Issues in Focus

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DAVID WILSON, CHAIR, ONTARIO SECURITIES COMMISSION

GUEST SPEAKERS
HON. GERRY PHILLIPS, ONTARIO MINISTER RESPONSIBLE FOR SECURITIES REGULATION

DAVID BEATTY, MANAGING DIRECTOR, CANADIAN COALITION FOR GOOD GOVERNANCE

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The Ontario Securities Commission

OSC Bulletin

October 6, 2006

Volume 29, Issue 40

(2006), 29 OSCB

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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Toronto, Ontario
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Chapter 1

Notices / News Releases

1.1 Notices

1.1.1 Current Proceedings Before The Ontario Securities Commission

OCTOBER 06, 2006

CURRENT PROCEEDINGS

BEFORE

ONTARIO SECURITIES COMMISSION

- -

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

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

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- -

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Susan Wolburgh Jenah, Vice-Chair	—	SWJ
Paul K. Bates	—	PKB
Robert W. Davis, FCA	—	RWD
Harold P. Hands	—	HPH
David L. Knight, FCA	—	DLK
Patrick J. LeSage	—	PJL
Carol S. Perry	—	CSP
Robert L. Shirriff, Q.C.	—	RLS
Suresh Thakrar, FIBC	—	ST
Wendell S. Wigle, Q.C.	—	WSW

SCHEDULED OSC HEARINGS

October 12, 2006
10:00 a.m.
Firestar Capital Management Corp., Kamposse Financial Corp., Firestar Investment Management Group, Michael Ciavarella and Michael Mitton
s. 127
H. Craig in attendance for Staff
Panel: TBA

October 19, 2006
10:00 a.m.
Euston Capital Corporation and George Schwartz
s. 127
Y. Chisholm in attendance for Staff
Panel: WSW/ST

October 20, 2006
10:00 a.m.
Olympus United Group Inc.
s.127
M. MacKewn in attendance for Staff
Panel: TBA

October 20, 2006
10:00 a.m.
Norshield Asset Management (Canada) Ltd.
s.127
M. MacKewn in attendance for Staff
Panel: TBA

October 30, 2006
10:00 a.m.
Limelight Entertainment Inc., Carlos A. Da Silva, David C. Campbell, Jacob Moore and Joseph Daniels
s. 127 and 127.1
D. Ferris in attendance for Staff
Panel: PMM/ST

November 6, 2006 10:00 a.m.	**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
November 8, 2006 10:00 a.m.	**Juniper Fund Management Corporation, Juniper Income Fund, Juniper Equity Growth Fun and Roy Brown (a.k.a. Roy Brown-Rodrigues)** s.127 and 127.1 D. Ferris in attendance for Staff Panel: SWJ/ST
November 21, 2006 10:00 a.m.	**First Global Ventures, S.A. and Allen Grossman** s. 127 D. Ferris in attendance for Staff Panel: PMM/ST
December 5, 6, & 7, 2006 10:00 a.m.	**Jose Castaneda** s. 127 and 127.1 T. Hodgson in attendance for Staff Panel: TBA
May 23, 2007 10:00 a.m.	**Eugene N. Melnyk, Roger D. Rowan, Watt Carmichael Inc., Harry J. Carmichael and G. Michael McKenney** s. 127 and 127.1 J. Superina in attendance for Staff Panel: TBA
TBA	**Yama Abdullah Yaqeen** s. 8(2) J. Superina in attendance for Staff Panel: TBA
TBA	**Cornwall *et al*** s. 127 K. Manarin in attendance for Staff Panel: TBA
TBA	**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. Boultbee and Peter Y. Atkinson** s.127 J. Superina in attendance for Staff Panel: TBA
TBA	**Mega-C Power Corporation, Rene Pardo, Gary Usling, Lewis Taylor Sr., Lewis Taylor Jr., Jared Taylor, Colin Taylor and 1248136 Ontario Limited** S. 127 T. Hodgson in attendance for Staff Panel: TBA
TBA	**Bennett Environmental Inc.*, John Bennett, Richard Stern, Robert Griffiths and Allan Bulckaert*** P. Foy in attendance for Staff Panel: TBA * settled June 20, 2006
TBA	**Momentas Corporation, Howard Rash, Alexander Funt, Suzanne Morrison* and Malcolm Rogers*** s. 127 and 127.1 P. Foy in attendance for Staff Panel: WSW/RWD/CSP * Settled April 4, 2006

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

Philip Services Corp., Allen Fracassi, Philip Fracassi**, Marvin Boughton**, Graham Hoey**, Colin Soule*, Robert Waxman and John Woodcroft****
* Settled November 25, 2005
** Settled March 3, 2006

Portus Alternative Asset Management Inc., Portus Asset Management Inc., Boaz Manor, Michael Mendelson, Michael Labanowich and John Ogg

John Daubney and Cheryl Littler

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

1.1.2 Robert Patrick Zuk et al.

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

AND

ROBERT PATRICK ZUK, DANE ALAN WALTON, DEREK REID, IVAN DJORDJEVIC, DANIEL DAVID DANZIG, AND MATTHEW NOAH COLEMAN

NOTICE OF WITHDRAWAL

WHEREAS on March 11, 2005, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing pursuant to section 127 of the *Securities Act* (the "Act") in respect of trading in the shares of Visa Gold Explorations Inc.;

AND WHEREAS on September 25, 2006, Staff of the Commission filed an Amended Statement of Allegations;

TAKE NOTICE that Staff of the Commission withdraw the allegations against the respondent, Daniel David Danzig.

DATED at Toronto this 3rd day of October, 2006

"John Stevenson"
Secretary to the Commission

1.1.3 CNQ Notice of Approval – Housekeeping Amendments to CNQ's Trader Approval Form

CANADIAN TRADING AND QUOTATION SYSTEM INC. (CNQ)

NOTICE OF APPROVAL OF AMENDMENTS TO CNQ'S TRADER APPROVAL FORM

On September 21, 2006, CNQ filed with the Commission amendments to CNQ's Trader Approval Form. The amendments will add to the form a contact phone number in Vancouver and columns to allow applicants to indicate whether approval is sought for the CNQ listed market, Pure Trading Market or both. The amendments have been filed as "housekeeping" amendments pursuant to the Rule Review Process set out in Appendix B of CNQ's recognition order and are deemed to have been approved upon filing. The amendments were effective immediately. CNQ's Notice and the amendments are being published in Chapter 13 of this Bulletin.

1.1.4 CSA Responds to Report of Task Force to Modernize Securities Legislation in Canada

FOR IMMEDIATE RELEASE

CSA RESPONDS TO REPORT OF TASK FORCE TO MODERNIZE SECURITIES LEGISLATION IN CANADA

October 4, 2006 - Montreal - In respect of the release of the Final Report of the Task Force to Modernize Securities Legislation in Canada, the Canadian Securities Administrators (CSA) are issuing the following statement from CSA Chair, Jean St. Gelais:

"We welcome the Report of the Task Force and view it as a constructive document that will add to the debate on securities regulation in Canada. We will review the Report carefully and consider its contents in light of this debate."

The Task Force, which was chaired by securities law expert Tom Allen Q.C., was mandated by the Investment Dealers Association of Canada to make recommendations to modernize securities regulation in Canada and to enhance or maintain competitiveness in Canada's capital markets. The Report is available at www.tfmsl.ca.

The CSA, the council of the securities regulators of Canada's provinces and territories, co-ordinates and harmonizes regulation for the Canadian capital markets.

For more information:

Laurie Gillett
Ontario Securities Commission
416-595-8913

Andrew Poon
British Columbia Securities Commission
604-899-6880

Tamera Van Brunt
Alberta Securities Commission
403-297-2664

Ainsley Cunningham
Manitoba Securities Commission
204-945-4733

Frédéric Alberro
Autorité des marchés financiers
514-940-2176

1.4 Notices from the Office of the Secretary

1.4.1 Eugene N. Melnyk et al.

FOR IMMEDIATE RELEASE
September 29, 2006

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

AND

IN THE MATTER OF
EUGENE N. MELNYK, ROGER D. ROWAN,
WATT CARMICHAEL INC.,HARRY J. CARMICHAEL
AND G. MICHAEL McKENNEY

TORONTO – The Commission issued its Reasons in the above noted matter today.

A copy of the Reasons is available at **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

Laurie Gillett
Manager, Public Affairs
416-595-8913

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

1.4.2 Universal Settlements International Inc.

FOR IMMEDIATE RELEASE
September 29, 2006

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

AND

IN THE MATTER OF
UNIVERSAL SETTLEMENTS INTERNATIONAL INC.

TORONTO – Following a hearing commenced on June 26, 2006 in relation to the above named matter, the Commission issued its Decision and Reasons and Order today.

In its Reasons, the Commission found that the interests in death benefits of life insurance policies from insured persons (viators) offered by Universal Settlements International Inc. (USI) are securities under subsection 1(1) of the *Securities Act*. Further, the Commission found that USI has not complied with Ontario securities law and has not acted in the public interest.

The Commission issued an Order under subsection 127(1) of the Act which provides that:

- USI permanently cease trading in securities unless:
  - (a) USI fulfills the registration and prospectus requirements in Ontario securities law; or
  - (b) USI meets the requirements for an exemption in Ontario securities law;
- USI and its agents are exempted from the cease trade order and, prospectively only, the registration and prospectus requirements of the Act, but only to the extent necessary for them to complete tasks relating to existing investments of investors. This exemption does not apply to acts in furtherance of trades relating to moneys from investors that have not already been committed to the life policies of specific viators. Such moneys should be returned to the investors, forthwith;
- There is no order as to costs.

A copy of the Reasons and Decision as well as the Order, is available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

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For investor inquiries: OSC Contact Centre
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1-877-785-1555 (Toll Free)

1.4.3 Robert Patrick Zuk et al.

FOR IMMEDIATE RELEASE
October 3, 2006

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

AND

IN THE MATTER OF
ROBERT PATRICK ZUK, IVAN DJORDJEVIC, MATTHEW NOAH COLEMAN, DANE ALAN WALTON,
DEREK REID and DANIEL DAVID DANZIG

TORONTO – Staff of the Ontario Securities Commission withdrew the allegations against the respondent Daniel David Danzig in the above matter today.

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

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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 Mexgold Resources Inc. - s. 83

Headnote

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

Ontario Statutes

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

October 3, 2006

Mexgold Resources Inc.
c/o Fasken Martineau DuMoulin LLP
66 Wellington Street West
Suite 3600, Toronto-Dominion Bank Tower
Box 20, Toronto Dominion Centre
Toronto, Ontario, M5K 1N6

Attention: Bozidar Crnatovic

Dear Mr. Crnatovic:.

Re: Mexgold Resources Inc. (the "Applicant") - Application to Cease to be a Reporting Issuer under the Securities Legislation of Alberta, Ontario and New Brunswick (the "Jurisdictions")

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

As the applicant has represented to the Decision Makers that,

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

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

"Jo-Anne Matear"
Assistant Manager, Corporate Finance
Ontario Securities Commission

2.1.2 Talvestco Inc. and Talvest and Company Limited Partnership 1994 - MRRS Decision

Headnote

Mutual Reliance Review System – relief from requirements in (i) Multilateral Instrument 52-109 – Certification of Disclosure in Issuers' Annual and Interim Filings to file CEO and CFO certifications relating to annual and interim financial statements, (ii) Multilateral Instrument 52-110 – Audit Committees and (iii) National Instrument 58-101 – Disclosure of Corporate Governance Practices to provide disclosure regarding corporate governance practices – relief granted to a passive, single purpose vehicle.

Applicable Legislative Provisions

Multilateral Instrument 52-109 – Certification of Disclosure in Issuers' Annual and Interim Filings.
Multilateral Instrument 52-110 – Audit Committees.
National Instrument 58-101 – Disclosure of Corporate Governance Practices.

September 26, 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 AND YUKON (THE JURISDICTIONS)

AND

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

AND

IN THE MATTER OF
TALVESTCO INC. (THE GENERAL PARTNER) AND TALVEST AND COMPANY LIMITED PARTNERSHIP 1994 (THE LIMITED PARTNERSHIP), (THE GENERAL PARTNER AND THE LIMITED PARTNERSHIP ARE 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):

- except in the Yukon, for an exemption pursuant to section 4.5 of Multilateral Instrument 52 - 109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (MI 52-109) exempting the Limited Partnership from:

  (a) the requirements that the chief executive officer (CEO) and chief financial officer (CFO) or person who performs similar functions for the Limited Partnership file an annual certificate concurrently with the latest of the filing of an Annual Information Form, annual financial statements or annual Management's Discussion & Analysis; and

  (b) the requirements that the CEO and CFO or person who performs similar functions for the Limited Partnership file an interim certificate concurrently with its interim filings

  (together, the Certification Requirements);

- Except in British Columbia and the Yukon, for an exemption pursuant to section 8.1 of Multilateral Instrument 52-110 *Audit Committees* (MI 52-110) exempting the Limited Partnership from the application of MI 52-110

  (the Audit Committee Requirements); and

- For an exemption pursuant to section 3.1 of National Instrument 58-101 *Disclosure of Corporate Governance Practices* (NI 58-101) exempting the Limited Partnership from the requirement to provide disclosure required by Form 58-101F2

  (the Governance Practices Disclosure Requirements).

Under the Mutual Reliance Review System for Exemptive Relief Applications:

(a) Quebec 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:

1. The Limited Partnership is a reporting issuer in the Jurisdictions.

2. The Limited Partnership is a "venture issuer" as defined in National Instrument 51-102 *Continuous Disclosure Obligation*, MI 52-110 and NI 58-101.

3. The Limited Partnership is a passive, single purpose vehicle, formed for the purpose of arranging for the distribution in Canada of securities of a group of mutual funds managed by a fund manager (collectively, the Funds) which purchasers of securities of the Funds elected to acquire on a deferred sales charge basis.

4. The business of the General Partner is limited to the management of the business of the Limited Partnership for which it is the general partner.

5. Since its formation, the activities of the Limited Partnership has primarily consisted: (i) of collecting subscriptions from its limited partners (the Limited Partners); (ii) paying selling commissions in respect of securities of the applicable Funds sold on a deferred sales charge basis during a particular period of time; (iii) making distributions of its net income to its Limited Partners; and (iv) incurring expenses to maintain the Limited Partnership.

6. The principal asset of the Limited Partnership is its right to receive a monthly distribution fee based on the value of the securities of the applicable Funds for which the Limited Partnership paid selling commissions until such units are redeemed, any deferred sales charges payable in respect of those securities payable on redemption, and any investment income earned on cash assets pending distribution of net income to its Limited Partners.

7. Each year, the Limited Partnership distributes to its Limited Partners an amount equal to the amount by which distribution fees, deferred sales charges and investment income earned by the Limited Partnership during the year and the amount of any reserves retained at the end of the previous year exceeds the expenses.

8. The Limited Partnership will not earn any further deferred sales charges as the period during which deferred sales charges were payable according to the applicable redemption fee schedule is finished.

9. As noted above, the Limited Partnership only receives distribution fees in respect of units, which have not been redeemed. As a considerable number of years have passed, the securities which were funded by the Limited Partnership and still remain outstanding have declined and will continue to decline with a corresponding reduction in the distribution fee revenue. As the income of the Limited Partnership declines, any expenses of the Limited Partnership increase in percentage terms.

10. The entitlement to distribution fees will continue for the Limited Partnership until such time as the Limited Partnership is terminated in accordance with the Partnership Agreement governing the Limited Partnership.

11. The performance of the Limited Partnership is largely out of the control of the General Partner. It is controlled by the decisions of investors in Funds to retain or redeem their investment and by market conditions and the investment performance of the Funds themselves. As a result, commentary on the historical performance is of little value to investors since it does not predict future results or distribution levels. Factual information regarding the distribution fees earned and expenses are contained in the financial statements.

12. The Limited Partners of the Limited Partnership will receive semi-annual financial statements prepared as at June 30 and audited annual financial statements prepared as at December 31 of the Limited Partnership as well as distribution letters for each distribution to the Limited Partners.

13. Given the passive, limited nature of its business, it is not warranted to required the Limited Partnership to formally establish and maintain disclosure controls and procedures and financial reporting controls and procedures as are required if the CEO and CFO or person who performs similar functions is to provide the certificates required by MI 52-109.

14. Given the passive, limited nature of its business and the constantly declining size of the Limited Partnership, it is not warranted to required the General Partner of the Limited Partnership to: (i) appoint independent directors; (ii) have an independent audit committee, nominating committee or compensation committee; (iii) develop a written mandate for its board of directors, and position descriptions for its chair; (iv) provide orientation and continuing education for its directors; or(v) develop a written code for its directors, or regularly assess the effectiveness and contribution of the board, its committees and individual directors. As the substantive elements of corporate governance as described in NI 58-101 are not applicable to the structure of the Limited Partnership, it is not warranted to require that a Limited Partnership provide annual disclosure in respect of corporate governance to the Limited Partners.

15. The benefits to be derived by the Limited Partners of the Limited Partnership from requiring the General Partner of the Limited Partnership to have an independent audit committee, to implement disclosure controls and procedures and internal controls over financial reporting or to consider the corporate governance practices described in NI 58-101 do not justify the associate expense. All the costs of implementing these requirements will come from the distributions otherwise payable to the Limited Partners.

16. In the absence of the requested relief, the Filers would be required to comply with the Certification Requirements, the Audit Committee Requirements, and the Governance Practices Disclosure Requirements.

Decision

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

The decision of the Decision Makers under the Legislation is that the Filers are exempt from:

(a) the Certification Requirements;

(b) the Audit Committee Requirements; and

(c) the Governance Practices Disclosure Requirement;

provided that the exemptions shall terminate in respect of a Filer on the occurrence of a material change in the affairs of the Filer unless the Filer satisfies the Decision Makers that the exemptions should continue.

"Louis Morisset"
Executive Director, Securities Markets
Autorité des marchés financiers

2.1.3 Barclays Advantaged S&P/TSX Income Trust Index Fund - MRRS Decision

Headnote

Relief granted to an investment fund listed on the Toronto Stock Exchange from the requirement in National Instrument 81-106 Investment Fund Continuous Disclosure to calculate its net asset value on a daily basis subject to certain conditions and requirements.

Rules Cited

National Instrument 81-106 Investment Fund Continuous Disclosure, ss. 14.2(3), 17.1.

September 28, 2006

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

AND

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

AND

IN THE MATTER OF

BARCLAYS ADVANTAGED S&P/TSX INCOME
TRUST INDEX FUND, BARCLAYS ADVANTAGED
EQUAL WEIGHTED INCOME FUND AND BARCLAYS
ADVANTAGED CORPORATE BOND FUND

MRRS DECISION DOCUMENT

Background

The local securities regulatory authority or regulator (the Decision Maker) in each of the Jurisdictions has received an application (the Application) from Barclays Advantaged S&P/TSX Income Trust Index Fund, Barclays Advantaged Equal Weighted Income Fund and Barclays Advantaged Corporate Bond Fund (each, a "filer" and collectively, "the Filers") for a decision (the "Requested Relief") under the securities legislation of the Jurisdictions (the Legislation) that exempts the Filer from Section 14.2(3) of National Instrument 81-106 which, if the investment fund uses specified derivatives, prescribes that the net asset value of an investment fund must be calculated at least once every business day.

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 Filers:

Background

1. Each of the Filers is an investment trust established under the laws of the Province of Ontario pursuant to a declaration of trust by Barclays Canada as trustee. The units of the Filers are listed on the Toronto Stock Exchange ("TSX") under the symbols BAI.UN, BAE.UN and BAC.UN, respectively.

2. The units of each of the Filers are redeemable annually at the option of Unitholders at a price computed by reference to the net asset value per unit of each Filer on each Filer's applicable redemption date. The Filers are not "mutual funds" under applicable securities legislation, but are considered "non-redeemable investment funds" for the purposes of NI 81-106.

3. Each of the Filers has filed a prospectus with the securities regulatory authorities in each of the Provinces of Canada.

4. In addition to acting as trustee of the Filers, Barclays Canada currently acts as the manager and investment manager of the Filers and performs administrative services on behalf of the Filers. Barclays Canada was amalgamated under the *Business Corporations Act* (Ontario) by articles of amalgamation on January 1, 2001. The principal place of business of each of the Filers and the registered office of Barclays Canada is BCE Place, 161 Bay Street, Suite 2500, Toronto, Ontario, M5J 2S1.

5. Computershare Investor Services Inc. acts as transfer agent, registrar and distribution disbursing agent on behalf of the Filers.

6. IBT Trust Company (Canada), a subsidiary of Investors Bank & Trust Company, a U.S. Bank, is the custodian of the assets of the Filers and is responsible for certain aspects of the day-to-day administration of the Filers.

The Transfer

7. Barclays Canada has made a strategic decision to focus its resources on its iShares™ family of exchange-traded funds, and to transfer the BARCLAYS*funds*™ closed-end fund business, including the trusteeship and management of its BARCLAYS*funds*™ closed-end funds to Brompton Funds LP ("Brompton").

8. In addition to the Filers, the BARCLAYS*funds*™ closed-end fund business includes Barclays Income + Growth Split Trust and Barclays Top 100 Equal Weighted Income Fund as well as the following funds, which are the "underlying funds" of the Filers: Barclays Canada S&P®/TSX® Institutional Index Fund, Barclays Equal Weighted Income Fund and Barclays Corporate Bond Fund.

9. Barclays Canada has entered into a definitive agreement with Brompton, by its general partner BFGP Limited, whereby Barclays Canada has agreed to transfer the BARCLAYS*funds*™ closed-end fund business, including the right and obligation to act as trustee and manager of each of the Filers, to Brompton and Brompton has agreed to assume the trusteeship and management responsibilities of each of the Filers

10. As part of the transaction, Barclays Canada has agreed to submit certain matters to Unitholders for their consideration. These matters involve amendments to the declarations of trust for each of the funds, including the Filers, and are being proposed by Barclays Canada because Barclays Canada believes the amendments are in the best long-term interests of Unitholders and in order to make the provisions of the BARCLAYS*funds*™ declarations of trust more consistent with the provisions of other Brompton funds. These further amendments include permitting Brompton to change the frequency of calculating the net asset value of each of the funds, including the Filers, from daily to weekly. Currently, the net asset value of the Filers is calculated daily.

11. BG Funds Management Limited ("BG Funds") will be a subsidiary of Barclays Canada. It will be incorporated pursuant to the *Business Corporations Act* (Ontario). Its head office will be BCE Place, 161 Bay Street, Suite 2500, Toronto, Ontario, M5J 2S1.

