suspended – Non Renewal	Capital Partners Corporation	Limited Market Dealer	January 1, 2006
Suspended – Non Renewal	Deutsche Bank Trust Company Americas	International Adviser (Investment Counsel & Portfolio Manager)	January 1, 2006
Suspended – Non Renewal	Diversity Investment Sales Corp.	Limited Market Dealer	January 1, 2006
Suspended – Non Renewal	Dusby Management Corp.	Limited Market Dealer	January 1, 2006
Suspended – Non Renewal	Ensign Capital Inc.	Limited Market Dealer	January 1, 2006
Suspended – Non Renewal	E*Trade Securities LLC	International Dealer	January 1, 2006
Suspended – Non Renewal	Forstmann-Leff Associates, LLC	International Adviser (Investment Counsel & Portfolio Manager)	January 1, 2006
Suspended – Non Renewal	Fortress Capital Corp.	Limited Market Dealer	January 1, 2006
Suspended – Non Renewal	FX Capital Ltd.	Limited Market Dealer	January 1, 2006
Suspended – Non Renewal	GESTION D'INVESTISSEMENT MERRILL (INSTITUTIONNEL) CANADA LTEE / MERRILL LYNCH INVESTMENT MANAGERS (INSTITUTIONAL) CANADA LTD.	Limited Market Dealer	January 1, 2006
Suspended – Non Renewal	Global Capital Management Inc.	Non-Canadian Adviser (Investment Counsel & Portfolio Manager)	January 1, 2006
Suspended – Non Renewal	Granite Associates Ltd.	Limited Market Dealer	January 1, 2006
Suspended – Non Renewal	Harborside Securities, LLC	Non-Canadian Adviser (Investment Counsel & Portfolio Manager)	January 1, 2006

**Registrations**

<b>Type</b>	<b>Company</b>	<b>Category of Registration</b>	<b>Effective Date</b>
Suspended – Non Renewal	HSD Securities Inc.	Limited Market Dealer	January 1, 2006
Suspended – Non Renewal	Hugues Ouimet & Associates Inc.	Limited Market Dealer	January 1, 2006
Suspended – Non Renewal	Intelligo Financial Corporation	Commodity Trading Manager & Commodity Trading Counsel	January 1, 2006
Suspended – Non Renewal	Interpose Sault Incorporated	Limited Market Dealer	January 1, 2006
Suspended – Non Renewal	Jeremiah Properties Inc.	Limited Market Dealer	January 1, 2006
Suspended – Non Renewal	Jones & Associates, Inc.	International Dealer	January 1, 2006
Suspended – Non Renewal	K2 Performance Corp.	Limited Market Dealer	January 1, 2006
Suspended – Non Renewal	Kingsgate Securities Limited	Investment Dealer	January 1, 2006
Suspended – Non Renewal	Laurence Capital Corp.	Limited Market Dealer	January 1, 2006
Suspended – Non Renewal	Legg Mason Wood Walker, Incorporated	International Dealer	January 1, 2006
Suspended – Non Renewal	Linear Capital Group Inc.	Limited Market Dealer	January 1, 2006
Suspended – Non Renewal	Lombardi Publishing Corporation	Securities Adviser	January 1, 2006
Suspended – Non Renewal	Maxim Group LLC	International Dealer	January 1, 2006
Suspended – Non Renewal	Mikary Investments Ltd.	Limited Market Dealer	January 1, 2006
Suspended – Non Renewal	Mintz & Partners Financial Services	Limited Market Dealer	January 1, 2006
Suspended – Non Renewal	Mitchell, Jenner & Associates Inc.	Limited Market Dealer	January 1, 2006
Suspended – Non Renewal	Norfolk Markets, LLC	International Dealer	January 1, 2006
Suspended – Non Renewal	Northbrook Financial Group Inc.	Limited Market Dealer	January 1, 2006
Suspended – Non Renewal	Portus Alternative Asset Management Inc.	Limited Market Dealer	January 1, 2006
Suspended – Non Renewal	Prysmic Holdings Inc.	Limited Market Dealer	January 1, 2006