12. The proposed structure for the transfer is as follows:

    a) Barclays Canada will transfer the assets associated with the BARCLAYS*funds*™ closed-end fund business to BG Funds for common shares of BG Funds (the "BG Shares"). As a result, BG Funds will become the trustee of the funds, including the Filers.

b) Barclays Canada will then sell all of the BG Shares to Brompton (or to a wholly-owned subsidiary of Brompton).

c) After the sale of the BG Shares, BG Funds will be amalgamated with Brompton Funds Management Limited ("BFML"), the new trustee and manager of the funds.

d) BFML will retain Brompton Capital Advisors Inc. (the "Advisor") to act as investment advisor pursuant to the terms of an investment advisory agreement.

13. BFML was incorporated as Brompton Preferred Management Limited pursuant to the *Business Corporations Act* (Ontario) on January 16, 2004. Articles of Amendment were filed on March 27, 2006 to change the name of Brompton Preferred Management Limited to Brompton Funds Management Limited. Its head office is located at Bay Wellington Tower, BCE Place, 181 Bay Street, Suite 2930, Toronto, Ontario, M5J 2T3. BFML was organized for the purpose of managing and administering Brompton's closed-end investment funds. BFML is part of the Brompton Group of companies.

14. The Advisor is registered as a Limited Market Dealer and an Investment Counsel and Portfolio Manager in the Province of Ontario and currently provides advisory services for over $3 billion in assets. The principal office of the Advisor is located at Bay-Wellington Tower, BCE Place, 181 Bay Street, Suite 2930, Toronto, Ontario, M5J 2T3.

Structure and Operation of the Filers

15. The investment objectives of the Filers are as follows:

a) Barclays Advantaged S&P®/TSX® Income Trust Index Fund: by replicating, to the extent possible, the return of the S&P®/TSX® Capped Income Trust Index, to provide Unitholders with a regular, levelled, stable stream of tax-efficient monthly distributions consisting of capital gains and return of capital in an amount which equals, to the extent possible, the distributions paid on the securities which make up the S&P®/TSX® Capped Income Trust Index.

b) Barclays Advantaged Equal Weighted Income Fund: to provide Unitholders with tax-efficient monthly distributions consisting of capital gains and returns of capital in an amount which equals, to the extent possible, the distributions paid on the securities which make up the index portfolio; and to provide Unitholders with exposure to the returns of an underlying fund (the Barclays Equal Weighted Income Fund) consisting of securities of each of the distribution paying income funds included in the S&P®/TSX® Capped Income Trust Index in approximately equal dollar amounts.

c) Barclays Advantaged Corporate Bond Fund: to provide Unitholders with tax-efficient monthly distributions consisting of capital gains and returns of capital in an amount which equals, to the extent possible, the distributions paid on the securities which make up the index portfolio; and to provide Unitholders with exposure to the returns of an underlying fund (the Barclays Corporate Bond Fund) holding a diversified portfolio consisting, directly or indirectly, of the highly liquid, investment grade corporate bonds which make up the GS $ InvesTop Index and the liquid, high yield corporate bonds which make up the GS $ HYTop Index.

d) Each of the Filers entered into forward agreements (collectively, the "Forward Agreements") with counterparties (collectively, the "Counterparties") that are Canadian financial institutions at the closing of their initial public offerings.

e) Under the terms of the Forward Agreements, the Filers and the Counterparties have agreed that their settlement obligations under the Forward Agreements with respect to the common share portfolio securities of each of the Filers will be discharged, at the election of the Filers, either by physical delivery of the common share portfolio securities by the Filers to the Counterparties against cash payment or by the making of a net cash payment to the appropriate party. The amount payable by the Counterparties for physical delivery of the common share portfolio may be more or less than the original subscription price of the units. If a Filer elects for physical delivery of its common share portfolio under the applicable Forward Agreement, the Counterparties will pay to the Filer on or about the Filer's termination date as the purchase price for the common share portfolio an amount equal to the redemption proceeds for a corresponding number of units of the Filer's underlying fund. The Filers' common share portfolio securities have been pledged to and are held by the Counterparties as security for the obligations of the Filers under the Forward Agreements. The Forward

Agreements constitute specified derivatives and accordingly under NI 81-106 the net asset value of the Filers is required to be calculated daily.

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:

(a) the weekly net asset value of the Filers is available to the public upon request;

(b) a website is made available to the public providing access to the net asset value of the Filers;

for so long as:

(c) the units of the Filers are listed on the TSX; and

(d) the Filers calculate their net asset value per unit at least weekly and on each Filer's redemption date.

"Leslie Byberg"
Manager, Investment Funds

2.1.4 AXA S.A. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - Application for relief from prospectus requirements in respect of certain trades in units of an employee savings fund made pursuant to a classic offering and a leveraged offering by French issuer – Relief from registration and prospectus requirements upon the redemption of units for shares of the issuer -Relief from the registration and prospectus requirements granted in respect of first trade of shares where such trade is made through the facilities of a stock exchange outside of Canada - Relief granted to the manager of the fund from the adviser registration requirement.

Applicable Ontario Statutory Provisions

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

Rules

National Instrument 45-102 Resale of Securities.
National Instrument 45-106 Prospectus and Registration Exemptions.

September, 21, 2006

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

AND

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

AND

**IN THE MATTER OF
AXA S.A. (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:

1. an exemption from the prospectus requirements of the Legislation (the "**Prospectus Relief**") so that such requirements do not apply to:

(i) trades in the units ("**Units**") of two compartments of a collective shareholding vehicle, the Shareplan AXA Direct Global (the "**Fund**"), the AXA Shareplan Direct Global (the "**Classic Compartment**") and the AXA Plan 2006 Global (the "**Leveraged Compartment**" and, together with the Classic Compartment, the "**Compartments**") made pursuant to the Employee Share Offering (as defined below) to or with Qualifying Employees (as defined below) resident in the Jurisdictions who elect to participate in the Employee Share Offering (the "**Canadian Participants**");

(ii) trades of ordinary shares of the Filer (the "**Shares**") by the Compartments to Canadian Participants upon the redemption of Units by Canadian Participants, nor to the issuance of Units of the Classic Compartment to holders of Leveraged Compartment Units upon the transfer of the assets of the Leveraged Compartment to the Classic Compartment at the end of the Lock-Up Period (as defined below);

2. an exemption from the dealer registration requirements of the Legislation (the "**Registration Relief**") so that such requirements do not apply to:

(i) trades in Units of the Classic Compartment made pursuant to the Employee Share Offering to or with Canadian Participants, nor to trades in Units of the Leveraged Compartment made pursuant to the Employee Share Offering to or with Canadian Participants not resident in Ontario or Manitoba;

(ii) trades of Shares by the Compartments to Canadian Participants upon the redemption of Units by Canadian Participants, nor to the issuance of Units of the Classic Compartment to holders of Leveraged Compartment Units upon the transfer of the assets of the Leveraged Compartment to the Classic Compartment at the end of the Lock-Up Period;

3. an exemption from the adviser registration requirements and dealer registration requirements of the Legislation so that such requirements do not apply to the manager of the Compartments, AXA Investment Managers Paris (the "**Manager**") to the extent that its activities described in paragraphs 25 and 26 hereof require compliance with the adviser registration requirements and dealer registration requirements (collectively, with the Prospectus Relief and the Registration Relief, the "**Initial Requested Relief**"); and

4. an exemption from the dealer registration requirements of the Legislation so that such requirements do not apply to the first trade in any Shares acquired by Canadian Participants under the Employee Share Offering (the "**First Trade Registration Relief**").

Under the Mutual Reliance Review System for Exemptive Relief Applications:

(a) the Autorité des marchés financiers is the principal regulator for this application, and

(b) this MMRS 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 formed under the laws of France. It is not and has no intention of becoming a reporting issuer (or equivalent) under the Legislation. The Shares are listed on the New York Stock Exchange (in the form of American Depositary Shares and American Depositary Receipts).

2. The Filer carries on business in Canada through the following affiliated companies: AXA Assurances Inc., AXA Canada Inc., AXA Insurance (Canada), AXA Pacific Insurance Company, Insurance Corporation of Newfoundland Limited, AXA Assistance Canada Inc., AXA RE, AXA Corporate Solutions Assurance, and Anthony Insurance Inc. (the "**Canadian Affiliates**", together with the Filer and other affiliates of the Filer, the "**AXA Group**"). Each of the Canadian Affiliates is a direct or indirect controlled subsidiary of the Filer and is not, and has no intention of becoming, a reporting issuer (or equivalent) under the Legislation.

3. The Filer has established a worldwide stock purchase plan for employees of the AXA Group (the "**Employee Share Offering**") which is comprised of two subscription options: (i) an offering of Shares to be subscribed through the Classic Compartment (the "**Classic Plan**"); and (ii) an offering of Shares to

be subscribed through the Leveraged Compartment (the "**Leveraged Plan**").

4. Only persons who are employees of a member of the AXA Group at the time of the Employee Share Offering with a minimum seniority of three months (such three-month period to be calculated on a continued or discontinued basis since January 1, 2005) (the "**Employees**"), or persons who have retired from an affiliate of the AXA Group and who continue to hold units in French investment funds in connection with previous employee share offerings by the Filer (the "**Retired Employees**" and, together with the Employees, the "**Qualifying Employees**") will be invited to participate in the Employee Share Offering.

5. The Compartments were established for the purpose of implementing the Employee Share Offering.

6. The Fund is not and has no intention of becoming a reporting issuer under the Legislation.

7. The Fund is a collective shareholding vehicle (fonds communs de placement d'entreprise or "**FCPE**s") of a type commonly used in France for the conservation or custodianship of shares held by employee investors. The Fund has been registered with and approved by the Autorité des marchés financiers in France (the "**French AMF**"). Only Qualifying Employees will be allowed to hold Units of the Fund in an amount proportionate to their respective investments in the Fund.

8. Under French law, all Units acquired in the Employee Share Offering will be subject to a hold period of approximately five years (the "**Lock-Up Period**"), subject to certain exceptions prescribed by French law (such as a release on death or termination of employment). At the end of the Lock-Up Period, a Canadian Participant may (i) redeem Units in the Classic Compartment in consideration for the underlying Shares or a cash payment equal to the then market value of the Shares, or (ii) continue to hold Units in the Classic Compartment and redeem those Units at a later date.

9. In the event of an early unwind resulting from the Canadian Participant satisfying one of the exceptions to the Lock-Up Period prescribed by French law, a Canadian Participant may redeem Units: (a) from the Classic Compartment in consideration for the underlying Shares or a cash payment equal to the then market value of the Shares, or (b) from the Leveraged Compartment using the Redemption Formula (described below), by using the market value of the Shares at the time of unwind to measure the increase, if any, from the Reference Price (described below).

10. Under the Classic Plan, Canadian Participants will be issued Units in the Classic Compartment, which will subscribe for Shares on behalf of the Canadian Participants, at a subscription price that is equal to the average of the opening price of the Shares on the 20 trading days ending on the date of approval of the Employee Share Offering by the board of directors of the Filer (the "**Reference Price**"), less a 20% discount. Dividends paid on the Shares held in the Classic Compartment will be contributed to the Classic Compartment and used to purchase additional Shares. To reflect this reinvestment, new Units (or fractions thereof) will be issued.

11. Under the Leveraged Plan, Canadian Participants will subscribe for Units in the Leveraged Compartment, and the Leveraged Compartment will then subscribe for Shares using the Employee Contribution (as described below) and certain financing made available by IXIS Corporate & Investment Bank (the "**Bank**"), which is governed by the laws of France.

12. Canadian Participants in the Leveraged Plan receive a 15.21% discount on the Reference Price. Under the Leveraged Plan, the Canadian Participants effectively receive a share appreciation entitlement in the increase in value, if any, of the Shares financed by the Bank Contribution (as described below).

13. Participation in the Leveraged Plan represents an opportunity for Qualifying Employees potentially to obtain significantly higher gains than would be available through participation in the Classic Plan, by virtue of the Qualifying Employee's indirect participation in a financing arrangement involving a swap agreement (the "**Swap Agreement**") between the Leveraged Compartment and the Bank. In economic terms, the Swap Agreement effectively involves the following exchange of payments: for each

Share which may be subscribed for by the Qualifying Employee's contribution (the "**Employee Contribution**") under the Leveraged Plan at the Reference Price less the 15.21% discount, the Bank will lend to the Leveraged Compartment (on behalf of the Canadian Participant) an amount sufficient to enable the Leveraged Compartment (on behalf of the Canadian Participant) to subscribe for an additional nine Shares (the "**Bank Contribution**") at the Reference Price less the 15.21% discount.

14. Under the terms of the Swap Agreement, at the end of the Lock-Up Period (the "**Settlement Date**"), the Leveraged Compartment will owe to the Bank an amount equal to the market value of the Shares held in that Compartment, less

    (i) 100% of the Employee Contributions; and

    (ii) an amount equal to approximately 75% of the increase, if any, in the market price of the Shares from the Reference Price (the "**Appreciation Amount**").

15. If, at the Settlement Date, the market value of the Shares held in the Leveraged Compartment is less than 100% of the Employee Contributions, the Bank will, pursuant to a guarantee agreement, make a cash contribution to the Leveraged Compartment to make up any shortfall.

16. At the end of the Lock-Up Period, the Swap Agreement will terminate after the making of final swap payments and a Canadian Participant (i) may redeem his or her Leveraged Compartment Units in consideration for a payment of an amount equal to the value of the Canadian Participant's Employee Contribution and the Canadian Participant's portion of the Appreciation Amount, if any, to be settled by delivery of such number of Shares equal to such amount or the cash equivalent of such amount (the "**Redemption Formula**"); or (ii) may elect that his or her investment be transferred to the Classic Compartment or any other similar Compartment. New Units of the Classic Compartment will be issued to the applicable Canadian Participants in recognition of the assets transferred to the Classic Compartment. The Canadian Participants may redeem the new Units whenever they wish, in consideration for the underlying Shares or a cash payment equal to the then market value of the Shares.

17. Under no circumstances will a Canadian Participant in the Leveraged Compartment be entitled to receive less than 100% of his or her Employee Contribution at the end of the Lock-Up Period, nor be liable for any other amounts.

18. Under French law, the Fund, as a FCPE, is a limited liability entity. Each Compartment's portfolio will consist exclusively of Shares of the Filer and, from time to time, cash in respect of dividends paid on the Shares which will be reinvested in Shares. The Leveraged Compartment's portfolio will also include the Swap Agreement. From time to time, either portfolio may include cash or cash equivalents that the Compartments may hold pending investments in Shares and for purposes of Unit redemptions. The risk statement provided to Canadian Participants will confirm that, under no circumstances, will a Canadian Participant in the Leveraged Plan be liable to any of the Leveraged Compartment, the Bank or the Filer for any amounts in excess of his or her Employee Contribution under the Leveraged Plan.

19. During the term of the Swap Agreement, dividends paid on the Shares held in the Leveraged Compartment will be remitted to the Leveraged Compartment, and the Leveraged Compartment will remit an equivalent amount to the Bank as partial consideration for the obligations assumed by the Bank under the Swap Agreement.

20. For Canadian federal income tax purposes, the Canadian Participants in the Leveraged Compartment should be deemed to receive all dividends paid on the Shares financed by either the Employee Contribution or the Bank Contribution, at the time such dividends are paid to the Leveraged Compartment, notwithstanding the actual non-receipt of the dividends by the Canadian Participants by virtue of the terms of the Swap Agreement. Consequently, Canadian Participants will be required to fund the tax liabilities associated with the dividends from their own resources.

21. The declaration of dividends on the Shares remains at the sole discretion of the board of directors of the Filer. The Filer has not made any commitment to the Bank as to any minimum payment in respect of dividends.

22. To respond to the fact that, at the time of the initial investment decision relating to participation in the Leveraged Plan, Canadian Participants will be unable to quantify their potential income tax liability resulting from such participation, the Filer will indemnify each Canadian Participant in the Leveraged Plan for all tax costs to the Canadian Participants associated with the payment of dividends in excess of a specified amount of euros per Share during the Lock-Up Period such that, in all cases, a Canadian Participant will, at the time of the original investment decision, be able to quantify, with certainty, his or her maximum tax liability in connection with dividends received by the Leveraged Compartment on his or her behalf under the Leveraged Plan.

23. At the time the Canadian Participant's obligations under the Swap Agreement are settled, the Canadian Participant should realize a capital gain (or capital loss) by virtue of having participated in the Swap Agreement to the extent that amounts received by the Leveraged Compartment, on behalf of the Canadian Participant, from the Bank exceed (or are less than) amounts paid by the Leveraged Compartment, on behalf of the Canadian Participant to the Bank. To the extent that dividends on Shares that are deemed to have been received by a Canadian Participant are paid by the Compartment on behalf of the Canadian Participant to the Bank, such payments will reduce the amount of any capital gain (or increase the amount of any capital loss) to the Canadian Participant under the Swap Agreement. Capital losses (gains) realized by a Canadian Participant under the Swap Agreement may be offset against (reduced by) any capital gains (losses) realized by the Canadian Participant on a disposition of the Shares, in accordance with the rules and conditions under the *Income Tax Act* (Canada) or comparable provincial legislation (as applicable).

24. The Manager, AXA Investment Managers Paris, is an asset management company governed by the laws of France. The Manager is registered with the French AMF to manage French investment funds and complies with the rules of the French AMF. The Manager is not and has no intention of becoming a reporting issuer under the Legislation.

25. The Manager's portfolio management activities in connection with the Employee Share Offering and the Fund are limited to subscribing for Shares from the Filer, selling such Shares as necessary in order to fund redemption requests, and such activities as may be necessary to give effect to the Swap Agreement.

26. The Manager is also responsible for preparing accounting documents and publishing periodic informational documents as provided by the rules of each Compartment. The Manager's activities in no way affect the underlying value of the Shares and the Manager will not be involved in providing advice to any Canadian Participants.

27. Shares issued in the Employee Share Offering will be deposited in the relevant Compartment through BNP Paribas Securities Services (the "**Depositary**"), a large French commercial bank subject to French banking legislation.

28. Under French law, the Depositary must be selected by the Manager from among a limited number of companies identified on a list by the French Minister of the Economy, Finance and Industry and its appointment must be approved by the French AMF. The Depositary carries out orders to purchase, trade and sell securities in the portfolio and takes all necessary action to allow each Compartment to exercise the rights relating to the securities held in its portfolio.

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

30. The total amount invested by a Qualifying Employee in the Employee Share Offering, including any Bank Contribution, cannot exceed 25% of his or her estimated gross annual compensation for 2006, or for his or her last year of employment, as the case may be, although a lower limit may be established for Canadian Participants by the Canadian Affiliates.

31. None of the Filer, the Manager, the Canadian Affiliates or any of their employees, agents or representatives will provide investment advice to the Canadian Participants with respect to an investment in the Shares or the Units.

32. The Filer will retain a securities dealer registered as a broker/investment dealer under the Legislation of Ontario and Manitoba (the "**Registrant**") to provide advisory services to Canadian Participants resident in Ontario or Manitoba who express interest in the Leveraged Plan and to make a determination, in accordance with industry practices, as to whether an investment in the Leveraged Plan is suitable for each such Canadian Participant based on his or her particular financial circumstances. The Registrant will establish accounts for, and will receive the initial account statements from the Leveraged Compartment on behalf of, such Canadian Participants. The Units of the Leveraged Compartment will be issued by the Leveraged Compartment to Canadian Participants resident in Ontario or Manitoba solely through the Registrant.

33. Units of the Leveraged Compartment will be evidenced by account statements issued by the Leveraged Compartment.

34. The Canadian Participants will receive an information package in the French or English language, as applicable, which will include a summary of the terms of the Employee Share Offering, a tax notice relating to the relevant Compartment containing a description of Canadian income tax consequences of subscribing to and holding the Units in the Compartments and redeeming Units for cash or Shares at the end of the Lock-Up Period. The information package for Canadian Participants in the Leveraged Plan will also include a risk statement which will describe certain risks associated with an investment in Units pursuant to the Leveraged Plan, and a tax calculation document which will illustrate the general Canadian federal income tax consequences of participating in the Leveraged Plan.

35. Upon request, Canadian Participants may receive copies of the Filer's annual report on Form 20-F filed with the United States Securities and Exchange Commission and/or the French *Document de Référence* filed with the French AMF in respect of the Shares and a copy of the relevant Compartment's rules (which are analogous to company by-laws). The Canadian Participants will also receive copies of the continuous disclosure materials relating to the Filer furnished to AXA shareholders generally.

36. There are approximately 2,159 Employees resident in Canada, in the provinces of Québec (1,259), Ontario (488), British Columbia (168), Alberta (136), Newfoundland and Labrador (60), New Brunswick (34), Nova Scotia (9) and Manitoba (5), who represent in the aggregate approximately 2% of the number of Employees worldwide.

37. There are approximately 27 eligible Retired Employees resident in Canada, in the provinces of Québec (12), Ontario (12), and British Columbia (3), for a total of 2,186 Qualifying Employees resident in Canada.

38. As of the date hereof and after giving effect to the Employee Share Offering, Canadian residents do not and will not beneficially own (which term, for the purposes of this paragraph, is deemed to include all Shares held by the Compartments on behalf of Canadian Participants) more than 10% of the Shares and do not and will not represent in number more than 10% of the total number of holders of the Shares as shown on the books of the Filer.

Decision

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

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

1. the first trade in any Units or Shares acquired by Canadian Participants pursuant to this Decision in a Jurisdiction is deemed a distribution or a primary distribution to the public under the Legislation of such Jurisdiction unless the following conditions are met:

   (a) the issuer of the security

      (i) was not a reporting issuer in any jurisdiction of Canada at the distribution date, or

      (ii) is not a reporting issuer in any jurisdiction of Canada at the date of the trade;

(b) at the distribution date, after giving effect to the issue of the security and any other securities of the same class or series that were issued at the same time as or as part of the same distribution as the security, residents of Canada

(i) did not own directly or indirectly more than 10 percent of the outstanding securities of the class or series, and

(ii) did not represent in number more than 10 percent of the total number of owners directly or indirectly of securities of the class or series; and

(c) the trade is made

(i) through an exchange, or a market, outside of Canada, or

(ii) to a person or company outside of Canada.

2. in Quebec, the required fees are paid in accordance with Section 271.6(1.1) of the Securities Regulation (Quebec), V-1.1, r.1.

It is the further decision of the Decision Makers under the Legislation that the First Trade Registration Relief is granted provided that the conditions set out in paragraphs (1)(a), (b) and (c) under this decision granting the Initial Requested Relief are satisfied.

"Josée Deslauriers"
Capital Markets Director
Autorité des marchés financiers

"Nancy Chamberland"
Executive Director, Distribution
Autorité des marchés financiers

2.1.5 Life & Banc Split Corp. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - Investment fund using specified derivatives exempted from the requirement to calculate its NAV on a daily basis, subject to certain conditions - NAV will not be generally required for the purposes of issuing and redeeming shares since shareholders will have the option of liquidating their shares on the TSX and will not be dependent on redemptions for the purposes of disposing of their shares - Prospectus must disclose that NAV per Class A Share and per Preferred Share is to be made available to public upon request and must be posted on manager's website for so long as shares listed on TSX and NAV per Unit, NAV per Class A Share and per Preferred Share is calculated at least weekly - Clause 14.2(3)(b) of National Instrument 81-106 Investment Fund Continuous Disclosure.

Applicable Legislative Provisions

National Instrument 81-106 Investment Fund Continuous Disclosure, ss. 14.2(3)(b), 17.1.

September 29, 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, YUKON AND NUNAVUT (the "Jurisdictions")

AND

IN THE MATTER OF

THE MUTUAL RELIANCE REVIEW SYSTEM FOR EXEMPTIVE RELIEF APPLICATIONS

AND

IN THE MATTER OF
LIFE & BANC SPLIT CORP. (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 (the "Application") from the Filer dated September 7, 2006 for a decision under s. 17.1 of National Instrument 81-106 – *Investment Funds Continuous Disclosure* (the "Legislation") for an exemption from the requirement to calculate net asset value at least once every business day if the Filer uses specified derivatives contained in section 14.2(3)(b) of the Legislation (the "Requested Relief").

Under the Mutual Reliance Review System for Exemption 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 this Filer:

The Filer

1. The Filer is a mutual fund corporation established under the laws of Ontario.

2. Brompton Funds Management Limited (the "Manager") is the promoter and manager of the Filer and will perform administrative services on behalf of the Filer.

The Offering

3. The Filer will be issuing preferred shares (the "Preferred Shares") and class A shares (the "Class A Shares") (together, referred to as the "Shares").

4. The offering of Shares by the Filer is a one-time offering and the Filer will not continuously distribute the Shares.

5. The Filer's investment objectives are: (i) to provide holders of Preferred Shares with fixed cumulative preferential quarterly cash distributions in the amount of $0.13125 per Preferred Share representing a yield on the issue price of the Preferred Shares of 5.25% per annum; (ii) to provide holders of Class A Shares with regular monthly cash distributions targeted to be $0.10 per Class A Share representing a yield on the issue price of the Class A Shares of 8.0% per annum; (iii) to return the original issue price to holders of Preferred Shares at the time of redemption of shares on November 29, 2013; and (iv) to provide holders of Class A Shares with the opportunity for growth in net asset value per Class A Share.

6. The net proceeds from the offering will be invested in an equally weighted portfolio consisting of common shares of the six largest Canadian banks and the four largest Canadian life insurance companies (the "Portfolio").

7. The Filer may from time to time selectively write covered call options on the Shares included in the Portfolio in order to generate additional distributable income for the Filer.

8. A preliminary prospectus of the Filer dated September 7, 2006 (the "Preliminary Prospectus") has been filed with the securities regulatory authorities in each of the Provinces and Territories of Canada.

The Shares

9. The Shares are expected to be listed and posted for trading on the Toronto Stock Exchange (the "TSX").

10. The Preferred Shares will be retractable at the option of the holder on a monthly basis and a holder of a Preferred Share may concurrently retract an equal number of Preferred Shares and Class A Shares on annual basis at a price computed by reference to the value of a proportionate interest in the net assets of the Filer. As a result, the Filer will be a "mutual fund" under applicable securities legislation.

11. The description of the retraction process in the Preliminary Prospectus contemplates that the retraction price for the Shares will be determined as of the valuation date, being the second last business day of the month (the "Retraction Date").

12. The retraction procedures described in the Preliminary Prospectus provide that shareholders will receive payment within ten business days of the month following the Retraction Date.

13. The net asset value per Unit (a notional unit consisting of one Preferred Share and one Class A Share), the net asset value per Preferred Share and the net asset value per Class A Share will be calculated weekly. The Filer will make available to the financial press for publication on a weekly basis the net asset value per Preferred Share and the net asset value per Class A Share as well as through the Internet at www.bromptongroup.com.

14. Shareholders will have the opportunity to trade their shares on the TSX and as such do not have to rely on the retraction features to provide liquidity for their Shares.

Decision

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

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

(a) that the net asset value calculation per Preferred Share and per Class A Share is available to the public upon request;

(b) a toll-free number or website that the public can access to obtain the net asset value per Preferred Share and per Class A Share;

for so long as:

(c) the Shares are listed on the TSX; and

(d) the Filer calculates its net asset value per Unit, net asset value per Preferred Share and net asset value per Class A Share at least weekly.

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

2.1.6 First Asset Equal Weight Small-Cap Income Fund et al. - MRRS Decision

Headnote

One time trade of securities between mutual funds in the same family of funds that are not reporting issuers to implement fund merger is exempted from the conflict of interest restrictions in section 118(2)(b). Commission extremely reluctant to approve requested relief since costs of the merger were to be borne by the unitholders and this was not disclosed in any materials. Order was approved based on fact that in the past, there was no requirement that managers bear the cost of mergers in the context of entities not subject to NI 81-102 and no notice that staff would generally insist on this as a pre-condition to recommending in favour of discretionary relief in connection with such mergers.

Applicable Ontario Statutory Provisions

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

September 27, 2006

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

AND

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

AND

IN THE MATTER OF
FIRST ASSET EQUAL WEIGHT SMALL-CAP
INCOME FUND AND FIRST ASSET EQUAL
WEIGHT REIT INCOME FUND
(collectively, the "Funds")

AND

FIRST ASSET INVESTMENT MANAGEMENT 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, on its own behalf and on behalf of the Funds for a decision under the securities legislation of the Jurisdictions (the "Legislation") granting relief from the restriction in the Legislation which prohibits a portfolio manager from purchasing or selling the securities of any issuer from or to the account of a responsible person

or any associate of a responsible person in connection with a proposed merger (the "Proposed Merger") between First Asset Equal Weight Small-Cap Income Fund (the "Small Cap Fund") and First Asset Equal Weight REIT Income Fund (the "REIT Fund") (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:

1. The Filer intends to merge the Small Cap Fund and the REIT Fund (the "Proposed Merger"), which will involve the transfer of the assets and liabilities of the Small Cap Fund in exchange for units of the REIT Fund (the "REIT Units").

2. At the time the Proposed Merger is effected, the Filer will be the "portfolio manager", or in British Columbia, a "responsible person", for both Funds for purposes of the Legislation.

3. The transfer of the investment portfolio of the Small Cap Fund to the REIT Fund by operation of the Proposed Merger may be considered a sale of securities caused by the Filer from the Small Cap Fund to the account of an the REIT Fund for which the Filer is also portfolio manager, contrary to the Legislation.

4. Each Fund was established pursuant to a Declaration of Trust under the laws of the Province of Ontario and the Filer is the trustee and manager of the Funds.

5. The Small Cap Fund offered its units in all of the Provinces of Canada pursuant to a final prospectus dated April 7, 2005 and closed its initial public offering on April 26, 2005.

6. The REIT Fund offered its units in all of the Provinces of Canada pursuant to a final prospectus dated October 28, 2004 and closed its initial public offering on November 15, 2004.

7. The Proposed Merger will be completed in accordance with the permitted merger guidelines (the "Merger Criteria") approved at a meeting of the unitholders of the Funds held on June 12, 2006 (the "Meeting"). At the Meeting, the unitholders of the Funds passed a resolution (the "Extraordinary Resolution") authorizing First Asset Funds Inc. ("FAFI"), an affiliate of the Filer to amend the Declaration of Trust of each of the Funds. The Extraordinary Resolution grants to FAFI the authority, without seeking unitholder approval, to merge the Funds in accordance with the Merger Criteria. The Proposed Merger is expected to occur on or about September 29, 2006 (the "Effective Date").

8. It is anticipated that the following events will occur in order to give effect to the Proposed Merger:

   (a) The Declaration of Trusts for the Funds will be amended as required in order to implement the Proposed Merger;

   (b) Prior to the Proposed Merger, the Small Cap Fund and the REIT Fund will make distributions of income and capital gains sufficient to ensure that neither will be liable for tax under Part 1 of the Income Tax Act (Canada) in the taxation year ending on the Effective Date;

   (c) The Small Cap Fund exchange ratio will be based upon the relative net asset value of the Funds as at the close of trading on the TSX on the day prior to the Effective Date;

   (d) On the Effective Date, the Small Cap Fund will transfer all of its property to the REIT Fund for consideration equal to the value of such assets on the day prior to the Effective Date;

   (e) On the Effective Date, FAFI will deliver to The Canadian Depository for Securities Limited a certificate evidencing the aggregate number of REIT Units acquired by the former unitholders of the Small Cap Fund pursuant to the Proposed Merger;

   (f) Immediately thereafter, the Small Cap Units will be redeemed and the Unitholders will receive their pro rata share of the REIT Units held by the Small Cap Fund. Unitholders of the Small Cap Fund will not be required to take any action in order to be recognized as unitholders of the REIT Fund following the Proposed Merger;

   (g) All tax elections and tax returns in connection with the Proposed Merger will be prepared and filed by the Funds.

9. FAFI will file a press release and material change report to announce the merger.

10. h distributions and capital appreciation from growth in the real estate sector and from consolidation and privatization activity in the REIT market.

11. The Proposed Merger will increase the assets in the merged fund to a market capitalization larger than the existing market capitalization of the Small Cap Fund and the REIT Fund taken separately. This is expected to reduce the operating costs of the REIT Fund on a per unit basis and increase ongoing liquidity of the REIT Units on the TSX.

12. In the opinion of the Filer, the Proposed Merger is in the best interest of the Small Cap Fund, the REIT Fund and their respective unitholders.

13. In the absence of this order, the Filer would be prohibited from purchasing and selling the securities of the Small Cap Fund in connection with the Proposed Merger.

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) the Proposed Merger is completed in accordance with the Merger Criteria, and (b) the Filer and the Funds comply with paragraphs 8 and 9 hereof.

“Paul K. Bates”

“Harold P. Hands”

2.1.7 Crescent Point Resources Ltd. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – relief from certain filing requirements under NI 51-101, NI 51-102 and MI 52-109

Rules cited

National Instrument 51-101 Standards of Disclosure for Oil and Gas Activities.
National Instrument 51-102 Continuous Disclosure Obligations.
Multilateral Instrument 52-109 Certification of Disclosure in Issuers' Annual and Interim Filings.

Citation: Crescent Point Resources Ltd., 2006 ABASC 1677

September 25, 2006

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

AND

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

AND

IN THE MATTER OF
CRESCENT POINT RESOURCES LTD.

MRRS DECISION DOCUMENT

Background

1. The local securities regulatory authority or regulator (the Decision Maker) in each of Alberta, British Columbia, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and Labrador (the Jurisdictions) has received an application from Crescent Point Resources Ltd. (the Corporation or the Applicant) for a decision under the securities legislation of the Jurisdictions (the Legislation) that:

    1.1 the Corporation be exempt from Part 2 (the NI 51-101 Annual Filing Requirements) and Part 3 of National Instrument 51-101 Standards of Disclosure for Oil and Gas Activities (NI 51-101) (the NI 51-101 Relief);

    1.2 in all the Jurisdictions where National Instrument 51-102 – Continuous Disclosure Obligations (NI 51-102) has been adopted the Corporation be exempted from NI 51-102 and from any comparable continuous disclosure requirements under the Legislation that have not yet been repealed or otherwise rendered ineffective as a consequence of the adoption of NI 51-102 (the Continuous Disclosure Requirements) (collectively, the Continuous Disclosure Relief);

    1.3 in all the Jurisdictions where Multilateral Instrument 52-109 – Certification of Disclosure in Issuers' Annual and Interim Filings (MI 52-109) has been adopted the Corporation be exempted from MI 52-109 (the MI 52-109 Relief); and

    1.4 the exemptive relief regarding the Continuous Disclosure Relief that was previously granted to the Applicant pursuant to Section 7.4 of a MRRS Decision Document dated September 2, 2003 (the Previous Decision) be revoked.

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

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

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

Interpretation

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

Representations

4. The Applicant has represented to the Decision Makers that:

4.1 Crescent Point Energy Trust (the Trust) is an unincorporated open-ended investment trust governed by the laws of the Province of Alberta and the Trust's head office is located in Calgary, Alberta.

4.2 The trust units of the Trust (the Trust Units) are listed and posted for trading on the Toronto Stock Exchange under the trading symbol "CPG.UN".

4.3 The Trust is a reporting issuer, or its equivalent, in the provinces of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and has been a reporting issuer in at least one of these jurisdictions since September 5, 2003.

4.4 To the Applicant's knowledge, the Trust is not in default of any of the requirements of the applicable securities legislation in any of the provinces in which it is a reporting issuer.

4.5 The entire beneficial interest in the Trust is held by the holders (the Unitholders) of its Trust Units.

4.6 As at the date of this application, the Trust has 5 direct subsidiary entities, namely the Corporation, Crescent Point Exchange Ltd. (ExchangeCo), 1225320 Alberta Ltd. (1225320), Crescent Point General Partner Corp. (CPGP) and Crescent Point Commercial Trust (CPC Trust). The Trust, directly or indirectly, owns all of the issued and outstanding common shares of the Corporation, ExchangeCo, 1225320, CPGP and all of the units of CPC Trust.

4.7 The principal undertakings of the Trust are to issue Trust Units and to acquire and hold debt and other interests. The Trust's direct and indirect wholly owned subsidiaries carry on the business of acquiring and holding interests in petroleum and natural gas properties and assets related thereto.

4.8 The primary assets of the Trust are the unsecured, subordinate promissory note (the Note) issued by the Corporation to the Trust, shares in the Corporation and CPGP, trust units and debt in CPC Trust and indirect interests in Crescent Point Resources Limited Partnership (the Limited Partnership) (collectively, the Assets).

4.9 The Trust makes monthly cash distributions to Unitholders from its net cash flow. The Trust's primary sources of cash flow are payments from the Corporation of interest on, and principal in respect of, the Note, the participating note issued by CPC Trust to the Trust on January 6, 2004, and other obligations of its subsidiaries.

4.10 The Trust, in its annual information form and other public disclosure, reports information concerning its reserves data based on its subsidiaries' working interest on a consolidated basis.

4.11 The Corporation's head office is in Calgary, Alberta.

4.12 The Corporation has the following securities issued and outstanding:

4.12.1 common shares, all of which are held by the Trust;

4.12.2 Class A preferred shares, all of which are held by the Trust;

4.12.3 non-voting common shares, all of which are held by CPC Trust;

4.12.4 Class B preferred shares, all of which are held by the Trust;

4.12.5 Class D preferred shares, all of which are held by CPGP; and

4.12.6 exchangeable shares (the Exchangeable Shares), all of which are held by the public.

4.13 The Corporation became a reporting issuer or the equivalent in each of the Jurisdictions on September 9, 2003 upon the completion of a plan of arrangement among Crescent Point Energy Ltd. (post-arrangement Crescent Point Resources Ltd.) and Tappit Resources Ltd. (the Arrangement) due to the fact that its existence continued following the exchange of securities in connection with the Arrangement.

4.14 The Exchangeable Shares are, to the extent possible, the economic equivalent of the Trust Units.

4.15 The Exchangeable Shares have voting attributes equivalent to those of the Trust Units.

4.16 Holders of Exchangeable Shares receive all disclosure materials that the Trust is required to send to holders of Trust Units under the Legislation.

4.17 No outstanding securities of the Corporation are listed on any securities exchange.

4.18 Pursuant to the Previous Decision, the Applicant was exempted from, in all of the Jurisdictions where such requirements were applicable, the requirements to issue a press release and file a report with the Jurisdictions upon the occurrence of a material change, file an annual report, where applicable, file interim financial statements and audited annual financial statements with the Jurisdictions and deliver such statements to the securityholders of the Applicant, file and deliver an information circular or make an annual filing with the Jurisdictions in lieu of filing an information circular, file an annual information form and provide management's discussion and analysis of financial condition and results of operations.

4.19 MI 52-109 requires every issuer to file certain certificates at the time of filing an annual information form, annual financial statements and annual management’s discussion and analysis. As the Applicant has been exempted from continuous disclosure obligations under the Previous Decision and is seeking similar relief hereunder, the required certification is not useful.

4.20 NI 51-101 requires reporting issuers to file certain information with respect to the issuer's oil and gas activities. The Applicant has applied to be exempted from the filing requirements under NI 51-101 as the Trust is required to file the same information.

4.21 The Applicant has not filed a Form 51-101F1 and is currently in default of its NI 51-101 obligations.

Decision

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

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

6.1 Section 7.4 of the Previous Decision is revoked;

6.2 the Continuous Disclosure Relief is granted for so long as:

6.2.1 the Trust is a reporting issuer in at least one of the jurisdictions listed in Appendix “B” of National Instrument 45-102 – Resale of Securities and is an electronic filer under the System for Electronic Documents Analysis and Retrieval (SEDAR);

6.2.2 the Applicant sends, or causes the Trust to send on the Applicant 's behalf, concurrently to all holders of Exchangeable Shares resident in the Jurisdictions, all disclosure material that is sent to holders of Trust Units under the Continuous Disclosure Requirements in the manner and time required by securities legislation;

6.2.3 the Trust files with each Decision Maker copies of all documents required to be filed by it pursuant to NI 51-101, NI 51-102 and MI 52-109;

6.2.4 concurrently with the filing of the documents to be filed by the Trust pursuant to the Continuous Disclosure Requirements, the NI 51-101 Annual Filing Requirements and the requirements of MI 52-109 (the Trust Documents), the Applicant files, or causes the Trust to file on its behalf, in electronic format under the SEDAR profile of the Applicant either:

6.2.4.1 the Trust Documents; or

6.2.4.2 a notice that indicates:

6.2.4.2.1 that the Applicant has been granted an exemption from the Continuous Disclosure Requirements, the NI 51-101 Annual Filing Requirements and the requirements of MI 52-109;

6.2.4.2.2 that the Trust has filed the Trust Documents; and

6.2.4.2.3 where a copy of the Trust Documents can be found for viewing on SEDAR by electronic means;

6.2.5 the Trust is in compliance with the requirements in the securities legislation of the Jurisdictions and of any marketplace on which the securities of the Trust are listed or quoted in respect of making public disclosure of material information on a timely basis;

6.2.6 the Applicant issues a news release and files a material change report in accordance with Part 7 of NI 51-102 for all material changes in respect of the affairs of the Applicant that are not also material changes in the affairs of the Trust;

6.2.7 the Trust includes in all mailings of proxy solicitation materials to holders of Exchangeable Shares a clear and concise statement that explains the reason the mailed material relates solely to the Trust, indicates that Exchangeable Shares are the economic equivalent to the Trust Units and describes any rights associated with the Exchangeable Shares;

6.2.8 the Trust remains a direct or indirect beneficial owner of all of the issued and outstanding voting securities of the Applicant; and

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

6.3 The Corporation be granted the NI 51-101 Relief for so long as:

6.3.1 All the requirements and conditions of granting the Continuous Disclosure Relief under paragraph 6.2 of this decision are satisfied and continue to be satisfied.

6.4 The MI 52-109 Relief is granted for so long as:

6.4.1 the Applicant is not required to, and does not, file its own interim filings and annual filings (as those terms are defined under MI 52-109); and

6.4.2 all the requirements and conditions of granting the Continuous Disclosure Relief under paragraph 6.2 of this decision are satisfied and continue to be satisfied.

"Blaine Young"
Associate Director, Corporate Finance
Alberta Securities Commission

2.1.8 Barclays Bank PLC - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – Filer and insiders of Filer granted relief from insider reporting requirements and obligations under NI 55-102, subject to conditions – Filer is an SEC foreign issuer and subject to requirements under U.S. and U.K. securities legislation.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., s 121.
National Instrument 55-102 – System for Electronic Disclosure by Insiders, s. 6.1.

September 21, 2006

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN,
MANITOBA, ONTARIO, QUÉBEC,
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
BARCLAYS BANK PLC (the "Filer")

MRRS DECISION DOCUMENT

Background

1. The local securities regulatory authority or regulator (the "Decision Maker") in each of the Jurisdictions has received an application from the Filer for

   (a) a decision under the securities legislation of the Jurisdictions (the "Legislation") that insiders of the Filer be exempted from the insider reporting requirements of the Legislation; and

   (b) a decision under the Legislation of each Jurisdiction other than New Brunswick that the Filer and the insiders of the Filer be exempted from the requirements of National Instrument 55-102 – S*ystem for Electronic Disclosure by Insiders* (SEDI) ("NI 55-102").

2. 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.

Interpretation

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

Representations

The Filer

4. The Filer is a public limited company registered in England and Wales and is not a reporting issuer in any of the Jurisdictions.

5. The Filer, a well-known seasoned issuer in the United States, has securities registered under section 12(b) of the 1934 Act and is subject to continuing reporting requirements with the SEC under sections 13 and 15(d) of the 1934 Act.

6. The Filer is a wholly owned subsidiary of Barclays PLC ("Barclays"). Barclays is not a reporting issuer in any of the Jurisdictions. Barclays, together with its subsidiaries, is a major global financial services provider engaged in retail and commercial banking, credit cards, investment banking, wealth management and investment management services. In terms of market capitalization, it is one of the largest financial services companies in the world. Barclays operates in over 60 countries with more than 113,300 employees.

7. The principal trading market for Barclays ordinary shares is the London Stock Exchange ("LSE"). Ordinary share listings were also obtained on the Tokyo Stock Exchange and the New York Stock Exchange ("NYSE"). Trading on the NYSE is in the form of American Depositary Shares.

8. As at June 30, 2006, the Filer had outstanding approximately 2,323,461,000 ordinary shares, nominal value £1.00 per share, £34 million of preference shares and approximately £116 billion in notes and debentures (comprising debt securities in issue, undated loan capital, dated loan capital (convertible) and dated loan capital (non-convertible)). The Filer has preference shares listed on the LSE and the NYSE and debt securities listed on the LSE, the NYSE, the Tokyo Stock Exchange, the Luxembourg Stock Exchange and elsewhere.

9. Both Barclays and the Filer are regulated by the United Kingdom Financial Services Authority

pursuant to the Financial Services and Markets Act 2000. As an issuer with financial instruments admitted to trading on the LSE, Barclays is subject to the United Kingdom Listing Authority Disclosure Rules ("DR").

Current Insider Reporting Obligations and Practices

10. Barclays and persons discharging managerial responsibilities with respect to Barclays and their connected persons are subject to notification obligations under the DR in respect of transactions conducted on their own account in shares of Barclays. A person discharging managerial responsibility is defined as a director or senior executive who has:

    (a) regular access to inside information relating directly or indirectly to the issuer; and

    (b) power to make managerial decisions affecting the future development and business prospects of the issuer.