**Registrations**

<b>Type</b>	<b>Company</b>	<b>Category of Registration</b>	<b>Effective Date</b>
Suspended – Non Renewal	Refco Securities, LLC	International Dealer	January 1, 2006
Suspended – Non Renewal	Seneca Capital Management LLC	International Adviser (Investment Counsel & Portfolio Manager)	January 1, 2006
Suspended – Non Renewal	Sentron Capital Group Inc.	Limited Market Dealer	January 1, 2006
Suspended – Non Renewal	Silver Oak Capital Corp.	Limited Market Dealer	January 1, 2006
Suspended – Non Renewal	Sir Capital Corporation	Limited Market Dealer	January 1, 2006
Suspended – Non Renewal	Starboard Capital Markets, LLC	International Dealer	January 1, 2006
Suspended – Non Renewal	Tactic Series Funds Inc./Fonds Tactic Serices Inc.	Limited Market Dealer	January 1, 2006
Suspended – Non Renewal	United Capital Securities Inc.	Investment Dealer	January 1, 2006
New Registration	Spork Capital Management Inc.	Limited Market Dealer and Investment Counsel and Portfolio Manager	February 1, 2006
New Registration	Harrow Partners Ltd.	Extra-Provincial Investment Counsel & Portfolio Manager	February 6, 2006
New Registration	GRN Capital Inc.	Limited Market Dealer	February 6, 2006
Change of Name	From: Refco Canada Co./Refco Canada Cie To: Man Financial Canada Co./La Financiere Man Canada Cie.	Investment Dealer and Futures Commission Merchant	February 2, 2006
Change of Name	From: Spork Capital Management Inc. To: Sextant Capital Management Inc.	Limited Market Dealer and Investment Counsel and Portfolio Manager	February 6, 2006
Change of Name	From: BrokerTec USA, LLC To: ICAP Electronic Broking LLC	International Dealer	February 1, 2006
Change of Name	From: APT Capital Advisors Inc., To: Alpha Funds Management Inc.	Limited Market Dealer & Investment Counsel & Portfolio Manager	January 31, 2006
Change of Name	From: Credit Suisse First Boston To: Credit Suisse	International Dealer	May 13, 2005

## Chapter 13

# SRO Notices and Disciplinary Proceedings

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### 13.1.1 MFDA Hearing Panel Issues Decision and Reasons respecting Robin Andersen Disciplinary Hearing

**NEWS RELEASE**  
For immediate release

#### **MFDA HEARING PANEL ISSUES DECISION AND REASONS RESPECTING ROBIN ANDERSEN DISCIPLINARY HEARING**

**February 1, 2006** (Toronto, Ontario) - A Hearing Panel of the Prairie Regional Council of the Mutual Fund Dealers Association of Canada ("MFDA") has issued its Decision and Reasons in connection with the disciplinary hearing held in Edmonton, Alberta on November 23, 2005 in respect of Robin Andersen.

As previously announced, at the hearing held on November 23, 2005, the Hearing Panel reviewed an Agreed Statement of Facts, a copy of which is attached as 'Appendix A' to the Decision and Reasons. The Respondent admitted the allegations set out by MFDA staff in the Notice of Hearing dated June 21, 2005, summarized below:

- Allegation #1: Between July 1998 and November 2003, Andersen failed to deal fairly, honestly and in good faith with certain of his clients by misappropriating from them the total amount of approximately \$362,000 and failing to repay or otherwise account for the funds, contrary to MFDA Rule 2.1.1.
- Allegation #2: Between July and November 2003, Andersen processed four redemptions for clients without obtaining instructions or authorization from the clients, contrary to MFDA Rules 2.1.1 and 2.3.4 and his registration as a mutual fund salesperson.

The following is a summary of the Hearing Panel Orders set out in its Decision and Reasons:

1. A permanent prohibition on Robin Andersen from engaging in any securities related business at any time in the future; and
2. A fine in the amount of \$200,000.

A copy of the Decision and Reasons is available on the MFDA website at [www.mfda.ca](http://www.mfda.ca).

The Mutual Fund Dealers Association of Canada is the self-regulatory organization for Canadian mutual fund dealers. The MFDA regulates the operations, standards of practice and business conduct of its 177 members and their approximately 75,000 Approved Persons with a mandate to protect investors and the public interest.

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**13.1.2 TSX Notice of Approval - Amendments to Parts III and IV of the TSX Company Manual**

**TORONTO STOCK EXCHANGE**

**NOTICE OF APPROVAL**

**AMENDMENTS TO PARTS III AND VI OF THE  
TORONTO STOCK EXCHANGE ("TSX") COMPANY MANUAL**

**Introduction**

In accordance with the "Protocol for Commission Oversight of Toronto Stock Exchange Rule Proposals" (the "Protocol") between the Ontario Securities Commission (the "OSC") and Toronto Stock Exchange ("TSX"), TSX has adopted and the OSC has approved various amendments (the "Amendments") to the TSX Company Manual (the "Manual").