11. The persons discharging managerial responsibility with respect to the Filer also are persons discharging managerial responsibility with respect to Barclays. As a result, the persons discharging managerial responsibility with respect to the Filer are subject to notification obligations in respect of their transactions in shares of Barclays, the sole holder of ordinary shares of the Filer.

12. The notification obligation under the DR requires persons discharging managerial responsibilities and their connected persons to notify Barclays in writing of all transactions conducted on their own account in shares of Barclays or derivatives or any other financial instruments relating to those shares within four business days of the day on which the transaction occurred. The notification must contain the following information:

    (1) the name of the person discharging managerial responsibilities within the issuer, or, where applicable, the name of the person connected with such a person;

    (2) the reason for responsibility to notify;

    (3) the name of the relevant issuer;

    (4) a description of the financial instrument;

    (5) the nature of the transaction (e.g. acquisition or disposal);

    (6) the date and place of the transaction; and

    (7) the price and volume of the transaction.

13. Barclays must notify a Regulatory Information Service ("RIS") of any information notified to it in accordance with DR 3.1.2R and section 324 as extended by section 328 of the Companies Act 1985 or entered into Barclays' register in accordance with section 325(3) or (4) of the Companies Act 1985 as soon as possible and in any event no later than the end of the business day following the receipt of the information by Barclays.

14. As part of its internal compliance procedures, the shareholdings of its directors and persons discharging managerial responsibilities are monitored and all of their transactions are notified to Barclays centrally by its registrar and the administrators of its share plans and dividend reinvestment plans.

15. At least monthly Barclays and the Filer furnish a report to the SEC on Form 6-K that provides, among other things, notice of the transactions notified to a RIS as described in paragraph 13.

16. As a foreign private issuer under U.S. federal securities law, each of Barclays and the Filer is exempt from the insider reporting requirements under section 16 of the 1934 Act.

The Program

17. The Filer currently offers Notes in the United States under an existing medium-term note program (the "Program"), and it proposes to offer Notes in Canada from time to time under the Program. It is proposed that certain Notes will be offered by prospectus in Canada.

18. It is proposed that a base shelf prospectus (the "Canadian Base Shelf Prospectus") will be filed with the OSC and each of the other Decision Makers pursuant to the shelf procedures set forth in National Instrument 44-102 ("NI 44-102") –*Shelf Distributions*. The Canadian Base Shelf Prospectus will qualify the Notes for distribution in Canada. On July 21, 2006 each of the Decision Makers exempted the Filer from the reporting issuer requirements set out in paragraph 2.3 1.(b) of National Instrument 44-101 –*Short Form Prospectus Distributions*. The Filer has filed with the Decision Makers a preliminary Canadian Base Shelf Prospectus dated July 26, 2006, for which a preliminary MRRS decision document was issued on July 27, 2006.

19. Once the Filer becomes a reporting issuer in Canada, it will be an "SEC issuer" under National Instrument 51-102 – *Continuous Disclosure Obligations* ("NI 51-102") and a "foreign reporting issuer" and an "SEC foreign issuer" under National Instrument 71-102 – *Continuous Disclosure and Other Exemption Relating to Foreign Issuers* ("NI 71-102"). The Filer intends to satisfy its ongoing

continuous disclosure obligations in Canada by filing the documents that it prepares and files in the United States with the SEC as contemplated by NI 71-102. Under subsection 11.1(1) of NI 51-102, the Filer will be required to file with the securities regulatory authorities in each of the Jurisdictions (and Prince Edward Island) through SEDAR copies of the Form 6-Ks required to be furnished to the SEC providing notice of transactions mentioned in paragraph 15.

20. The Filer has created a filer profile on SEDAR as defined in National Instrument 13-101 – *System for Electronic Document Analysis and Retrieval* (SEDAR). As a result, once the Filer becomes a reporting issuer, it will be a "SEDI issuer" under NI 55-102.

21. It is not currently anticipated that the Notes issued in Canada will be listed on any stock exchange in Canada, but a listing in Canada may occur in the future.

Decisions

22. 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 decisions has been met.

23. The decision of the Decision Makers under the Legislation is that an insider of the Filer is exempt from the insider reporting requirements of the Legislation if

    (a) the Filer has a class of securities registered under section 12 of the 1934 Act;

    (b) the insider complies with the notification obligations under the DR and the requirements of U.S. federal securities law relating to insider reporting; and

    (c) neither Barclays nor the Filer has a class of equity securities listed on an exchange in Canada.

24. The further decision of the Decision Maker in each Jurisdiction other than New Brunswick under the Legislation is that

    (a) an insider of the Filer is exempt from the requirements of NI 55-102 if the conditions in paragraph 23 are met; and

    (b) the Filer is exempt from the requirements of NI 55-102 if

        (i) the conditions in subparagraphs 23(a) and (c) are met; and

        (ii) Barclays complies with its obligations to notify a RIS as set out in paragraph 13.

"Jo-Anne Matear"
Assistant Manager, Corporate Finance
Ontario Securities Commission

2.1.9 Nurun Inc. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – issuer proposes to monetize tax losses by transferring losses to shareholder - transfer transaction involves issuance of preferred shares and a loan - distribution of preferred shares and loan constitute "related party transactions" within the meaning of the legislation - series of steps which comprise the proposed transactions constitute "connected transactions" within the meaning of the legislation - transaction will have no adverse impact on balance sheet of issuer - transaction approved by independent directors - issuer exempt from minority approval requirement and valuation requirement.

Applicable Ontario Statutory Provisions

Rule 61-501 Insider Bids, Issuer Bids, Business Combinations and Related Party Transactions (2000) 23 OSCB 2719, as am.

September 19, 2006

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
QUEBEC AND ONTARIO

AND

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

AND

IN THE MATTER OF
NURUN INC. (Nurun or the Filer)

MRRS DECISION DOCUMENT

Background

The local securities regulatory authority or regulator (the Decision Maker) in each of the Jurisdictions has received an application from the Filer, for a decision under the securities legislation of the Jurisdictions (the Legislation), in connection with a proposed transaction to be implemented through a series of steps (collectively, the Proposed Transactions), the purpose of which is to transfer to Quebecor Media Inc. (QMI), a related party of the Filer, by way of a consolidated structure the tax losses of the Filer in order to maximize their respective taxable positions, that the Proposed Transactions be exempted from the formal valuation and the minority approval requirements set forth in the Legislation (the Requested Relief);

Under the Mutual Reliance Review System for Exemptive Relief Applications:

(a) the Autorité des marchés financiers 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. Nurun is a corporation incorporated under the *Canada Business Corporations Act* and is a reporting issuer in each of the provinces of Canada in which such concept exists. To the best of its knowledge, Nurun is not in default of any of the requirements of the securities legislation in each of the provinces of Canada.

2. The authorized capital stock of Nurun consists of an unlimited number of common shares (Common Shares) and an unlimited number of preferred shares without par value, issuable in series. As of the date of this application, 33,254,801 Common Shares were issued and outstanding and there were no issued and outstanding preferred shares.

3. The Common Shares of Nurun are currently listed on the Toronto Stock Exchange (TSX) under the symbol “NUR”.

4. QMI is a corporation incorporated under the laws of Québec and is a private company. As of the date of this application, QMI held directly 19,076,605 Common Shares, representing approximately 57.36% of the issued and outstanding Common Shares. QMI is held, directly or indirectly, at 54.7% by Quebecor Inc. and 45.3% by CDP Capital d’Amérique Investissements inc.

5. Nurun, operating in a volatile industry sector, forecasts no taxable income for years 2006 through 2014. QMI, being shortly in a taxable position (in 2008), is able to accelerate the use of Nurun’s losses. By accelerating the utilization of the tax losses, QMI is in a position to create additional value for each of QMI and Nurun.

6. In order to transfer Nurun’s tax losses, QMI proposes a consolidation structure in which Nurun would be purposely “overcapitalized”. Tax savings would be achieved through a temporary exchange of debt in return for an equivalent amount of equity between QMI and Nurun.

   The Proposed Transactions will be structured in a series of related steps to occur on the same day, which steps are summarized below:

- QMI will borrow, on a daylight basis from an arm's-length financial institution, up to $165 million;
- QMI will use this $165 million to subscribe for redeemable preferred shares of Nurun, having a cumulative dividend rate of 12.01% (the Preferred Shares). The issuance of the Preferred Shares will be made pursuant to the prospectus and registration exemptions of section 2.8 of National Instrument 45-106 – Prospectus and Registration Exemptions;
- Nurun will lend back to QMI, at an interest rate of 12%, the $165 million obtained from the issue of the Preferred Shares (the Loan); the Loan will be made pursuant to a subordinated loan agreement between Nurun and QMI;
- QMI will use the $165 million received from Nurun to repay its daylight loan of $165 million on that same day;
- QMI will pay interest on the Loan to Nurun; and
- Nurun will use this interest to pay dividends on the Preferred Shares to QMI, allowing QMI to apply its interest payment against its taxable income.

7. This structure would generate:

   i. a deductible interest expense in QMI;

   ii. a taxable interest revenue in Nurun;

   iii. a non-taxable dividend income in QMI; and

   iv. a non-deductible dividend payment in Nurun.

8. This consolidation structure is well known and accepted by the Canadian tax authorities. In Nurun's opinion, the Proposed Transactions do not require a tax ruling or any outside tax opinion.

9. The Consideration or real underlying economic value for Nurun and QMI for the transfer of the tax losses through the Proposed Transactions is based on the following principles:

- QMI will derive tax savings with a present value in the amount of approximately $5.4 million;
- QMI will compensate Nurun for the opportunity cost of transferring its tax losses; this compensation, totalling approximately $2.75 million will be paid to a sole purpose new subsidiary of Nurun;
- Once QMI has utilized approximately $19.8 million of Nurun's tax losses, both Nurun and QMI will unwind the Proposed Transactions and revert back to their original capital structure; and
- The unwinding of the Proposed Transactions will occur prior to September 29, 2007.

The Consideration payable to Nurun was established using the following methodology:

- Based on the financial projections of Nurun, the net present value of Nurun's tax losses was valued at $0.1 million (using a discount rate established on the basis of the capital asset pricing model (CAPM)). By disposing of its tax losses, Nurun must receive a minimum of $0.1 million from a purchaser in order to be Net Present Value (NPV) neutral.
- The value of Nurun's tax losses was considered from the perspective of Nurun's shareholders who, based on QMI's ownership of Nurun (approximately 57.36%), could buy their respective portion of the losses. QMI could use the losses to offset its taxable income and realize tax savings. Based on the financial projections of QMI, it was determined that the portion of the tax losses benefiting QMI would have a present value of $5.4 million.
- If Nurun were to distribute its tax losses to its shareholders in accordance with their respective ownership, QMI would therefore realize a net gain of approximately $0.06 million (or the difference between $0.1 million and $0.04 million, being the amount that would be distributed to the other shareholders of Nurun).
- Nurun and QMI agreed to share equally the difference between the value of the tax losses to Nurun and QMI. As a result, the value of the portion of Nurun's tax losses owning to QMI was established at $2.75 million, resulting in a

net gain of $2.65 million for Nurun (or the difference of $2.75 million and $0.1 million) and a net gain of $2.65 million for QMI (or the difference of $5.4 million and $2.75 million).

- The value that Nurun has to secure in the transaction is therefore $0.1 million in order for the transaction to be fair to Nurun and its shareholders.

- By having QMI pay $2.75 million directly to Nurun to acquire 100% of the losses, Nurun will realize net gains of $2.65 million (or $2.75 million less $0.1 million), of which $1.5 million will benefit to QMI through its ownership of 57.36% in Nurun.

Lenders

- The lenders of Nurun recognize the value for Nurun in entering into these Proposed Transactions. Under the terms of Nurun's credit agreement, Nurun may at any time enter into these Proposed Transactions so long as Nurun receives immediately before, concurrently or immediately thereafter, the corresponding payment from its counterparty.

10. Certain elements of the Proposed Transactions, namely, the issuance by Nurun of the Preferred Shares and the Loan (which involves lending money to and issuing a security to QMI), are "related party transactions" within the meaning of the Legislation. In addition, the series of steps which comprise the Proposed Transactions constitute "connected transactions" within the meaning of Rule 61-501.

11. Unless otherwise exempted, an issuer carrying out a "related party transaction" is subject to the formal valuation and minority approval requirements contained in the Legislation.

12. The overall purpose of the Proposed Transactions is to allow Nurun to monetize its tax losses. Likewise, the Proposed Transactions will generate interest expenses for QMI to apply against its taxable income.

13. QMI is a related party of Nurun within the meaning of the Legislation.

14. As mentioned above, the issuance of the Preferred Shares by Nurun as well as the granting of the Loan by Nurun in favour of QMI both constitute related party transactions as defined under the Legislation. In addition, the Proposed Transactions constitute "connected transactions" as defined in Rule 61-501 since the completion of each step of the Proposed Transactions is conditional upon the completion of the others.

15. The Legislation requires issuers to obtain a formal valuation for related party transactions. However, the Legislation provides for exemption from formal valuation requirements when the fair market value of the subject matter of the related party transaction does not exceed 25% of the issuers' market capitalization.

16. The Legislation provides for an exemption from the minority approval requirement under the same circumstances.

17. As stated above, the Proposed Transactions are totally tax driven. They are just a mechanism to transfer tax losses from Nurun to QMI and will generate a net gain of $2.65 million for Nurun. All of Nurun's shareholders would derive a clear benefit from the Proposed Transactions because of the payment of the Consideration. In addition, the transfer of tax losses will result in a tax savings with a present value of approximately $2.65 million for QMI (after payment of the Consideration).

18. Based on the closing price of the Common Shares on the TSX on August 17, 2006, the market capitalization of Nurun is approximately $111,403,583. Accordingly, the amount of the debt and equity instruments used in the Proposed Transactions to effect the transfer of the tax losses exceed 25% of Nurun's market capitalization. However, the Proposed Transactions would result in a consolidated structure that will have no adverse impact on the balance sheet of Nurun. Furthermore, the Proposed Transactions will have only a transitory effect on Nurun's financial statements given that Nurun will revert to its original structure before the end of its next fiscal year, being as soon as QMI will have utilized the $19.8 million of Nurun's tax losses.

19. Under the Proposed Transactions, Nurun will not pay any consideration to QMI. The funds Nurun will use to make the Loan will be received from the issuance of the Preferred Shares. Therefore, Nurun will not be obligated to make any payment under the Proposed Transactions (including any payment of dividends on the Preferred Shares) unless and until it receives from QMI or is reasonably satisfied that it will receive a corresponding payment from QMI. As such, the Proposed Transactions are akin to a shares-for-debt transaction whereby there is an exchange of assets for substantially equivalent value but with the added benefit for Nurun shareholders because of the payment of the Consideration by QMI.

20. The board of directors of Nurun has reviewed and approved the Proposed Transactions and has satisfied itself as to their fairness to and impact on

Nurun. The majority of the directors of Nurun are independent directors and all members of the Audit Committee of Nurun are independent directors. Members of the Audit Committee have reviewed and approved the Proposed Transactions as part of their position and role as a director of Nurun.

21. All shareholders of Nurun will be treated fairly under the Proposed Transactions. In addition, in respect of the benefit received by Nurun in connection with the Proposed Transactions, all shareholders will be treated identically according to their proportionate shareholding in Nurun without adverse tax consequences.

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.

"Josée Deslauriers"
Directrice des marchés des capitaux
Autorité des marchés financiers

2.1.10 Asia Pacific Holdings Ltd. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications and Multilateral Instrument 11-101 Principal Regulator System - National Instrument 51-102, s. 13.1 - Continuous Disclosure Obligations – information circular – An issuer wants relief from the requirement to include prospectus-level disclosure in an information circular to be circulated in connection with an amalgamation – The securities that are being issued will only be outstanding for a short period of time before they are redeemed for cash; finances have been secured to fund the redemption of the securities; other securities will be securities in an issuer that is substantially identical to the pre-amalgamation issuer, with identical terms and conditions as the pre-amalgamation securities.

Applicable British Columbia Provisions

National Instrument 51-102 Continuous Disclosure Obligations, ss. 9.1 and 13.1, Form 51-102F5 Information Circular, Part 14.

June 30, 2006

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA AND ONTARIO
(the Jurisdictions)

AND

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

AND

IN THE MATTER OF
ASIA PACIFIC HOLDINGS LTD.
(the Filer)

MRRS DECISION DOCUMENT

Background

1. The local securities regulatory authority or regulator (the Decision Maker) in each of the Jurisdictions has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation), that the Filer is exempt from the requirement in the Legislation to include prospectus-level disclosure in the Filer's information circular for the special meeting of its securityholders to consider, and if deemed advisable to approve, the amalgamation of the Filer with another company (the Requested Relief).

Application of the Principal Regulator System

2. Under Multilateral Instrument 11-101 *Principal Regulator System* (MI 11-101) and the Mutual Reliance Review System for Exemptive Relief Applications:

   (a) the British Columbia Securities Commission is the principal regulator for the Filer,

   (b) the Filer is relying on the exemption in Part 3 of MI 11-101 in Alberta, Saskatchewan, Manitoba, Quebec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, the Northwest Territories, the Yukon Territory and Nunavut, and

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

Interpretation

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

Representations

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

   1. the Filer's head office is in White Rock, British Columbia;

   2. the Filer is a reporting issuer or the equivalent in all provinces and territories of Canada and, to the Filer's knowledge, it is not in default of its obligations as a reporting issuer or the equivalent under the legislation of any province or territory;

   3. the Filer is a corporation continued under the *Business Corporations Act* (New Brunswick) (the NBBCA); the Filer is authorized to issue an unlimited number of voting common shares without par value (the Common Shares); the Common Shares are listed under the symbol "APQ-T" on the Toronto Stock Exchange, and certain other exchanges;

   4. the Filer intends to call a meeting of its securityholders (the Meeting) to be held on or about July 31, 2006 to consider, and if deemed advisable to approve, the amalgamation of the Filer with Metro Resources Company Limited (Metro), a wholly-owned direct subsidiary of the Filer, and 623827 N.B. Ltd. (623827), a wholly-owned direct subsidiary of SRMT Holdings Limited (SRMT) (the Amalgamation);

   5. the Amalgamation will take place after two cash offers to purchase up to 612,000,000 Common Shares and all of the warrants of the Filer at a price of CAD$0.1425 per Common Share and CAD$0.0175 per warrant, which SRMT made to all securityholders of the Filer under a formal offer and take over bid circular dated April 19, 2006 (the Offers); the Offers expired on May 25, 2006;

   6. on June 2, 2006, SRMT took up and paid for in cash the 546,767,485 Common Shares and 101,979,730 warrants which had been validly deposited under the Offers; this represented 86% of the outstanding Common Shares and 98% of the outstanding warrants based upon the number of Common Shares and warrants issued and outstanding as at May 25, 2006;

   7. Metro is a corporation incorporated under the NBCCA; Metro is not a reporting issuer in any of the provinces or territories of Canada where such status exists;

   8. 623827 is a corporation incorporated under the NBCCA; 623827 is not a reporting issuer in any of the provinces or territories of Canada where such status exists; since incorporation, 623827 has not carried on any business;

   9. SRMT is a corporation incorporated under the NBCCA and is an indirect, wholly owned subsidiary of Italian-Thai Development Public Company Limited (ITD); SRMT is not a reporting issuer in any of the provinces or territories of Canada where such status exists; SRMT was incorporated solely for the purpose of making the Offers and it conducts no other business;

   10. ITD is a company incorporated in the Kingdom of Thailand, headquartered in the city of Bangkok, Thailand; ITD is not a reporting issuer in any of the provinces or territories of Canada where such status exists;

   11. under the Amalgamation, Asia Pacific, Metro and 623827 will amalgamate to form Amalco; holders of Common Shares (other than dissenting shareholders, 623827 and SRMT) will receive one redeemable special share in the capital of Amalco (each a Special Share) for

each Common Share held immediately before the Amalgamation, and SRMT will receive all common shares in the capital of Amalco; no shares in the capital of Amalco will be issued to Metro;

12. immediately following completion of the Amalgamation, each Special Share will be redeemed for CAD$0.1425 in cash, which is the same consideration paid by SRMT for Common Shares under the Offers;

13. the Amalgamation will constitute a business combination under Ontario Securities Commission Rule 61-501 *Insider Bids, Issuer Bids, Business Combinations and Related Party Transactions* and a going private transaction under AMF Policy Q-27 *Respecting Protection of Minority Securityholders in the Course of Certain Transactions*; as a result of the completion of the Offers, the Amalgamation will constitute a subsequent acquisition transaction, as SRMT will be the sole holder of common shares of Amalco following completion of the Amalgamation;

14. in connection with the Meeting, the Filer expects to mail to each shareholder (i) a notice of the Meeting; (ii) a form of proxy; (iii) an information circular (the Circular); and (iv) a letter of transmittal; the Circular will be prepared in accordance with the NBBCA and applicable securities laws;

15. the consideration paid by Amalco on redemption of the Special Shares will be funded directly or indirectly by SRMT and/or ITD;

16. ITD has advised that it intends to ensure that Amalco will have sufficient funds to pay in full the aggregate redemption price on the redemption of the Special Shares;

17. following completion of the Amalgamation, SRMT intends to de-list the Common Shares from the Toronto Stock Exchange and, subject to applicable securities laws, to cause the Filer to cease to be a reporting issuer under the securities laws of each province and territory of Canada in which it is a reporting issuer;

18. following de-listing of the Common Shares and the termination of the Filer's status as a reporting issuer, SRMT intends to amalgamate with Amalco to form Amalco 2; following completion of this second amalgamation, Amalco 2 will be wholly owned by 682826 N.B. Ltd., an indirect wholly owned subsidiary of ITD.

Decision

5. The Decision Makers being satisfied that they have jurisdiction to make this decision and that the relevant test under the Legislation has been met, the Requested Relief is granted, provided that the Filer complies with all other provisions of the Legislation applicable to the Circular for the Meeting.

"Martin Eady, C.A."
Director, Corporate Finance
British Columbia Securities Commission

2.1.11 QLT Inc. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – issuer conducting an issuer bid under a modified dutch auction procedure requires relief from the requirement to take up and pay for securities deposited on a pro rata basis and the associated disclosure requirement - under the modified dutch auction procedure all shares deposited at prices above the clearing price will be returned to the shareholder instead of being taken up and paid for on a pro rata basis – shareholders who tender above the clearing price are not prepared to sell at the clearing price and therefore they suffer no prejudice if their shares are not taken up and paid for; returning their shares respects their intentions – shareholders who are prepared to sell at the clearing price are treated equally as their shares are taken up pro rata.

Applicable Ontario Statutory Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 95, 104(2)(c), Form 33.

August 30, 2006

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN, MANITOBA, ONTARIO, QUEBEC, NOVA SCOTIA, NEW BRUNSWICK 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
QLT INC.
(the Filer)

MRRS DECISION DOCUMENT

Background

1 The local securities regulatory authority or regulator (the Decision Maker) in each of the Jurisdictions has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) that, in connection with the proposed purchase by the Filer of a portion of its outstanding common shares (the Shares) under an issuer bid (the Offer), the Filer be exempt from the requirements in the Legislation to:

(i) take up and pay for the Shares on a pro rata basis according to the number of securities deposited by each shareholder;

(ii) provide disclosure in the issuer bid (the Circular) of the proportionate take up and payment; and

(iii) except in Ontario and Quebec, to obtain a formal valuation of the Shares (the Valuation Requirement;

(collectively, the Requested Relief).

Under the Mutual Reliance Review System for Exemptive Relief Applications

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

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

Interpretation

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

Representations

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

1. the Filer is incorporated under the *Business Corporations Act* (British Columbia) with its head office in Vancouver, British Columbia;

2. the Filer is authorized to issue 500,000,000 Shares and 5,000,000 first Preference Shares; as of July 26, 2006, the Filer had 88,152,671 Shares and no first Preference Shares issued and outstanding;

3. the Shares trade on the Toronto Stock Exchange under the trading symbol QLT and on NASDAQ under the traders symbol QLTI;

4. the Filer is a reporting issuer or the equivalent in each of the Jurisdictions and, to its knowledge, is not in default of any requirement of the Legislation;

5. to the Filer's knowledge and based on publicly available information, the only shareholder that currently holds greater than 10% of the Shares is MacKenzie Financial Corporation, which holds 9,335,286 Shares as of July 26, 2006, representing approximately 10.6% of the issued and outstanding Shares;

6. the Filer intends to acquire up to 13,000,000 Shares (the Specified Number of Shares) under the Offer;

7. the Offer will be made pursuant to a modified Dutch auction procedure as follows:

   (a) the Filer will offer to purchase up to the Specified Number of Shares;

   (b) the Filer will pay a price per Share (the Purchase Price) between the range of US$7.00 to US$8.00 (the Price Range) which is specified in the Circular;

   (c) shareholders wishing to tender to the Offer may

      (i) specify the lowest price within the Price Range that they are willing to sell all or a portion of their Shares (an Auction Tender), or

      (ii) elect to tender their Shares at the Purchase Price determined in accordance with paragraph (d) below (a Purchase Price Tender);

   (d) the Purchase Price will be the lowest price that will enable the Filer to purchase up to the Specified Number of Shares, subject to additional Shares being taken up due to rounding as described in paragraph (f) below, and will be determined based upon the number of Shares tendered under Auction Tenders and Purchase Price Tenders, with each Purchase Price Tender being considered a tender at the lowest price in the Price Range for the purposes of determining the Purchase Price;

   (e) shareholders may also tender Shares subject to the condition that a minimum number of the Shares tendered, as specified by the shareholder, must be purchased if any of such shareholder's Shares are purchased ("Conditional Tender");

   (f) the aggregate amount that the Filer will pay for Shares tendered to the Offer will not be determined until the Purchase Price is established;

   (g) the Filer will take up and pay for all Shares tendered at or below the Purchase Price at the Purchase Price, calculated to the nearest whole Share, so as to avoid the creation of fractional Shares and subject to prorating as described in paragraph (h) below if the aggregate number of Shares tendered at or below the Purchase Price exceeds the Specified Number of Shares;

   (h) the Filer will return all Shares tendered at prices above the Purchase Price to the appropriate shareholders;

   (i) all Shares tendered by shareholders who specify a tender price that falls outside the Price Range will be considered to have been improperly tendered, will be excluded from the determination of the Purchase Price, will not be purchased by the Filer and will be returned to the tendering shareholders;

   (j) if the number of Shares tendered at or below the Purchase Price is greater than the Specified Number of Shares, the Filer will purchase Shares tendered at or below the Purchase Price on a pro rata basis, except that the Filer will first accept for purchase, and will not prorate, Shares properly deposited by any shareholder who beneficially holds fewer than 100 Shares who

      (i) deposits all such Shares under either an Auction Tender at or below the Purchase Price, or a Purchase Price Tender, and

      (ii) who checks the "Odd Lots" box in the Letter

of Transmittal relating to the Offer;

(k) after accepting the Odd Lots, the Corporation will next accept the other Shares on a pro-rata basis; and

(l) only if necessary to permit the purchase of the Specified Number of Shares, the Corporation will next accept Shares tendered pursuant to a Conditional Tender for which the condition was not initially satisfied; in selecting any such Conditional Tenders, the Corporation's depositary will select by random lot the Shares to be accepted and will limit its purchase of such Shares to the minimum number of Shares specified by the shareholder;

8. prior to the expiry of the Bid, all information regarding the number of Shares tendered and the prices at which such Shares are tendered will be kept confidential until the offer expires and the Purchase Price has been determined;

9. the Filer intends to rely upon the exemptions from the valuation requirement in subsections 1.2(1)(a) and 3.4(3) of Ontario Securities Commission Rule 61-501 (Rule 61-501) and subsections 1.3(1)(a) and 3.4(3) of Quebec Regulation Policy Statement Q-27 (Q-27) (the Liquid Market Exemptions) on the basis that there is a published market for the Shares, namely the TSX and NASDAQ and it is reasonable to conclude that, following the completion of the Offer, there will be a market for shareholders who did not tender to the Offer that is not materially less liquid than the market that existed at the time of the making of the Offer; and

10. the Circular:

(a) discloses the mechanics for the take up of and payment for, or the return of, Shares as described in paragraph 7 above;

(b) explains that, by tendering the Shares at the lowest price in the Price Range, a Shareholder can reasonably expect that the Shares so tendered will be purchased at the Purchase Price, subject to proration as described in paragraph 7 above;

(c) specifies that the number of Shares that the Filer intends to purchase under the Offer will be up to the Specified Number of Shares; and

(d) contains the disclosure prescribed by Legislation for issuer bids, except to the extent exemptive relief is granted by this decision.

Decision

4 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) Shares deposited under the Offer and not withdrawn are taken up and paid for, or returned to Shareholders, in the manner described in representation 7, and

(b) the Filer can rely on the Liquid Market Exemptions and complies with representations 9 and 10.

"Martin Eady, CA"
Director, Corporate Finance
British Columbia Securities Commission

2.1.12 Homburg Invest Inc. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Applications - relief from sections 8.4(1) and 8.4(2) of National Instrument 51-102. - Filer acquired 11 real estate properties in the Netherlands and was unable to gain access to financial records relating to five properties acquired as asset purchases in order to prepare carve-out financial statements for the two fiscal years and the interim period prior to the acquisition of the properties. Relief granted from preparing the “carve out” financial statements as required by National Instrument 51-102 sections 8.4(1) and 8.4(2). Alternative financial and other disclosure was provided.

April 25, 2006

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

AND

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

AND

IN THE MATTER OF
HOMBURG INVEST INC. (THE "FILER")

MRRS DECISION DOCUMENT

Background

The local securities regulatory authority or regulator (collectively, the "Decision Makers") in each of the Jurisdictions has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the “Legislation”) that relief from the requirements under the Legislation that certain financial statements prescribed by subsections 8.4(1) and (2) of National Instrument 51-102 - *Continuous Disclosure Obligations* ("NI 51-102") and item 3 of Form 51-102F4 of that instrument be filed with the business acquisition report prepared by the Filer in connection with the Filer’s acquisition of interests in 11 retail properties be granted on the condition that acceptable alternative financial statements be provided for such acquisitions (the "Requested Relief").

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

(a) the Nova Scotia Securities Commission is the principal regulator for the 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 the Province of Alberta. The head and principal offices of the Filer are located at Suite 600, 1741 Brunswick Street, Halifax, Nova Scotia B3J 3X8 and its registered office is located at 3700, 400 Third Ave. S.W., Calgary, Alberta T2P 4H2.

2. The Filer owns a diverse portfolio of real estate including office, retail, warehouse and residential apartment and townhouse properties throughout Canada, in the United States and in Germany and the Netherlands.

3. The Class A Subordinate Voting Shares (the "Class A Shares") and Class B Multiple Voting Shares in the capital of the Filer are listed and posted for trading on the Toronto Stock Exchange under the symbols HII.SV.A and HII.MV.B, respectively.

4. The Filer is a reporting issuer in the Jurisdictions and, except as noted with respect to the filing of its business acquisition report, to the best of its knowledge is not in default of any requirements of the Legislation.

5. Effective June 1, 2005 and June 2, 2005, Homburg completed the acquisition of 11 real estate properties (the "Properties") consisting of office buildings, shopping centers, logistics centers and production, warehousing and distribution facilities located in Germany and the Netherlands from vendors located in those jurisdictions (collectively, the "Vendors").

6. The acquisition of the Properties involved a series of share purchase and asset purchase transactions whereby limited partnerships owned 100% by the Filer acquired interests in three companies (which together held six of the Properties) (the "Share Purchase Companies") and five individual Properties (the "Asset Purchase Properties").

7. The total consideration paid by Homburg to acquire the Properties was CDN$494.02 million, comprised of: (i) the issuance of 21,677,487 Class A Shares at a price of $3.00 per share for total share consideration equal to CDN$65 million; (ii) a cash payment of CDN$34.90 million; and (iii) the assumption of existing debt and new debt totalling

CDN$394.12 million. Of the total consideration paid, 69% was paid with respect to the acquisition of the six Properties held by the Share Purchase Companies.

8. All of the Properties were under common control or management prior to the acquisition being completed and were, therefore, "related businesses" within the meaning of Part 8 of NI 51-102. When taken together, the acquisition of the Properties constitutes a "significant acquisition" for the Filer for the purposes of NI 51-102 (exceeding the 40% threshold of the significance tests as determined in accordance with section 8.3 of NI 51-102), requiring the Filer to file a business acquisition report with respect to the acquisition pursuant to section 8.2 of NI 51-102.

9. Pursuant to section 8.4 of NI 51-102, the business acquisition report relating to the acquisition of the Properties must be accompanied by certain financial statements, including: (i) audited financial statements for each of the 2 most recently completed financial years of the business acquired ended more than 45 days before the date of the acquisition; (ii) unaudited interim financial statements for the most recently completed interim period of the business acquired that ended before the date of the acquisition, together with a comparative interim financial statement for the comparative period in the preceding year of the business acquired (the "BAR Financial Statements").

10. Management of the Filer has obtained audited annual financial statements for each of the years ended December 31, 2004 and December 31, 2003 and unaudited interim financial statements for the five month period commencing January 1, 2005 and ending May 31, 2005 for each of the Share Purchase Companies and these statements, which have been prepared under Dutch generally accepted accounting principles ("Dutch GAAP") and reconciled to Canadian generally accepted accounting principles ("Canadian GAAP"), will be filed with the business acquisition report.

11. Each of the Asset Purchase Properties represented just one of the properties in a portfolio of real estate properties owned by the Vendors and, accordingly, separate financial statements have never been prepared for the Asset Purchase Properties.

12. Management of the Filer obtained independent appraisals (the "Appraisals") with respect to each of the 11 Properties. The appraisals were prepared by a qualified independent real estate appraiser on a going forward basis, using the discounted cash flow method, based on long term "triple net" leases in place. The appraised values for the Properties on an aggregate basis were $521.3 million while the purchase price for the Properties on an aggregate basis was $494.02 million.

13. Annual audited financial statements and unaudited interim financial statements for the Asset Purchase Properties in the format required by subsections 8.4(1) and (2) of NI 51-102 do not exist and the information to produce such statements cannot be obtained by the Filer as the Asset Purchase Properties were one of a portfolio of properties held by the Vendors and the Vendors did not maintain separate financial records and financial statements for the Asset Purchase Properties; the information was simply consolidated with the Vendors' records.

14. Furthermore, the Filer cannot obtain from the Vendors of the Asset Purchase Properties historical balance sheets and/or financial information of the Vendors of the Asset Purchase Properties which would enable the Filer to prepare the balance sheets setting out the assets and liabilities directly attributable to the Asset Purchase Properties so as to meet the requirements for the production of "divisional" or "carve out" financial statements as set out in Section 8.6 of the Companion Policy to NI 51-102 (the "Carve Out Statements").

15. The Filer had requested that Accredo Groep BV (the "Auditors"), the accounting firm located in Eindhoven, the Netherlands, which audited the financial statements to be included in the Filer's business acquisition report, contact each of the Vendors of the Asset Purchase Properties. The Filer obtained a letter from the Auditors stating: (i) that the Vendors of the Asset Purchase Properties had never completed individual financial statements for the five Asset Purchase Properties as they did not have the need nor had been required to do so; and (ii) that the Auditors, at the request of the Filer, had contacted each of the Vendors of the Asset Purchase Properties within a specified two and one-half week period to obtain their historical balance sheets and any other financial information which would enable Carve Out Statements to be prepared and that in each case its request for parent company information was refused.

16. The Filer also obtained formal letters from each of the Vendors of the Asset Purchase Properties and where applicable, the companies or individuals who owned the Asset Purchase Properties prior to the Vendors of the Asset Purchase Properties confirming that: (i) the Auditor and the Filer, directly, had requested: (A) financial statements with respect to the Property acquired from the Vendor; and (B) alternatively, if separate statements were not maintained with respect to this Property, the historical balance sheets and/or financial information of the Vendor from which the

Filer could prepare financial statements (the "Requested Financial Information"); and (ii) that the Vendor was refusing to provide such Requested Financial Information. Each of the Vendors of the Asset Purchase Properties cited the grounds for such refusal as the fact that the historical balance sheets and other financial information required for the Filer to prepare the necessary Carve Out Statements did not exist or that the release of such financial information to the Filer, a competitor, could jeopardize the Vendor's competitive advantage.

17. In satisfaction of or in place of the BAR Financial Statements or the Carve Out Statements for the Asset Purchase Properties, the Filer will file the following financial information:

    (a) unqualified audited combined net operating statement including all 11 Properties with line items including property revenue and all direct expenses as at and for the years ended December 31, 2004 and 2003 and for the five months interim period ended May 31, 2005 reconciled to Canadian GAAP;

    (b) individual audited net operating statements for each of the 11 Properties with line items including rental revenue and all direct expenses as at and for the years ended December 31, 2004 and 2003 and for the 5 months interim period ended May 31, 2005 (including notes thereto) reconciled to Canadian GAAP;

    (c) *pro forma* financial statements (including notes thereto) and a compilation report for the year ended December 31, 2004 and the six months ended June 30, 2005 and a reconciliation of Dutch GAAP to Canadian GAAP; and

    (d) executive summaries of the Appraisals with respect to each of the 11 Properties.

18. The Filer will file *pro forma* income statements (including notes thereto) and a compilation report for the year ended December 31, 2004 and the six months ended June 30, 2005 to satisfy the requirement to file *pro forma* financial statements as set out in subsections 8.4(3) and (4) of NI 51-102. The Filer has determined that a *pro forma* balance sheet is not required since the Filer's unaudited interim financial statements as at and for the three and six months ended June 30, 2005 which were filed August 10, 2005 reflected one month of ownership and operation of the Properties and included a balance sheet as at June 30 reflecting ownership of the Properties.

Decision

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

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

1. The business acquisition report contains:

    (a) audited annual financial statements, reconciled to Canadian GAAP, as at and for the years ended December 31, 2004 and 2003 for each of the Share Purchase Companies;

    (b) unaudited interim financial statements, reconciled to Canadian GAAP, as at and for the five month period commencing January 1, 2005 and ending May 31, 2005 for each of the Share Purchase Companies;

    (c) audited operating costs statements for each of the 11 Properties and audited combined operating costs statements for the 11 properties collectively, with line items including rental revenue and all direct expenses as at and for the years ended December 31, 2004 and 2003 and for the 5 months ended May 31, 2005, such statements reconciled to Canadian GAAP;

    (d) *pro forma* income statement (including notes thereto) and a compilation report for the year ended December 31, 2004 and the six months ended June 30, 2005;

    (e) executive summaries of the Appraisals with respect to each of the 11 Properties; and

    (f) a description of the properties acquired including square footage, occupancy rate, square footage occupied by and duration of leases with anchor tenants.

DATED at Halifax, Nova Scotia on this 25th day of April, 2006.

“Nicholas A. Pittas”
Director of Securities
Nova Scotia Securities Commission

2.1.13 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 corporate debt securities (medium term notes) of an issuer during the prohibition period – affiliates of the dealer managers 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.

September 19, 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") FOR EXEMPTIVE RELIEF APPLICATIONS

AND

IN THE MATTER OF
TD ASSET MANAGEMENT INC., JONES HEWARD INVESTMENT COUNSEL INC. AND NATCAN INVESTMENT 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 (each a "**Dealer Manager**"), the managers or portfolio advisers or both 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**") for:

- an exemption from subsection 4.1(1) of NI 81-102 (the "**Investment Restriction**") to enable the Dealer Managed Funds to invest in medium term notes (the "**Securities**") of Bell Aliant Regional Communications, Limited Partnership (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 new issue (the "**Offering**") of the Securities to be offered pursuant to a short form base shelf prospectus and a pricing supplement to be filed by the Issuer on or about Thursday, September 14, 2006 and Tuesday, September 19, 2006, respectively in accordance with the securities legislation of each of the Jurisdictions (the "**Investment Restriction 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.

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 its 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 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 head offices of each of the Dealer Managers are in Toronto, Ontario.

4. The Issuer filed a preliminary short form base shelf prospectus (the "**Preliminary Prospectus**") on August 25, 2006 with each of the Decision Makers, for which an MRRS decision document evidencing receipt by the each of the Decision Makers was issued on August 28, 2006.

5. As disclosed in the Preliminary Prospectus, the Issuer was established under the laws of the Province of Manitoba on July 5, 2006. The Issuer was created as part of a plan of arrangement (the "**Arrangement**") amongst Aliant Inc., BCE Inc. and Bell Canada to form the Bell Aliant Regional Communications Fund (the "**Fund**") which was completed on July 7, 2006.

6. The Offering is being underwritten, subject to certain terms, by a syndicate which we understand will include TD Securities Inc., BMO Nesbitt Burns Inc. and National Bank Financial Inc. (each a "**Related Underwriter**", and any other underwriters which are now or may become part of the syndicate, the "**Underwriters**"). Each Related Underwriter is an affiliate of one or more of the Dealer Managers.

7. According to the Preliminary Prospectus, offerings of medium term notes are expected to be for up to an aggregate principal amount of $3,000,000,000, which the Issuer may offer and issue from time to time with maturities of not less than one year. The securities are issuable in minimum denominations of $5,000 and multiples of $1,000 thereafter. The securities will be issued pursuant to the provisions of a trust indenture between the Issuer, Bell Aliant Regional Communications Inc., 6583458 Canada Inc., Bell Aliant Regional Communication Holdings Inc., Bell Aliant Holdings Trust and CIBC Mellon Trust Company, as trustee. The securities will be unsecured, will rank pari passu with all other unsecured and unsubordinated indebtedness incurred by the Issuer and will be issued at rates of interest or prices determined by the Issuer from time to time based on a number of factors, including advice from the Underwriters. The securities are guaranteed by Bell Aliant Regional Communications Inc., 6583458 Canada Inc., the Issuer, Bell Aliant Regional Communications Holdings Inc. and Bell Aliant Holdings Trust. The Underwriters, when purchasing as principals, may over-allot or effect a transaction intended to fix or stabilize the price of the securities at a level above that which might otherwise prevail in the open market. Such a transaction, if commenced, may be discontinued at any time.

8. The net proceeds to the Issuer from the issue of the Securities offered will be the issue price thereof less any commission paid and the expenses incurred in connection therewith. Such net proceeds cannot be estimated, as the amount thereof will depend on the extent to which securities are issued. The net proceeds will be used to pay down amounts owing under the Issuer's Credit Facility (defined below) or, if no such amounts are owing at such time, may be added to the general funds of the Issuer and made available for general corporate and working capital purposes, to finance acquisitions and to finance additions to property, plant and equipment or for the retirement of other debt (which debt was incurred by the Issuer for similar purposes). All expenses incurred in connection with the creation of the Issuer's medium term note program, any offerings and related commissions will be paid out of the Issuer's general funds. The Issuer may issue debt instruments and incur additional indebtedness otherwise than through the issue of Securities pursuant to the Offering.

9. Pursuant to a dealer agreement (the "**Underwriting Agreement**") the Issuer and the Underwriters will enter into in respect of the Offering prior to the Issuer filing the Prospectus, the Underwriters are authorized, as agents of the Issuer, for such purpose only, to solicit offers from time to time to purchase securities (including Securities) in each of the provinces of Canada, directly and through other investment dealers. The Issuer may also select other dealers from time to time to offer the securities. The rate of commission payable in connection with sales by the Underwriters of securities shall be as determined from time to time by mutual agreement among the Issuer and the Underwriters and will be set forth in the applicable supplement to the Prospectus.

10. According to the Preliminary Prospectus, there is presently no market through which the Securities may be sold and the Issuer does not intend to apply for listing of any of the Securities on any securities exchange or automated quotation system.

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 may be a "connected issuer" as defined in NI 33-105 of the Related Underwriters for the reasons set forth in the Preliminary Prospectus. As disclosed in the Preliminary Prospectus, these reasons include that BMO Nesbitt Burns Inc., CIBC World Markets Inc., TD Securities Inc., National Bank Financial Inc., RBC Dominion Securities Inc., Scotia Capital Inc. and Desjardins Securities Inc. are affiliates of lenders to Bell Aliant under a $3.5 billion unsecured credit facility, which has been used by the Issuer to finance the Arrangement and will be used to refinance existing long term debt, support the Issuer's commercial paper program and for working capital purposes (the "**Credit Facility**"). Consequently, Bell Aliant Inc. may be considered to be a "connected issuer" of such Underwriters for the purposes of applicable Canadian securities legislation. Approximately $1.72 billion is currently drawn under the Credit Facility. Bell Aliant Inc. is in compliance with its covenants and other obligations under the Credit Facility. Under the

terms of the Credit Facility, Bell Aliant Inc. is required to use the proceeds from the issuance of Securities to permanently repay certain of the non-revolving term facilities. None of the lenders under the Credit Facility had any involvement in the decision to distribute the Securities and the determination of the terms and conditions of the offering of the Securities were and will be made through negotiations between Bell Aliant Inc. and the underwriters. The Underwriters have not and will not benefit in any manner from the offering of Securities other than through payment of their percentage share of the Underwriters' commission.

13. Despite the affiliation between the Dealer Managers and the Related Underwriters, each Dealer Manager operates independently of its Related Underwriter. In particular, the investment banking and related dealer activities of the Related Underwriters and the investment portfolio management activities of each of their respective 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 its Related Underwriter may communicate to enable the Dealer Manager to maintain up to date restricted-issuer lists to ensure that the Dealer Manager complies with applicable securities laws); and

    (b) each Dealer Manager and its Related Underwriter may share general market information such as discussion on general economic conditions, bank rates, etc.