**Reasons for the Amendments**

The Amendments represent changes to the original listing requirements in Part III of the Manual (the "Part III Amended Sections"). As well, on January 1, 2005, certain amendments to Parts V, VI and VII of the Manual became effective (the "January 1, 2005 Amendments"). Since that time, it has come to our attention that a subsection of the January 1, 2005 Amendments had been published incorrectly and required updating. TSX has corrected this subsection (the "Part VI Amended Sections", together with the Part III Amended Sections, the "Amended Sections").

**Summary of the Amendments**

The Part III Amended Sections represent amendments to TSX's requirements for Canadian directors in Sections 311, 316 and 321, and the repeal of its original listing requirements for foreign issuers in Section 324. Sections 311, 316 and 321 are identical, with the exception of references to the applicable industry sectors.

The Part VI Amended Sections represent amendments to a provision in Subsection 613(a) that was inadvertently published incorrectly. The provision deals with whether or not restricted security holders are able to vote on a basis proportionate to their equity interests on security holder resolutions relating to security based compensation requirements. Although we received several comments on the January 1, 2005 Amendments during the comment process, no comments were directly made on this error. TSX has also removed the requirement to obtain approval of the majority of unrelated directors for security based compensation arrangements.

**Effective Date**

The Amendments will become effective on February 15, 2006. The Amendments were published for public comment on December 16, 2005. No comment letters were received.

The Amended Sections are attached as Appendix A.

**Appendix A:**  
**Public Interest Amendments to Parts III and VI of the TSX Company Manual**

Toronto Stock Exchange ("TSX") has amended the policies of the TSX Company Manual (the "Manual") as follows:

**Part III of the Manual**

1. Section 308 of the Manual will be amended by deleting the sentence "The requirements for foreign companies are set out in Section 324."
2. Section 311 of the Manual will be amended as follows:

**"Sec 311.** The management of an applicant company shall be an important factor in the consideration of a listing application. In addition to the factors set out in Section 325, the Exchange will consider the background and expertise of management in the context of the business of the company. Management (including the company's board of directors) should have adequate experience and technical expertise relevant to the company's business and industry and adequate public company experience which demonstrates that they are able to satisfy all of their reporting and public company obligations. ~~Companies will be required to have at least two Canadian directors unless they are foreign applicants that comply with all of the Minimum Listing Requirements for Foreign Companies as detailed in Section 324.~~ Companies will be required to have at least two independent directors,<sup>14</sup> a chief executive officer (CEO), a chief financial officer who is not also the CEO, and a corporate secretary.

<sup>14</sup>An independent director is defined as a person who:

(a) is not a member of management and is free from any interest and any business or other relationship which in the opinion of the Exchange could reasonably be perceived to materially interfere with the director's ability to act in the best interest of the company; and

(b) is a beneficial holder, directly or indirectly, or is a nominee or associate of a beneficial holder, collectively of 10% or less of the votes attaching to all issued and outstanding securities of the applicant.

The Exchange will consider all relevant factors in assessing the independence of the director. As a general rule, the following persons would not be considered an independent director:

- (i) a person who is currently, or has been within the past three years, an officer, employee of or service provider to the company or any of its subsidiaries or affiliates; or
- (ii) a person who is an officer, employee or controlling shareholder of a company that has a material business relationship with the applicant."

3. Section 316 of the Manual will be amended as follows:

**"Sec. 316.** The management of an applicant company shall be an important factor in the consideration of a listing application. In addition to the factors set out in Section 325, the Exchange will consider the background and expertise of management in the context of the business of the company. Management (including the company's board of directors) should have adequate experience and technical expertise relevant to a company's mining projects and adequate public company experience which demonstrates that they are able to satisfy all of their reporting and public company obligations. ~~Companies will be required to have at least two Canadian directors unless they are foreign applicants that comply with all of the Minimum Listing Requirements For Foreign Companies as detailed in Section 324.~~ Companies will be required to have at least two independent directors,<sup>27</sup> a chief executive officer (CEO), a chief financial officer who is not also the CEO, and a corporate secretary.

<sup>27</sup> See footnote 14."

4. Section 321 of the Manual will be amended as follows:

**"Sec. 321.** The management of an applicant company shall be an important factor in the consideration of a listing application. In addition to the factors set out in Section 325, the Exchange will consider the background and expertise of management in the context of the business of the company. Management (including the company's board of directors) should have adequate experience and technical expertise relevant to a company's oil and gas projects and adequate public company experience which demonstrates that they are able to satisfy all of their reporting and public company obligations. ~~Companies will be required to have at least two Canadian directors unless they are foreign applicants that comply with all of the Minimum Listing Requirements for Foreign Companies detailed in Section 324.~~ Companies will be required to have at least two independent directors,<sup>35</sup> a chief executive officer (CEO), a chief financial officer who is not also the CEO, and a corporate secretary.