14. The Dealer Managed Funds are not required or obligated to purchase any Securities during the Prohibition Period.

15. Each Dealer Manager may cause its Dealer Managed Funds to invest in the Securities during the Prohibition Period. Any purchase of the Securities by a Dealer Managed Fund will be consistent with the investment objectives of that Dealer Managed Fund and represent the business judgment of the Dealer Manager for that Dealer Managed Fund 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.

16. 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 Securities 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.

17. Except as described above, each Dealer Manager has not been involved in the work of its Related Underwriter and each Related Underwriter has not been and will not be involved in the decisions of its Dealer Manager as to whether such Dealer Manager's Dealer Managed Funds will purchase Securities during the Prohibition Period.

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 Securities during the Prohibition Period.

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 respective 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. Each Dealer Manager, in respect of its Dealer Managed Funds, will notify a member of staff in the Investment Funds Branch of the Ontario Securities Commission, 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.

Decision

Each of the Decision Makers has assessed the conflict of interest risks associated with granting an exemption in this 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 Investment Restriction 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, independent of any of the other Applicants and their Dealer Managed Funds, the following conditions are satisfied:

I. At the time of each purchase of Securities (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 Securities 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 Securities for the Dealer Managed Funds;

IV. The Related Underwriter does not purchase Securities in the Offering for its own account except Securities 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 Securities during the Prohibition Period;

VI. The Independent Committee has a written mandate describing its duties and standard of care which, at a minimum, sets out the applicable 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 Securities 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 Securities;

(iv) if the Securities 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 Securities 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 a 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 Securities 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 Securities 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 Securities 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 Securities 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 Securities (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 Securities 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 Securities equal to the difference between the Fixed Number and the number of Securities allotted to the Dealer Manager at the time of the final prospectus in the event the Underwriters exercise the over-allotment option; and

XIV. For Purchases of Securities 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"

BMO Mutual Funds (consolidated)

BMO Asset Allocation Fund
BMO Bond Fund

TD Private Funds

TD Private Canadian Bond Income Fund
TD Private Canadian Bond Return Fund
TD Private Canadian Corporate Bond Fund
TD Mutual Funds – Advisor and F-Series
TD Canadian Bond Fund
TD Short Term Bond Fund
TD Corporate Bond Capital Yield Fund
TD Balanced Fund

The Altamira Funds

Altamira Dividend Fund Inc.
Altamira Monthly Income Fund
Altamira Balanced Fund
Altamira Growth & Income Fund
Altamira Income Fund
Altamira Bond Fund
Altamira Global Bond Fund
Altamira Inflation Adjusted Bond Fund
Altamira Short Term Government Bond Fund

National Bank Mutual Funds - 2005

National Bank Monthly Income Fund
National Bank Dividend Fund
National Bank Monthly Equity Income Fund
National Bank Monthly Conservative Income Fund
National Bank Monthly High Income Fund
National Bank Monthly Moderate Income Fund
National Bank Monthly Secure Income Fund
National Bank Bond Fund
National Bank Conservative Diversified Fund
National Bank Moderate Diversified Fund
National Bank Secure Diversified Fund
National Bank Balanced Diversified Fund
National Bank Retirement Balanced Fund

National Bank Protected Funds

National Bank Protected Growth Balanced Fund
National Bank Protected Canadian Bond Fund
National Bank Protected Retirement Balanced Fund

2.1.14 TD Asset Management Inc. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – Relief granted to permit Part B sections of simplified prospectuses where Part A and Part B sections are separately bound, to be amended by way of amendment that does not fully restate the text of the entire Part B – relief applicable to existing funds and future funds to be managed by the fund manager.

Applicable Legislative Provisions

National Instrument 81-101 Mutual Fund Prospectus Disclosure, ss. 2.2(1), 2.2(2).

September 28, 2006

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO, BRITISH COLUMBIA, ALBERTA,
SASKATCHEWAN, MANITOBA, QUEBEC,
NEW BRUNSWICK, NOVA SCOTIA,
PRINCE EDWARD ISLAND, NEWFOUNDLAND,
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
TD ASSET MANAGEMENT INC.
("TDAM" or the "Filer")

MRRS DECISION DOCUMENT

Background

The local securities regulatory authority or regulator (the Decision Maker) in each of the Jurisdictions has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) for an exemption from the requirement in section 2.2(2) of National Instrument 81-101 (NI 81-101), which requires that an amendment to the Part B section that is separately bound from the Part A section of a simplified prospectus shall be effected only by way of an amended and restated Part B section, in respect of the mutual funds listed in Schedule A , other funds that are reporting issuers and managed by the Filer, and any other funds that are reporting issuers and managed by TDAM in the future (collectively, the Funds) which are offered under simplified prospectus wherein the Part A and Part B sections are bound separately (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.

Representations

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

1. TDAM is a corporation incorporated under the laws of Ontario and has its head office in Toronto, Ontario. TDAM is the trustee and manager of the Funds.

2. The Funds are open-end mutual funds established under the laws of Ontario.

3. The Funds are reporting issuers under the securities laws of each of the Jurisdictions. None of the Funds is in default of any requirements of applicable securities legislation.

4. The Funds offer securities under a number of simplified prospectuses in which the the Part B sections are bound separately from the Part A section. For example, certain of these prospectuses have Part B sections which are bound separately from the Part A section in booklets which vary in size. Section 2.2(2) of NI 81-101 requires that any amendment to the separately bound Part B section of these prospectuses must be by way of an amended and restated Part B section (the Restatement Format), rather than by way of an amendment that does not fully restate the text of the entire Part B section (the Amendment Format).

5. The experience has been that the Funds typically file one or more amendments during the currency of each prospectus.

6. The Filer considers that the costs associated with amending and restating a separately bound entire Part B section exceed the costs of an amendment that does not fully restate the text of the Part B section. The Filer considers that the Requested Relief will permit the Filer to use an amending format for each Funds' Part B section that is most efficient and cost effective.

Decision

Each of the Decision Makers is satisfied that, based on the information and representations contained in the Application and this decision that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make this decision has been met.

The decision of the Decision Makers under the Legislation is that the Requested Relief is granted, thereby permitting an amendment to the separately bound Part B section of a simplified prospectus of a Fund to be prepared in either the Amendment Format or the Restatement Format, as the Filer or the Fund determines.

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

SCHEDULE A

TD AmeriGrowth RSP Fund
TD Asian Growth Fund
TD Balanced Fund
TD Balanced Growth Fund
TD Balanced Income Fund
TD Balanced Index Fund
TD Canadian Blue Chip Equity Fund
TD Canadian Bond Fund
TD Canadian Bond Index Fund
TD Canadian Equity Fund
TD Canadian Index Fund
TD Canadian Money Market Fund
TD Canadian Small-Cap Equity Fund
TD Canadian T-Bill Fund
TD Canadian Value Fund
TD Corporate Bond Capital Yield Fund
TD Dividend Growth Fund
TD Dividend Income Fund
TD Dow Jones Industrial Average Index Fund
TD Emerging Markets Fund
TD Energy Fund
TD Entertainment & Communications Fund
TD European Growth Fund
TD European Index Fund
TD Global Asset Allocation Fund
TD Global Dividend Fund
TD Global Multi-Cap Fund
TD Global RSP Bond Fund
TD Global Select Fund
TD Global Value Fund
TD Health Sciences Fund
TD High Yield Income Fund
TD Income Advantage Portfolio
TD Income Trust Capital Yield Fund
TD International Equity Fund
TD International Equity Growth Fund
TD International Index Fund
TD International RSP Index Fund
TD Japanese Growth Fund
TD Japanese Index Fund
TD Latin American Growth Fund
TD Monthly Income Fund
TD Mortgage Fund
TD Nasdaq RSP Index Fund
TD Pacific Rim Fund
TD Precious Metals Fund
TD Premium Money Market Fund
TD Real Return Bond Fund
TD Resource Fund
TD Science & Technology Fund
TD Short Term Bond Fund
TD U.S. Blue Chip Equity Currency Neutral Fund
TD U.S. Blue Chip Equity Fund
TD U.S. Equity Advantage Currency Neutral Portfolio
TD U.S. Equity Advantage Portfolio
TD U.S. Equity Fund
TD U.S. Index Fund
TD U.S. Large-Cap Value Currency Neutral Fund
TD U.S. Large-Cap Value Fund
TD U.S. Mid-Cap Growth Currency Neutral Fund
TD U.S. Mid-Cap Growth Fund

TD U.S. Money Market Fund
TD U.S. RSP Index Fund
TD U.S. Small-Cap Equity Currency Neutral Fund
TD U.S. Small-Cap Equity Fund

2.2 Orders

2.2.1 Universal Settlements International Inc. - s. 127

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

AND

IN THE MATTER OF
UNIVERSAL SETTLEMENTS INTERNATIONAL INC.

ORDER
Section 127

WHEREAS on January 16, 2006, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing pursuant to sections 127 and 127.1 of the *Securities Act* in relating to a Statement of Allegations issued by Staff of the Commission on the same day in respect of Universal Settlements International Inc. (USI);

AND WHEREAS Staff filed an amended Statement of Allegations on May 24, 2006;

AND WHEREAS the Commission conducted a hearing in this matter on June 26, 28, 30, July 6 and 27, 2006;

AND WHEREAS in its Decision and Reasons, the Commission has determined that the interests in death benefits of life insurance policies from insured persons (viators) offered by USI are securities under subsection 1(1) of the *Securities Act*;

AND WHEREAS the Commission is satisfied that Universal Settlements International Inc. has not complied with Ontario securities law and has not acted in the public interest;

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

IT IS ORDERED THAT:

1. Pursuant to clause 2 of subsection 127(1) of the Act, USI permanently cease trading in securities unless:

   (a) USI fulfills the registration and prospectus requirements in Ontario securities law; or

   (b) USI meets the requirements for an exemption in Ontario securities law;

2. USI and its agents are hereby exempted from the cease trade order and, prospectively only, the registration and prospectus requirements of the Act, but

only to the extent necessary for them to complete tasks relating to existing investments of investors. This exemption does not apply to acts in furtherance of trades relating to moneys from investors that have not already been committed to the life insurance policies of specific viators. Such moneys should be returned to the investors, forthwith;

3. there will be no order as to costs.

Dated at Toronto, this 29th day of September, 2006.

"Paul M. Moore"

"Harold P. Hands"

"Wendell S. Wigle"

2.2.2 Maitland Capital Ltd. et al. - s. 127(7)

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

AND

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

ORDER
Section 127(7)

WHEREAS on January 24, 2006, the Ontario Securities Commission (the "Commission") ordered pursuant to s. 127(5) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "*Act*") that forthwith for a period of 15 days from the date thereof: (a) all trading by Maitland Capital Ltd. ("Maitland") and its officers, directors, employees and/or agents in securities of Maitland shall cease; (b) the Respondents cease trading in all securities; and (c) any exemptions in Ontario securities law do not apply to the Respondents (the "Temporary Order");

AND WHEREAS pursuant to subsection 127(1) and 127(5) of the *Act*, a hearing was scheduled for February 8, 2006 at 2:00 p.m. (the "Hearing");

AND WHEREAS on February 8, 2006, the Commission ordered pursuant to subsection 127(7) of the *Act* that: (a) the Hearing is adjourned to February 28, 2006 at 9:30 a.m.; and (b) the Temporary Order is extended until February 28, 2006;

AND WHEREAS on February 28, 2006, the Commission ordered pursuant to subsection 127(7) of the *Act* that: (a) the Hearing is adjourned to April 19, 2006 at 9:30 a.m.; and (b) the Temporary Order is extended until April 19, 2006;

AND WHEREAS on April 19, 2006, the Commission ordered pursuant to subsection 127(7) of the *Act* that: (a) the Hearing is adjourned to May 29, 2006; (b) the Temporary Order is extended until May 29, 2006; and (c) Staff shall provide disclosure to the Respondents by April 28, 2006;

AND WHEREAS on May 29, 2006, the Commission ordered pursuant to subsection 127(7) of the *Act* that: (a) the Hearing is adjourned to June 28, 2006; and (b) the Temporary Order is extended until June 28, 2006;

AND WHEREAS Staff have filed the affidavit of Sabine Dobell sworn February 2, 2006 and the affidavit of Bryan Gourlie sworn November 7, 2005 in support of Staff's request to extend the Temporary Order;

AND WHEREAS counsel for Maitland and Allen Grossman, counsel for Hanoch Ulfan and counsel for Steven Lanys consent to this Order, and Diana Cassidy has advised Staff that she is not opposed to an extension of the Temporary Order until the conclusion of the Hearing;

AND WHEREAS Tom Mezinski has not appeared although duly served with the Temporary Order, the Notice of Hearing and Statement of Allegations as evidenced by the affidavits of service filed as exhibits in this proceeding and has been duly served with the application records;

AND WHEREAS Marianne Hyacinthe appeared before the Commission on February 8, 2006 and received a copy of the Order dated February 8, 2006 but did not appear before the Commission on February 28, 2006, April 19, 2006, May 29, 2006, June 28, 2006 or today and has been duly served with the application records;

AND WHEREAS Ron Garner has not appeared although duly served with the Temporary Order, the Notice of Hearing, the Statement of Allegations and the Order dated February 8, 2006 as evidenced by the affidavits of service filed as exhibits in this proceeding and has been duly served with the application records;

AND WHEREAS Staff have advised that two Respondents, namely Ron Catone and Jason Snow, have not been served with the Temporary Order, Notice of Hearing or the Statement of Allegations in this matter notwithstanding attempts at service as evidenced by the affidavits of attempted service filed as exhibits in this proceeding and have been duly served with the application records;

AND WHEREAS all the Respondents have been duly served with the application records, as evidenced by the Affidavits of Service filed on September 12, 2006;

AND WHEREAS Staff have advised that Staff provided disclosure in the section 127 proceeding on April 28, 2006 to the parties who responded to the Notice of Hearing;

AND WHEREAS on May 19, 2006, the Commission authorized the commencement of a section 122 proceeding in the Ontario Court of Justice against Hanoch Ulfan, Allen Grossman and Maitland;

AND WHEREAS Maitland and Allen Grossman and Hanoch Ulfan have brought applications returnable September 12, 2006 to adjourn the section 127 proceeding as against Maitland, Allen Grossman and Hanoch Ulfan pending completion of the section 122 proceeding;

AND WHEREAS Staff do not oppose these applications on the condition that: (1) the Temporary Order against Maitland, Allen Grossman and Hanoch Ulfan is extended until the conclusion of the Hearing; and (2) Hanoch Ulfan and Allen Grossman undertake not to act as an officer or director of either a reporting issuer or a registrant until the conclusion of the section 127 proceeding;

AND WHEREAS Allen Grossman and Hanoch Ulfan have provided undertakings to the Commission which are attached hereto and have agreed to adhere to such undertakings until the Commission's final decision on the merits and sanctions in the section 127 proceeding has been rendered or until further order of the Commission releasing them from their undertakings or aspects thereof;

AND WHEREAS Maitland has undertaken to keep Maitland shareholders advised of the status of this proceeding through notices/updates which are available and displayed prominently on the home page of Maitland's website at www.maitlandcapital.com and by advising shareholders that copies of the Commission's Notice of Hearing, Statement of Allegations and Orders are available on the Commission's website at www.osc.gov.on.ca; and

AND WHEREAS the Commission considers it to be in the public interest to make this Order,

IT IS ORDERED pursuant to subsection 127(7) of the *Act* that:

(a) the Hearing is adjourned until judgment is rendered in respect of the section 122 proceeding;

(b) the adjournment of the Hearing does not preclude Staff from bringing forth settlement agreements for approval reached with any of the respondents;

(c) the Temporary Order is extended until the conclusion of the Hearing;

(d) Staff and counsel for Allen Grossman and Maitland and counsel for Hanoch Ulfan shall inform the Commission and seek further directions from the Commission in the event that it becomes unlikely that the trial of the section 122 proceeding will commence in or before the fall 2007;

(e) within four to eight weeks of judgment being rendered in the section 122 proceeding, a Hearing shall be scheduled in the section 127 proceeding;

(f) a copy of this Order shall be served by Staff on each of the Respondents; and

(g) Maitland shall post a copy of this Order on its website.

Dated at Toronto this "12th" day of September, 2006

"Paul M. Moore"

"Suresh Thakrar"

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Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 OSC Decisions, Orders and Rulings

3.1.1 Eugene N. Melnyk et al.

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

AND

IN THE MATTER OF
EUGENE N. MELNYK, ROGER D. ROWAN, WATT CARMICHAEL INC.,
HARRY J. CARMICHAEL AND MICHAEL MCKENNEY

Hearing:	August 8 and 9, 2006		
Order:	August 8, 2006		
Reasons:	September 29, 2006		
Panel:	Paul M. Moore, Q.C.	-	Vice Chair and Chair of the Panel
	Robert L. Shirriff, Q.C.	-	Commissioner
Counsel:	Kent Thomson James Doris	-	for Eugene N. Melnyk
	Nigel Campbell	-	for Roger D. Rowan, Watt Carmichael Inc, Harry J. Carmichael and Michael McKenney
	Johanna Superina	-	for Staff of the Ontario Securities Commission

REASONS

INTRODUCTION

[1] We heard, in camera, two motions by Mr. Melnyk:

- one for the immediate disclosure to the respondents by staff of materials (requested materials) generated under section 13 of the Act in an investigation ordered under section 11 of the Act that staff intended to disclose to the respondents several weeks hence with all other materials staff is obliged to disclose prior to the hearing on the merits under Rule 3.3 of our Rules of Practice; and

- the second for an order permitting the use by Mr. Melnyk of the requested materials to refresh his memory in preparation for an interview of him by the United States Securities and Exchange Commission (SEC) in a few days hence in an investigation the SEC currently has underway.

[2] We decided that in the circumstances, the words “as soon as is reasonably practicable” in Rule 3.3(2) required staff to disclose to the parties the requested materials on the day following the hearing of the first motion.

[3] We decided that the intended use by Mr. Melnyk of the requested materials would not place him in contempt of the Commission or result in any breach by him of section 16(2) of the Act or of any implied undertaking to the Commission as to the use by him of the requested materials.

[4] We also decided, with the consent of the parties to the proceeding, that it was in the public interest that our decision and these reasons not be held in camera, but that they be placed on the public record and be disclosable.

REQUESTED MATERIALS

[5] The requested materials are transcripts and accompanying exhibits from staff's examinations under section 13 of the Act of current and former employees, directors, officers or partners of Watt Carmichael Inc. in an investigation ordered under section 11 of the Act.

THE ISSUES

[6] The motions required us to address three issues:

(1) What do the words "as soon as is reasonably practicable" in Rule 3.3(2) mean in actual practice?

(2) Does a parallel investigation by the SEC into the same matters that are the subject of a concurrent proceeding by the Commission have any impact on the obligations of staff under Rule 3.3(2) (the disclosure obligation)?

(3) Is the use by Mr. Melnyk of the requested materials solely for the purpose of refreshing his memory in preparation for his interview by the SEC contrary to section 16(2) of the Act or contrary to his implied undertaking to the Commission as to use of the requested materials when disclosure of them is made to him pursuant to the disclosure obligation?

THE MOTION FOR IMMEDIATE DISCLOSURE

[7] Rule 3.3(2) provides:

> In the case of a hearing under section 127 of the Securities Act and subject to Subrule 3.7, staff of the Commission shall, as soon as is reasonably practicable after service of the notice of hearing, and in any case at least 10 days before the commencement of the hearing, make available for inspection by every other party all other documents and things which are in the possession or control of staff that are relevant to the hearing and provide copies, or permit the inspecting party to make copies, of the documents at the inspecting party's expense.

[8] Staff did not dispute its disclosure obligation regarding the requested materials.

[9] Staff had the requested materials in its possession and could disclose them to the respondents in a day or so without undertaking herculean efforts that would be disruptive of staff's normal operations.

[10] However, staff intended to perform its disclosure obligation in due course after it had collated and organized all material it would be disclosing. This would be at a time well before the minimum 10 days prior to the hearing on the merits provided for in Rule 3.3(2).

[11] Staff submitted that disclosure of an organized and complete disclosure package would be of benefit to the respondents, in keeping with staff practice, and in sufficient time for the respondents to prepare a full answer and defence to the allegations against them in the proceeding.

[12] Staff submitted that the reason Mr. Melnyk wanted immediate disclosure of the requested materials was not for the purpose of preparing a full answer and defence to the allegations in the proceeding before the Commission, but for the unauthorized use of the requested materials to prepare for his interview by the SEC.

[13] Mr. Melnyk argued that he was entitled to the disclosure immediately since staff could not show that immediate disclosure was not reasonably practical and that his limited use of the requested materials to prepare for his interview by the SEC would not be contrary to section 16(2) of the Act or any implied undertaking to the Commission restricting his use of the requested materials; or that if it would, we should permit such use having regard to the unique circumstances of this case.

[14] We decided to deal first with the issue of the timing of disclosure under Rule 3.3(2) and, secondly, if we ordered disclosure prior to the examination of Mr. Melnyk by the SEC, with the issue of permitted use.

[15] In *R v. Stinchcombe* [1991] 3 S.C.R. 326 at 332, Justice Sopinka found that in a criminal case the obligation to disclose is triggered by a request by the accused that may be made at any time after the charge.

[16] Rule 3.3(2) deals with the disclosure obligation found in *Stinchcombe* and applies it to proceedings under section 127 of the Act.

[17] A proceeding under section 127 is commenced with the issue of a notice of hearing and the disclosure obligation arises under Rule 3.3(2) when the notice of hearing is served. The Rule requires staff to fulfil its disclosure obligation as soon as is reasonably practicable. Staff and respondents usually agree on a schedule for disclosure.

[18] But when a respondent requests specific disclosure on an expedited basis, it then becomes a question of fact as to what is possible and practical taking into account reasonable time and effort by staff and its current workload. When a specific request is made, reasons for delay based on staff's customary practice, considerations of what staff believes will be in the best interest of the respondents, or the potential misuse by a respondent of the disclosure are not determinative as to when it would be reasonably practical for staff to deliver the requested disclosure.

[19] In the case before us, staff acknowledged that it could make the disclosure of the requested materials without herculean efforts by the close of business on August 9.

THE MOTION AS TO USE

[20] Staff submitted that a respondent provided with disclosure under Rule 3.3(2) that is covered by section 16(2) of the Act and permitted by section 17(6) of the Act or an order of the Commission under section 17(1) of the Act may only use the disclosure in the proceeding before the Commission.