<sup>35</sup> See footnote 14."

5. Section 324 of the Manual will be repealed and replaced with the following:

**“Minimum Listing Requirements for International Issuers**

**Sec. 324.** International issuers are entities where the issuer is already listed on another recognized exchange which is acceptable to the Exchange, and is incorporated outside of Canada. There are no unique requirements for the management or the financial requirements for ~~international foreign~~ issuers. However, these issuers are generally required to have some presence in Canada and must be able to demonstrate, as with all issuers, that they are able to satisfy all of their reporting and public company obligations in Canada. This may be satisfied by having a member of the board of directors or management, an employee or a consultant of the issuer situated in Canada.”

**Part VI of the Manual**

6. Section 601 of the Manual will be amended by deleting the definition of “unrelated director”.
7. Subsection 602(g) of the Manual will be amended by deleting the last sentence that begins with “The exemptions contained in this Subsection 602(g) ...”.
8. Section 613(a) of the Manual will be amended as follows:

**“613. (a)** ~~When instituted, and when required for amendment,~~ all security based compensation arrangements must be approved by:

- (i) a majority of the listed issuer’s directors; ~~and~~
- (ii) ~~a majority of the listed issuer’s unrelated directors; and~~
- (iii) ~~—~~subject to Subsections 613(b), (c), (g) and (i), by the listed issuer’s security holders.

Every three years after institution, all unallocated options, rights or other entitlements under a security based compensation arrangement which does not have a fixed maximum number of securities issuable, must be approved by:

- (i) a majority of the listed issuer’s directors; ~~and~~
- (ii) ~~a majority of the listed issuer’s unrelated directors; and~~
- (iii) ~~—~~subject to Subsections 613(b), (c), (g) and (i), the listed issuer’s security holders.

Insiders of the listed issuer entitled to receive a benefit under the arrangement are not eligible to vote their securities in respect of the approvals required by this Subsection 613(a) unless the aggregate of the listed issuer’s securities;

- (i) issued to insiders of the listed issuer, within any one year period, and
- (ii) issuable to insiders of the listed issuer, at any time,

~~issued and issuable to insiders of the listed issuer~~ under the arrangement, or when combined with all of the listed issuer’s other security based compensation arrangements, could not exceed 10% of the listed issuer’s total issued and outstanding securities.

If any security holder approval is required for a security based compensation arrangement and insiders of the listed issuer entitled to receive a benefit under the arrangement are not eligible to vote their securities in respect of the approval required by this Subsection 613(a), when combined with all of the listed issuer’s other security based compensation arrangements could exceed 10% of the listed issuer’s total issued and outstanding securities, holders of Restricted Securities, as defined in Section 624, must be entitled to vote with the holders of any class of securities of the listed issuer which otherwise carry greater voting rights, on a basis proportionate to their respective residual equity interests in the listed issuer.

Security holder approval required for a security based compensation arrangement must be by way of a duly called meeting. The exemption from security holder approval contained in Subsection 604(e) is not available in respect of security based compensation arrangements.”

13.1.3 MFDA Sets Date for Barry James Coleman Hearing in Moncton, New Brunswick

**NEWS RELEASE**  
For immediate release

**MFDA SETS DATE FOR  
BARRY JAMES COLEMAN HEARING  
IN MONCTON, NEW BRUNSWICK**

**February 8, 2006** (Toronto, Ontario) - The Mutual Fund Dealers Association of Canada ("MFDA") commenced a disciplinary proceeding in respect of Barry James Coleman by Notice of Hearing dated December 19, 2005.

As specified in the Notice of Hearing, the first appearance in this proceeding took place this morning at 11:00 a.m. (Atlantic) before a 3-member Hearing Panel of the MFDA Atlantic Regional Council.

The date for the commencement of the hearing of this matter on the merits has been scheduled to take place before a Hearing Panel of the Atlantic Regional Council on Tuesday, April 18, 2006 at 9:00 a.m. (Atlantic) in the Hearing Room located at the Crowne Plaza Hotel, Albert Room, 1005 Main Street, Moncton, New Brunswick, or as soon thereafter as the hearing can be held.

The hearing will be open to the public, except as may be required for the protection of confidential matters.

A copy of the Notice of Hearing is available on the MFDA web site at [www.mfda.ca](http://www.mfda.ca).

The Mutual Fund Dealers Association of Canada is the self-regulatory organization for Canadian mutual fund dealers. The MFDA regulates the operations, standards of practice and business conduct of its 176 members and their approximately 75,000 Approved Persons with a mandate to protect investors and the public interest.

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