[21] Staff acknowledged that Mr. Melnyk could use the requested materials to provide a full answer and defence in the proceeding, but not to prepare himself for his interview by the SEC. Specifically, staff submitted that the intended use by Mr. Melnyk was for a collateral purpose and not permitted.

[22] Staff submitted that there is a common law implied undertaking to the Commission restricting the use of the requested materials once it is disclosed under Rule 3.3(2) and section 17(6) or by order of the Commission under section 17(1). Mr. Melnyk agreed with this submission.

[23] Staff submitted that the SEC investigation and any proceeding in the United States that might flow from it are not the proceeding before the Commission and that there was no evidence before us as to what matters the SEC was investigating.

[24] Staff submitted that the SEC practice for its investigations is not to provide persons whom the SEC may interview with transcripts of others who may have been interviewed because the SEC does not want persons examined to be able to tailor their testimony to take into account the testimony of others.

[25] Staff further submitted that the practice of the SEC for its investigations is similar to the practice of the Commission in its investigations under section 11.

[26] In staff's view, allowing Mr. Melnyk to use the requested materials for a collateral purpose, namely to prepare for his interview by the SEC, would permit SEC practice to be circumvented and – although this was not expressly stated, we believe staff was implying this – could impair co-operative efforts by the SEC and the Commission in future investigations.

[27] Staff referred us to Memorandums of Understanding between the Commission and the SEC which contemplate co-operation between SEC staff and Commission staff in investigations.

[28] Staff referred us to section 11(1) of the Act which reads:

> 11.(1) Investigation order – The Commission may, by order, appoint one or more persons to make such investigation with respect to a matter as it considers expedient,
>
> (a) for the due administration of Ontario securities law or the regulation of the capital markets in Ontario; or
>
> (b) to assist in the due administration of the securities laws or the regulation of the capital markets in another jurisdiction.

[29] In this case, as permitted in section 11, the Commission identified matters to be investigated and appointed some persons who are SEC staff and some persons who are Commission staff to carry out the investigation into the matters.

[30] Mr. Melnyk argues that there are unique circumstances in this case.

[31] The section 11 orders authorizing the investigation by staff specify the matters to be investigated. The orders appoint members of Commission staff and members of SEC staff to conduct the investigation. They provide that the fruits of the investigation by Commission staff or by SEC staff may be shared by the Commission and the SEC.

[32] Interviews by the SEC in its investigation have been conducted by members of its staff appointed by the section 11 orders at which members of Commission staff were present. Transcripts from interviews by SEC staff and examinations by Commission staff have been shared. Indeed, the SEC has copies of the requested materials.

[33] The transcript from Mr. Melnyk's interview by the SEC will be made available to Commission staff and may be used by Commission staff in the proceeding before the Commission. In addition, Mr. Melnyk and staff have agreed that each may rely on the transcripts from SEC interviews in the proceeding before the Commission as if Commission staff had conducted these interviews, under oath, in Ontario. Finally, according to Mr. Melnyk's counsel, Commission staff had intended to be in attendance at the SEC interview of him until Mr. Melnyk objected.

[34] Consequently, Mr. Melnyk argued, the SEC investigation and the proceeding before the Commission are so inextricably intertwined that they should be considered as one. They deal with the same matters. To the extent that the SEC investigation may also cover other matters is not relevant for our consideration because the requested materials are only relevant to the common matters.

[35] With reference to the purpose of the implied undertaking rule, namely the protection of privacy, counsel for all current employees, officers, directors or partners of Watt Carmichael who have been examined by Commission staff has confirmed that they do not object in any way to the use of the requested materials in the preparation of Mr. Melnyk for his SEC interview.

ANALYSIS

[36] The implied undertaking rule is a recognized principle of law in Ontario and applies to Commission proceedings. (*A. Co. v. Naster* (2001), 143 O.A.C. 356 at para. 23 (Div. Ct.)).

[37] The implied undertaking rule prohibits the use of information obtained in a proceeding's discovery process for "any purpose collateral or ulterior to the resolution of the issues in that [proceeding]." (*Naster*, at para. 22). "[T]he respondents in the proceedings can demand to inspect the words of any documents produced by … [although] they are bound under pain of sanction by the Commission not to use the information for any purpose outside the matter of the investigation." (*Naster*, at para. 24).

[38] Mr. Melnyk sought to inspect the words of the requested materials and not to use the requested materials for any purpose outside the matters that are the subject of the collaborative investigation by staff of the Commission and the SEC and which, since the commencement of the proceeding, are the subject of the proceeding.

[39] *Goodman v. Rossi* (1995), 24 O.R. (3d) 359 (C.A.) is the leading Ontario authority on the scope and purpose of the implied undertaking rule. The Court of Appeal stated "[t]he primary rationale for the imposition of the implied undertaking is the protection of privacy." (para. 29)

[40] Although we have no evidence before us from the SEC as to the purpose and nature of the SEC investigation, we know that members of SEC staff have been appointed by the section 11 orders to investigate the matters that are the subject of the proceeding before the Commission and that the requested materials are likely only to be relevant to the matters identified in the section 11 orders.

[41] We agree with Mr. Melnyk that, in the circumstances, the intended use by him of the requested materials in preparing for his examination by the SEC will not be a breach of section 16(2) of the Act or any implied undertaking as to use.

[42] We agree with staff and Mr. Melnyk that there are restrictions on the use by Mr. Melnyk of the requested materials and that the implied undertaking as to use continues.

[43] In the words of section 16(2) of the Act, the requested materials "are for the exclusive use of the Commission or of such other regulator as the Commission may specify" and, subject to disclosure to the respondents as permitted under section 17(6) of the Act, use of the requested materials continues to be restricted to "the exclusive use of the Commission".

[44] Disclosure of the requested materials to the respondents under section 17(6) of the Act permits use of them by the respondents in the proceeding before the Commission. In the special circumstances of this case, where the SEC investigation is, at least in part, into the matters that are the subject of the Commission proceeding, where the SEC examiners include persons appointed by the section 11 orders, where the fruits of the SEC and Commission examinations are shared by the SEC and the Commission, and where the transcript of the SEC interview of Mr. Melnyk will be made available by the SEC to Commission staff for possible use in the proceeding, use of the requested materials in the proceeding before the Commission also includes the proposed use by Mr. Melnyk.

[45] Commission staff's practice and the operation of sections 11 to 17 of the Act are similar to SEC practice in its investigations. However, once a proceeding under section 127 of the Act is commenced, the disclosure obligation of Commission staff is triggered.

[46] Although Commission staff may continue to investigate the matters that resulted in the commencement of the proceeding, the fruits of its investigation will be subject to the disclosure obligation.

[47] The difficulty facing staff is that once the proceeding in this matter was commenced, the application of the rules changed. This does not mean that the requirements of section 16 do not continue or that the implied undertaking as to use ceases to apply or that staff's investigation could not continue. But it does mean that all documents and things which are in the possession and control of staff that are relevant to the proceeding must be disclosed to the respondents and that staff will be limited to proving the allegations in the proceeding unless additional allegations are made.

[48] The fact that the SEC's investigation is on-going and has not yet resulted in a proceeding by the SEC does not mean that our disclosure rules should be suspended and does not prevent the limited use by Mr. Melnyk of the requested materials in the unique circumstances of this case.

[49] Since we concluded that the proposed use of the requested materials by Mr. Melnyk is a permitted use, we did not believe it was necessary to issue an order relieving Mr. Melnyk from his obligations under his implied undertaking as to use. But if it were necessary, we would have so ordered.

Dated at Toronto, this 29th day of September, 2006.

"Paul M. Moore"

"Robert L. Shirriff"

3.1.2 Universal Settlements International Inc.

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

AND

IN THE MATTER OF
UNIVERSAL SETTLEMENTS INTERNATIONAL INC.

Hearing:	June 26, 28, 30, July 6, and 27, 2006		
Decision and Reasons:	September 29, 2006		
Panel:	Paul M. Moore, Q.C.	-	Vice-Chair and Chair of the Panel
	Harold P. Hands	-	Commissioner
	Wendell S. Wigle, Q.C.	-	Commissioner
Counsel:	Randy Bennett Sara J. Erskine Stephanie Mandin	-	for Universal Settlements International Inc.
	Yvonne B. Chisholm	-	for Staff of the Ontario Securities Commission

DECISION AND REASONS

DECISION

[1] For the reasons set out below, we have decided that the viatical products offered by Universal Settlements International Inc. (USI) are investment contracts under s. 1(1) of the Act and, therefore, are securities. As a result, USI will need to comply with the registration and prospectus requirements of the Act in order to continue to offer such products.

[2] Counsel agreed that a separate sanctions hearing would be unnecessary if we found that USI's viatical products are securities.

[3] USI, acting on considered legal advice, believed that its products were not securities. It provided risk disclosure to investors, and required its sales agents to address suitability considerations for investors.

[4] Staff made no allegation of improper conduct, or fraud, on the part of USI or its agents, and there was no evidence that investors did not understand what they were acquiring. Indeed, the investors and sales agents we heard from confirmed that investors knew they were acquiring interests in death benefits (sometimes called viaticals) of life insurance policies from insured persons (viators), and that, apart from the depreciation of the value of the U.S. dollar as against the Canadian dollar and delays in purchasing viaticals, they had no significant complaints concerning their investments.

[5] Staff did not seek sanctions against USI under s. 127 of the Act, apart from a cease trade order, and we do not believe it would be in the public interest to make any of the other orders we are authorized to make under the section.

[6] Our decision should not have a negative impact on existing investments of investors of USI. However, we recognize that it may take a while for USI or its agents to become registered under the Act. Accordingly, in the order we are making concurrently, we are exempting USI and its agents from the cease trade order and, prospectively only, the registration and prospectus requirements of the Act, but only in so far as may be necessary for them to complete tasks relating to existing investments of investors. The exemption does not apply to acts in furtherance of trades relating to moneys from investors held by USI or its agents for investment in viaticals that have not already been committed to specific viators. Such moneys should be returned to the investors, forthwith. The exemption will not derogate from any rights an investor may have against USI for failure to deliver a prospectus for investments in viaticals already made.

REASONS

ALLEGATIONS

[7] Staff commenced proceedings against USI on January 16, 2006 pursuant to s. 127 and s. 127.1 of the Act. In its amended statement of allegations, staff alleged the following:

(a) USI is not registered under the Act and is not exempt from registration,

(b) USI traded in securities contrary to s. 25 of the Act, and

(c) USI distributed securities without a prospectus contrary to s. 53 of the Act and is not exempt from prospectus requirements.

THE ISSUE

[8] The key issue in this hearing was whether the viatical products USI offers to investors in Ontario are investment contracts under the definition of securities in s. 1(1) of the Act. If they are investment contracts, the prospectus and registration requirements of the Act apply.

[9] Based on the three pronged test for an investment contract set out in the leading American case of *Securities and Exchange Commission v. W .J. Howey Co. et al*, 328 U.S. 293 (1946) as slightly modified by later cases, the viatical products of USI would constitute investment contracts under s. 1(1) of the Act, if they involve: (i) an investment of funds with a view to profit, (ii) in a common enterprise, (iii) where the profits are derived from the undeniably significant efforts of persons other than the investors.

[10] Staff and the respondent agreed that the viatical products offered by USI involve an investment of funds with a view to profit. Therefore, the issue was whether there is a common enterprise, where the profits are derived from the undeniably significant efforts of persons other than the investors.

UNIVERSAL SETTLEMENTS INC.

[11] USI is a private Ontario corporation that has carried on business in Canada and elsewhere since 1997. Its business involves finding investors interested in investing in viaticals and American viators interested in selling viaticals. USI has approximately 1,200 independent agents who seek out investors using marketing material supplied by USI. It had over 800 clients between 1999 and 2005 who invested approximately US $29 million in viaticals. The smallest investment was US $5,000. The largest was over US $7 million. Most of the investments were in the lower range.

[12] USI is not registered under the Act and has not filed any prospectus under the Act for its viatical products.

THE VIATICAL PRODUCTS

[13] USI sells two viatical products, GLS-II and GLS.

[14] Under GLS-II, an investor acquires from a specific viator, usually a terminally ill or very old person, a fractional interest in the death benefit of a specific life insurance policy. GLS is identical to GLS-II, except GLS also provides investors with the protection of third party contingency insurance that pays an amount equal to the death benefit if the viator has not died by an agreed upon date (usually two years beyond the estimated date of death of the viator). If a payout occurs on the contingency insurance, the death benefit under the life insurance becomes payable to the contingency insurer.

STAFF'S SUBMISSIONS

[15] With respect to "commonality", staff argued that the enterprise is common among investors and among investors and USI because: the investors rely on USI's efforts to make their investment profitable; the investor with a fractional interest in a death benefit needs the participation of the other investors with fractional interests in the death benefit and they share proportionately in the death benefit; and USI would receive nothing without the investors' involvement.

[16] With respect to "enterprise", staff submitted that there is an enterprise when one considers the commonality factor and the efforts of USI, including: (i) preparing and disseminating marketing materials; (ii) preparing standard form purchase agreements; (iii) recruiting agents to sell GLS-II and GLS to investors on USI's behalf; (iv) communicating with investors and agents; (v) directing the flow of funds from the investors to the viators; (vi) establishing trusts and escrow arrangements; (vii) estimating the amounts necessary to set aside to pay premiums until the viator dies; (viii) providing for the transfer of ownership of life insurance policies and the use of investor funds to pay premiums to maintain policies; (ix) finding viators and life insurance

policies appropriate to an investor's criteria; (x) bidding on life insurance policies and negotiating the discounted price a viator receives; (xi) retaining independent medical experts to determine a viator's life expectancy; (xii) monitoring and tracking the viator's life; (xiii) arranging contingency insurance for GLS; and (xiv) paying out death benefits or contingency insurance payments.

[17] This common enterprise is not coterminous with the business enterprise of USI.

[18] With respect to "profits" and "efforts of others", staff argued that the profits from the common enterprise are not dependent in a significant or essential manner on the viator's death or the contingency insurance payouts – those are given and will inevitably happen – but rather on the efforts of USI and its agents.

RESPONDENT'S SUBMISSIONS

[19] With respect to "commonality", the respondent submitted that there is nothing common between investors – each could acquire a whole death benefit, and some did. With respect to fractional interests, we would have to find each whole viatical divided into fractional interests to be a separate common enterprise, if we determined it was fractional interests that constituted the common element tying investors into a common enterprise.

[20] With respect to "enterprise", the respondent argued that the only enterprise is the business of USI and that investors' funds are not invested in that. They are segregated and held in trust for investors and are not used by USI in its business. Nor are they subject to the insolvency risk of USI as they are not part of the assets of USI. Indeed, the obligations to investors are property rights and obligations that flow from the death benefits or contingency insurance that belong to the investors (or persons holding them in trust for the benefit of the investors) and are owed by the insurance companies, not by USI.

[21] With respect to "profits", the respondent argued that the profits from GLS-II and GLS are not derived from undeniably significant efforts of USI, but rather are derived from the death of the viator or the maturity of the contingency insurance.

DISCUSSION OF THE FACTS

[22] Although the parties did not present an agreed statement of the facts, no facts were in dispute, except the fact of when the proposed period of engagement referred to below is measured from.

[23] We heard from a staff investigator, two investors, two sales agents, the president of the U.S. accounting firm that provides trust and escrow services to USI in the United States, and the president of USI.

[24] There were also three other investors staff had intended to call as witnesses, but we suggested, and the parties agreed, that their testimony would be unnecessary.

[25] Staff and the respondents presented us with many volumes of documents including promotional material, purchase contracts, and closing packages for five investors.

Investments in GLS-II and GLS

[26] An investor in GLS-II or GLS makes his investment in U.S. dollars and all payments on the investment are similarly denominated.

[27] The investor makes his investment in GLS-II or GLS when he signs a purchase agreement with USI and pays the committed amount to a Canadian trust established by USI.

[28] The investor is given a disclosure document warning of the illiquidity of the investment and other risks.

[29] The purchase of a viatical in which the investor obtains a beneficial interest occurs some time after he has paid the committed amount.

[30] The investor is given a ten-day right of rescission from the date he signs the purchase agreement and pays the committed amount. After the expiry of the right of rescission the investor may, on request, receive a full refund of the committed amount less a 15 percent fee. However, if USI is unable to purchase a suitable death benefit from a suitable viator, USI may be willing to return the investor's committed amount without deduction. USI may also be willing to return the committed amount without deduction where the sales agent has not explained to the investor the possibility of delay before an appropriate death benefit can be purchased.

[31] One fact that was unclear to us was whether the proposed period of engagement was supposed to be matched by USI to the period that begins with the time of payment of the committed amount by the investor or from the time of acquisition of a

death benefit or from some other time. It appears from purchase agreements that USI is supposed to match the beginning of the proposed period of engagement to the date that ownership of the viatical is transferred from the viator. However, in at least one case it appears that it may actually have been related to the date of the life expectancy estimate set out in the report of the medical expert.

[32] Sales agents, normally also involved in the sale of life insurance, and generally quite knowledgeable in this area, are selected by USI to distribute its products.

[33] Although USI is willing to acquire a viatical for one investor, it offers fractional interests. In fact, because most investors want to commit amounts less than the full cost of a viatical, most of USI's investors have acquired fractional interests in viaticals.

[34] USI finds each investor, ascertains the amount of money he wants to invest (the committed amount), and the length of time the investor is prepared to be tied to the investment (the proposed period of engagement), and describes to the investor the absolute return that will result when a payment occurs under the applicable policy of insurance.

[35] The absolute return offered to investors is the difference between the investor's committed amount and the payout under the viatical. USI offers committed amounts and payouts taking into account considerations such as the likelihood of locating acceptable viators and viaticals, the investor's proposed period of engagement, whether there is to be contingency insurance (where the absolute return will be reduced to reflect the cost of such insurance), fees, expenses, the spread USI takes for its services, and the discounted purchase price USI believes it will be able to negotiate for an acceptable viatical.

[36] A viator is selected by USI so that the estimated date of death of the selected viator will be approximately two years before the end of the proposed period of engagement selected by the investor. If GLS is selected, the maturity date of the contingency insurance is the end of the proposed period of engagement.

Rates of return

[37] Although USI asserts that returns are described by USI in absolute return terms (i.e., amounts payable as death benefits or contingency insurance as a percentage of the committed amount), USI's marketing material compares returns on its viatical products with the returns under products, such as GICs and mortgages, over a period of time equivalent to the proposed period of engagement.

[38] Under GLS-II, if a viator dies before the end of the proposed period of engagement, the investor's annualized rate of return will be higher than a conservatively estimated (based on life expectancy plus two years) annualized rate of return. If the viator dies after the end of the proposed period of engagement, the investor's annualized rate of return will be less than a conservatively estimated annualized rate of return.

[39] Under GLS, the investor will face the same consequences for the annualized rate of return as under GLS-II if the viator dies before the end of the proposed period of engagement. If the viator dies after the period, the contingency insurance will have matured and the annualized rate of return will be equivalent to a conservatively estimated annualized rate of return based on life expectancy plus two years.

[40] No interest or other return is paid to the investor on the committed amount for the period of time after the funds are paid and before the funds are used to acquire an interest in a death benefit.

[41] The time between the date the investor pays his committed amount and the date he acquires an interest in a death benefit can have an effect on his annualized rate of return, where the proposed period of engagement is matched to run from a date that is later than the date of payment of the committed amount. However, the time delay has no effect on the investor's entitlement to the absolute return specified in the purchase agreement.

[42] There is sometimes a delay between the time when a death benefit becomes payable or contingency insurance matures and the time when the insurance company settles and pays out the claim. This, too, impacts the actual annualized rate of return that the investor receives on his investment, but not the absolute return.

Flow of funds

[43] USI has established a Canadian trust and a U.S. trust to manage the flow of funds from and to investors.

[44] When an investor pays the committed amount, it is placed in the Canadian trust.

[45] The committed amount is not taken by USI into its own funds. No interest is earned on the funds while they are held in the Canadian trust.

[46] When USI has agreed with a viator to acquire an interest in a death benefit, USI instructs the Canadian trust to pay the committed amount to the U.S. trust.

[47] Funds held by the U.S. trust earn interest that is paid to the trustee for its services, and for taxes and expenses.

[48] USI instructs the U.S. trust to hold a specified amount of the committed amount in a premium reserve account, and to pay from the committed amount various expenses, such as contingency insurance premiums and service fees of others such as the medical expert doing the life expectancy estimates, and to pay from the committed amount the purchase price for the interest in the death benefit to the viator or his agent, and to remit the balance to USI for its own account.

[49] When a viatical is acquired, the life insurance policy is changed to show the U.S. trust as the legal owner of the policy. USI issues to investors certificates of beneficial ownership. When the insurance company pays the death benefit, it does so to the U.S. trust. USI directs the U.S. trust to pay funds to investors.

[50] If there is contingency insurance that matures, the contingency insurance company pays the claim to the Canadian trust, and the trust, on the instructions of USI, pays the investors.

Premiums on life insurance

[51] USI calculates the funds that will be sufficient to pay premiums on the life insurance for each viatical acquired for a period ending two years after the estimated date of death of the viator and the U.S. trust uses the premium reserve account to pay premiums.

[52] If a viator dies before funds in the premium reserve account have been exhausted, the remaining funds in the account are added to a general premium account.

[53] If the premium reserve account for a life insurance policy is exhausted because the viator lives beyond two years from the estimated date of death, the trustee uses the general premium account to pay premiums. This is not the case when there is contingency insurance. Once the contingency insurance becomes payable, the contingent insurer becomes the beneficiary of the life insurance and USI and the investors no longer have any interest in paying premiums to maintain the insurance in good standing.

[54] USI is the residual beneficiary of the U.S. trust and is entitled to any remaining assets in the general premium account when the trust is terminated.

[55] We had no evidence before us to suggest that investors or USI had any obligation to pay premiums on insurance if the premium reserve account and the general premium account became exhausted. But we were advised that this situation has never occurred and was unlikely to ever occur.

Efforts of USI

[56] When USI has sufficient funds from investors, USI seeks out potential viators, who usually are terminally ill persons or elderly persons who wish to capitalize on their life insurance policies by selling the amount payable by the insurance company on the viator's death (death benefit) for a price which is invariably less than the full face amount.

[57] Only unencumbered life insurance policies in good standing from creditworthy insurance companies are considered.

[58] USI engages independent service providers to prepare proper life expectancy estimates and to track and monitor the viators' health and date of death.

[59] USI ensures that life policies under consideration are past their contestability and suicide period.

[60] USI selects the insurer to underwrite the contingency insurance for GLS.

[61] USI matches viators and viaticals with the parameters set for investment by each investor. This entails matching life expectations for viators, plus two years, with the proposed period of engagement of investors, and aggregating funds of a sufficient number of investors to purchase whole viaticals from viators. USI almost never purchases fractional interests in viaticals.

[62] This matching generally begins after investors commit funds to USI and can take as long as nine months or more after the commitment date. In some cases, no match can be found and USI returns the funds committed by the investor.

[63] Before agreeing with a viator or his agent on the actual purchase price for a viatical, USI determines what it will offer by deducting from committed amounts paid by investors a 5% spread for itself, an amount sufficient to pay premiums on the policy for the proposed period of engagement, and an amount sufficient to pay medical experts and other agents, and if contingency insurance is involved, the cost of such insurance.

[64] The purchase of viaticals is very competitive. USI considers it is doing well if it wins one in ten bidding contests for viaticals. In some cases, USI may accept less than its 5% spread in order to win the bid for a viatical.

[65] When the purchase of a viatical is made, the investor is assigned a fractional interest in the viatical. He does not acquire an interest in a pool of more than one viatical, although over time, may, through multiple investments, have fractional interests in more than one viatical.

[66] USI sends an investor a closing package once USI purchases the viatical. The closing package includes a copy of assignment of the interest in the death benefit to the U.S. trust, a medical review estimating life expectancy, a beneficiary designation, financial ratings of the viator's insurance company, and the contingency policy of insurance where applicable. The beneficiary designation lists the U.S. trust as the beneficiary for the life policy.

[67] USI monitors when the contingency policy matures and is responsible for making claims under the policy.

[68] Investors do not select viators, do not approve life expectancy estimates, do not participate in the negotiation of or have knowledge of the purchase price of the viatical, and are unaware of the fees, expenses and spread USI incurs or retains on a transaction and are unaware of the premiums that need to be paid to keep the insurance in good standing.

[69] Investors have no part in the selection or retention of medical experts to conduct life expectancy estimates and generally do not know the identity of the viator and have no part in monitoring the life of the viator.

[70] In various materials prepared for its agents or its investors, USI has stated:

- Universal Settlements International Inc. ensures that extensive and prudent medical underwriting has been performed on all our Life Settlements.
- The most significant benefit [USI provides] to clients and representatives by the implementation of these changes [to USI's programs] is that the placement of your clients' funds will be accomplished in a much shorter time span.
- Universal Settlements has long been recognized as a leader in developing and offering creative life settlement solutions. We were one of the first with a reinsured product.
- USI has created the most secure life settlement product available. Our Guaranteed Life Settlement (GLS) has eliminated all risk for the purchaser.
- We retained American Viatical Services (AVS) to perform our medical underwriting. After much due diligence, we selected AVS to look after this cornerstone of our business. AVS is staffed with several reviewing physicians and scientists and are recognized as the best in the business.
- We invite you to compare GLS to other popular investment vehicles. GLS offers you a unique blend of security and potential high yield.

[71] Failure by USI and its agents to diligently carry out their responsibilities would jeopardize the ability of investors to realize their profit from the investment.

DISCUSSION OF THE LAW

[72] Subsection 1(1) of the Act defines "security" to include "any investment contract". The term "any investment contract" is not defined in the Act.

[73] We considered the following cases submitted to us: *Pacific Coast Coin Exchange of Canada v. Ontario Securities Commission* (1977), 80 D.L.R. (3d) 529 (S.C.C.); *Securities and Exchange Commission v. W.J. Howey Co.*, 328 U.S. 293 (1946); *State of Hawaii, Commissioner of Securities v. Hawaii Market Centre, Inc.*, 485 P.2d 105 (Hawaii Sup. Ct. 1971); *SEC v. Life Partners Inc.*, 87 F.3d 536 (D.C. Cir. 1996); *SEC v. Life Partners Inc.*, 102 F.3d 587 (D.C. Cir. 1996); *SEC v. Life Partners Inc.*, 986 F. Supp. 644 (D.C. Cir. 1997); *SEC v. Mutual Benefits Corp.*, 408 F.3d 737 (11th Cir. 2005); *Siporin v. Carrington*, 23 P.3d 92 (Ariz. C.A. 2001); *British Columbia v. Lazerman Investment Metals International Inc.*, [1985] B.C.J. No. 2338 (C.A.); *R. v. Sisto Finance*, [1994] O.J. No. 1184 (Ct. J. (Prov. Div.)); Flora v. Poyser, 780 N.E.2d 1191 at 1197 (Ind. C.A. 2003); *Griffitts v.*

Life Partners Inc., 2004 Tex. App. LEXIS 4844 (Tex. C.A. 2004); *Joseph v. Viatica Management LLC*, 55 P.3d 264 (Colo. C.A. 2002); *Wuliger v. Eberle*, 414 F. Supp. 2d 814 (N.D. Ohio 2006); *Rumbaugh v. Ohio* DOC, 800 N.E.2d 780 (Ohio C.A. 2003); *Ainsley Financial Corporation v Ontario Securities Commission* (1993), 14 O.R. (3d) 280 (Ct. J. (Gen. Div.)); *Committee for the Equal Treatment of Asbestos Minority Shareholders v. The Queen in right of Quebec et al.* (2001), 199 D.L.R. (4th) 577 (S.C.C.); *Pezim v. British Columbia (Superintendent of Brokers)* (1994), 114 D.L.R. (4th) 385 (S.C.C.); *Gregory & Co. v. Quebec (Securities Commission)*, [1961] S.C.R. 584; *Charbonneau (Re)* (1997), 6 ASCS 3076 (Alta. Sec. Com.); *Corporate Express Inc. (Re)*, 2005 LNBCSC 10 (B.C. Sec. Com.); *Re Ontario Securities Commission and C&M Financial Consultants* (1979), 23 O.R. (2d) 378 (H.C.); *Lett (Re)* (2004), 27 OSCB 3215 (Ont. Sec. Com.); *Lett (Re)* (8 June 2004), Toronto (Ont. Sec. Com.) [Sanctions Reasons]; *Ontario (Securities Commission) v. Lett*, [2006] O.J. No. 751 (Sup. Ct.); *Her Majesty the Queen v. Consortium Financial Inc. and Pia Williamson* (1992), 15 OSCB 4091 (Ont. Sec. Com.); *Yuen Chow International Group (Re)*, 1995 LNBCSC 30 (B.C. Sec. Com.); *Pac Industries, Inc. (Re)*, 1987 LNBCSC 1162 (B.C. Sec. Com.); *Sunfour Estates N.V. (Re)* (1992), 15 OSCB 269 (Ont. Sec. Com.); *Beer v. Townsgate I Ltd.*, [1995] O.J. No. 3009 (Ct. J. (Gen. Div.)); *First Federal Capital (Canada) Corp. (Re)* (2004), 27 OSCB 1603 (Ont. Sec. Com.); *First Federal Capital (Canada) Corp. (Re)* (2005), 28 OSCB 4391 (Ont. Sec. Com.); *St. John (Re)* (1998), 21 OSCB 3851 (Ont. Sec. Com.); *Revak v. SEC Realty Corp.*, 18 F.3d 81 (2nd Cir. 1994); *Glick v. Sokol*, 777 N.E.2d 315 (Ohio C.A. 2002); *Sec. Trust Corp. v. Estate of Fisher*, 797 N.E.2d 789 (Ind. C.A. 2003); *Allen v. Jones*, 604 S.E.2d 644 (Ga. C.A. 2004); *Superintendent of Financial Services and OSC v. Universal Settlements International, Inc.* (2001), 24 OSCB 7299 (Sup. Ct.); *Superintendent of Financial Services and OSC v. Universal Settlements International, Inc.* (2001), 24 OSCB 7303 (Sup. Ct.); *Universal Settlements Inc., Tony Duscio and Derek O'Brien v. Superintendent of Financial Services* (14 January 2002), Toronto I0151-2001 (Financial Services Tribunal); *Universal Settlements International Inc.* (2003), 26 OSCB 1307 (Ont. Sec. Com.); *Universal Settlements International Inc.* (2003), 170 O.A.C. 24 (Ont. Div. Ct.); *Universal Settlements International Inc.* (2003), 67 O.R. (3d) 670 (Div. Ct.); *Universal Settlements International Inc. v. Ontario Securities Commission*. (12 March 2004), Toronto M30604 (Ont. C.A.).

[74] There are no Canadian cases dealing with the issue of whether schemes for investment in viaticals are investment contracts. Accordingly, it is appropriate to consider U.S. cases on this issue.

Pacific Coast

[75] *Pacific Coast Coin Exchange of Canada Ltd. v. Ontario (Securities Commission)* (1977), 80 D.L.R. (3d) 529 (S.C.C.) is the leading Canadian authority on the meaning of investment contract under the Act.

[76] In *Pacific Coast*, the promoter of a scheme sold bags of silver coins on margin for future delivery. Investors had the option of taking delivery in specie on payment in full or of closing out the contract by reselling the bags of silver coins back to the promoter at the market price for silver. Funds paid by investors were commingled with the assets of the promoter and no bags of silver coins were segregated for possible delivery on the contracts. Performance of the obligations of the promoter to deliver bags of silver coins on payment in full or to pay any increase in value when the bags were sold back to the promoter was subject to the credit worthiness of the promoter.

[77] The promoter argued that profits came from changes in the value of silver as determined by the market. The court held that the investor's expectation of profit was governed not only by the silver market but also by the promoter's internal market for silver and that the amount of the investor's profit depended for practical purposes on the efforts of the promoter. Although the commodity contracts were not themselves investment contracts, the relationship between the company and its investors created an investment contract within the meaning of the Act.

[78] The customer obtained no specific interest in any particular bag of silver until he paid for it in full and accepted delivery. The company obtained title to the funds paid by the margin account customers as a deposit. The court observed that until the investor paid the full purchase price, he had no title to any physical property, but only a claim against the company. The court stated, however,

> This is not to say that we are looking at a pure question of solvency… the conclusion of the Divisional Court does not rest on such a narrow basis. (p. 541)

[79] The court stated that leading U.S. authorities could assist Canadian courts in interpreting the meaning of investment contract. The court also stated that the Act is remedial and meant to be construed broadly in a manner that fulfills its statutory purposes, which include the protection of investors. Accordingly, courts and tribunals must broadly interpret the meaning of investment contract.

[80] The court adopted, with modification, the U.S. approach to investment contracts set out in Howey and held that a scheme will constitute an investment contract where there is: (i) an investment of funds with a view to profit; (ii) in a common enterprise; (iii) where the profits are derived from the undeniably significant efforts of persons other than the investors.

[81] The court quoted with approval the statement in *Tchereprin v. Knight* (1967), 389 U.S. 332 at p. 336:

> … in searching for the meaning and scope of the word "security" in the Act, form should be disregarded for substance and emphasis should be on economic reality. (p. 538)

[82] The court agreed with the court in *Howey*, which stated that any definition must permit

> … the fulfillment of the statutory purpose of compelling full and fair disclosure relative to the issuance of "the many types of instruments that in our commercial world fall within the ordinary concept of a security." … It embodies a flexible rather than a static principle, one that is capable of adaptation to meet the countless and variable schemes devised by those who seek the use of the money of others on the promise of profits. (p. 299)

[83] The court also looked at the risk capital test in *State of Hawaii, Commissioner of Securities v. Hawaii Market Center, Inc.*, 485 P.2d 105 (Hawaii Sup. Ct. 1971) and came to the same conclusion under that test.

[84] The court also adopted the test in *SEC v. Glen W. Turner Enterprises, Inc.*, 474 F. 2d 476 (9th Cir. 1973) that the expression "common enterprise" means "one in which the fortunes of the investors are interwoven with and dependent upon the efforts and success of those seeking the investment of third parties."

[85] In the court's view, a common enterprise exists

> … when it is undertaken for the benefit of the supplier of capital (the investor) and of those who solicit the capital (the promoter). In this relationship, the investor's role is limited to the advancement of money, the managerial control over the success of the enterprise being that of the promoter; therein lies the community. In other words, the 'commonality' necessary for an investment contract is that between the investor and the promoter. There is no need for the enterprise to be common to the investors between themselves. (p. 540) …
>
> The key to the success of the venture is the efforts of the promoter alone, for a benefit will accrue to both the investor and the promoter. (p. 541)

[86] This test is broader than the *Howey* test where some form of commonality among investors is required. However, the court said at p.542,

> At the invitation of the parties, I have examined the facts in the sole light of the Howey and Hawaii tests. Like the Divisional Court, however, I would be inclined to take a broader approach. It is clearly legislative policy to replace the harshness of caveat emptor in security related transactions and Courts should seek to attain that goal even if tests carefully formulated in prior cases prove ineffective and must continually be broadened in scope. It is the policy and not the subsequently formulated judicial test that is decisive.

[87] The broader approach preferred by the Divisional Court in *Pacific Coast*, referred to with approval by the Supreme Court, is reflected in this passage from the judgment of Houlden, J. at pp. 347-9 (55 D.L.R. (3d) 331):

> Although I have dealt with the meaning of "investment contract" as it has been interpreted by the Courts of the United States, I would have preferred to have given the words a much wider meaning. In my opinion, the tests propounded in the American Courts are too rigid and restrictive and if literally applied could defeat the purpose of securities legislation, i.e., "the protection of the investing public through full, true and plain disclosure of all the material facts relating to the securities being issued": Re Ontario Securities Commission and Brigadoon Scotch Distributors (Canada) Ltd. [1970] 3 O.R. 714 at p. 717, 14 D.L.R. (3d) 67 at p. 77, 3 C.C.C. (2d) 463, [1971] 3 W.W.R. 133, an investment contract is "one which provides for investment". And then quoting from Stout, C.J., in Com'r of Taxes v. Australia Mutual Provident Society (1903) 22 N.Z.L.R. 445 at p. 450, he defined investment as the putting of money". This definition accords with the much simpler definition given by Murphy, J., in the Howey case, supra, p. 208, where, after referring to certain decisions of State Courts, he said: "An investment contract thus came to mean a contract for 'the placing of capital or the laying out of money in a way intended to secure income or profit from its employment'." If this were the test of what constitutes an investment contract, then adopting the words of Murphy, J., in the Howey case, form can be disregarded for substance and emphasis placed upon economic reality. When "investment contract" is given this interpretation, it undoubtedly casts a wide net, but the Court can narrow its sweep by applying the test of economic reality.

Howey

[88] In *Howey*, a promoter sold to investors units of interests in a citrus grove development coupled with a contract for cultivating, marketing and remitting the net proceeds to the investor. The promoter planted about 500 acres annually, keeping half the groves for itself and offering the other half to the public "to help us finance additional development". About 85% of

groves sold were covered by service contracts with the promoter. The court found that the arrangement constituted an investment contract, and therefore a security, under the U.S. Securities Act of 1933.

[89] The court rejected the suggestion that there was no investment contract because the tangible interest that was sold had intrinsic value independent of the success of the enterprise as a whole. If the test for an investment contract is met, it does not matter if there is also a sale of property with intrinsic value.

Hawaii

[90] In *Hawaii*, investors did not participate in the profits of the business enterprise. They were promised fixed fees and commissions that were payable regardless of the existence of profits. The court said at p. 110,

> It should be irrelevant to the protective policies of securities laws that the inducements leading an investor to risk his initial investment are founded on promises of fixed returns rather than a share of profits. The reference point should be the offeree's expectations, not the balance sheet of the offeror's corporation. The unwary investor lured by the promise of fixed fees deserves the same protection as a participant in a profit sharing plan. For this reason, courts have avoided a narrow definition of profits.

[91] In our case, investors do not participate in the profits of the business enterprise of USI but are promised fixed returns on their investments that, on an annualized basis, will be more or less profitable depending on the period of time funds are deployed in the common enterprise. The investors furnish the capital that is deployed to purchase viaticals in the common enterprise and that is the source of the fees and income of USI and its agents from the common enterprise.

[92] In *Hawaii*, the court stated at p.111 that "to negate the finding of a security the [investor] should have practical and actual control over the managerial decisions of the enterprise. For it is this control which gives the [investor] the opportunity to safeguard his own investment, thus obviating the need for state intervention." Investors in the USI viatical offering cannot exercise any such managerial control over their investment.

Life Partners

[93] In *Securities and Exchange Commission v. Life Partners, Inc.*, 87 F.3d 536 (D.C. Cir. 1996), the United States Court of Appeals for the District of Columbia found that a scheme for the sale of viaticals to investors by Life Partners International (LPI) resulted in sufficient commonality in which there was an investment of funds for profit. However, Justice Ginsburg, speaking for the majority of the court, found that the profits in the investment did not come predominantly from the efforts of persons other than the investors. Justice Wald dissented on this issue.

[94] In *Life Partners*, LPI offered fractional interests in viaticals. LPI performed many of the tasks that USI performs for its investors. However, unlike in our case, viaticals and viators were found and scrutinized by LPI before investors were assembled or paid their funds to LPI. Thus, in Life Partners, LPI evaluated the viator's medical condition, reviewed the life insurance policy, negotiated the purchase price and prepared the legal documentation before the investor made his investment decisions.

[95] Investors in *Life Partners* were not obliged to use the services of LPI to perform post-acquisition administrative activities which were offered as an administrative convenience to take or to leave. In fact, LPI furnished investors with all of the information needed to handle post-purchase activities. In a later version of the scheme, LPI offered no post-purchase activities on behalf of investors. They were the responsibility of investors, although investors could contact the trust and contract with it to perform the services.

[96] The court found "commonality" in *Life Partners* because an investor depended on other investors to be found to aggregate sufficient funds to acquire a viatical. Justice Ginsburg stated at p. 544,

> Because LPI's viatical settlements entail this implicit form of pooling, and because any profits or losses accrue to all investors (in proportion to the amount invested), we conclude that all three elements of horizontal commonality – pooling, profit sharing, and loss sharing – attend the purchase of fractional interests through LPI. (We need not reach, therefore, the SEC's alternate contention that the LPI program entails "strict vertical commonality" – another formulation of the common enterprise test recognized in some circuits.)

[97] LPI structured purchases of viaticals through a trust established for that purpose and investors' funds and payments for investors went through the trust and not LPI itself. Thus the funds from investors were not commingled with the funds of LPI. Justice Ginsburg held at p. 544 that "it is the inter-dependency of the investors that transforms the transaction substantively into a pooled investment" and that "if the investments are inter-dependent it would not matter if LPI scrupulously avoided commingling investors' funds – for example by passing [investor] checks directly to the seller at closing." We concluded that in

our case it is not necessary that the capital or assets employed in the common enterprise also become capital and assets of USI, subject to its solvency risk, before we can find an investment contract.

[98] Justice Ginsburg held that just because there was "commonality" did not mean, *ipso facto*, that there was an "enterprise". That would depend, Justice Ginsburg held, on the answer to the third prong of the *Howey* test, namely, whether profits are expected to arise from the efforts of others.

[99] Justice Ginsburg held at p.547 that

> LPI's pre-purchase efforts were 'undeniably essential to the overall success of an investor's investment'. The investors rely heavily, if not exclusively, upon LPI to locate insureds and to evaluate them as well as to negotiate an attractive purchase price."

[100] However, because these activities occurred pre-purchase, Justice Ginsburg held, the value of the promoter's effort had already been impounded into the promoter's fees or into the purchase price of the investment, and if neither the promoter nor anyone else was expected to make further efforts that would affect the outcome of the investment, then the need for securities regulation was greatly reduced. He doubted that pre-purchase services should ever count for much.

[101] Justice Ginsburg held at p.545 that "post-purchase entrepreneurial activities are the 'efforts of others' most obviously relevant to the question of whether a promoter is selling a security…"

[102] Justice Ginsburg concluded that the combination of LPI's pre-purchase services as a finder-promoter and its largely ministerial post-purchase services were not enough to establish that the investor's profits flow predominantly from the effort of others. We believe that this conclusion is inconsistent with the finding that the pre-purchase activities were undeniably essential to the overall success of an investor's investment.

[103] In a strong dissent, Justice Wald held that where profits depend on the success of the promoter's activities, there is less access to key information, i.e., that specific to the promoter. The investor needs to know the risk factors attached to the investment and whether there is any reason why the investor should be leery of the promoter's promises. This need for information holds true for investors prior to purchase as much as for investors who have committed their funds. Justice Wald held that an artificial line should not be drawn between pre-purchase and post-purchase activities. To do so, Justice Wald held, elevates a formal element, timing, over the economic reality of the investors' dependence on the promoter, and undercuts the flexibility and ability to adapt to "the countless and variable schemes" that are the hallmarks of the *Howey* test.

[104] In our case, most, if not all, of the pre-purchase activities in *Life Partners*, occur after an investor makes his investment by paying the committed amount and signing the purchase agreement. Those activities in *Life Partners* that occurred before investors were assembled, occur in our case, after they are assembled.

[105] While Justice Ginsburg acknowledged that it is the length of the viator's life that is of overwhelming importance to the value of the viatical settlements marketed by LPI, Justice Wald emphasized that the realization of expected investor profits depended not on the timing of the viator's death per se but rather on whether the death occurred within the period estimated by LPI.

Mutual Benefits

[106] In *Securities and Exchange Commission v. Mutual Benefits Corp.*, 408 F.3d 737 (11th Cir. 2005) the U.S. Court of Appeals for the 11th Circuit held that viatical settlement contracts sold by Mutual Benefits Corp. (MBC) were investment contracts.

[107] The facts in *Mutual Benefits* were similar to those in Life Partners. However, MBC required investors to deposit the purchase price of the investment with an escrow agent before MBC selected a policy that fit the investment goals of the individual investors, based on the price the investor wanted to pay and the life-expectancy period that the investor desired. MBC granted varying rights to withdraw the deposit (3 to 7 days from the date of deposit) and thereafter the investor could not back out of the agreement. The investor could reject a proposed viatical, and MBC could then attempt to locate and propose another. Fractional interests were offered.

[108] There was no dispute in *Mutual Benefits* that there was an investment of money with a view to profits. The court found that the investment scheme involved both horizontal commonality, in that investors' money was typically pooled to invest in a viatical, and investors shared both the promise of profits and the risk of loss. Thus, there was a "common enterprise".

[109] The real issue in *Mutual Benefits* was whether the investor's expectation of profits was based solely on the efforts of the promoter or a third party. MBC relied on Life Partners. The court, however, specifically declined to adopt the test on this issue set forth in Life Partners.

[110] The court agreed with the dissenting opinion of Justice Wald in *Life Partners* that significant pre-purchase managerial activities undertaken to insure the success of the investment may also satisfy the third prong of the *Howey* test. The court stated at pp. 744-45,

> The investors' expectations of profits in this case relied heavily on the pre- and post-payment efforts of the promoters in making investments in viatical settlement contracts profitable. The investors selected the "term" of their investment, and submitted completed agreement forms and money. Thereafter, MBC selected the insurance policies in which the investors' money would be placed. MBC bid on policies and negotiated purchase prices with the insureds. MBC undertook to evaluate the life expectancy of the insured – evaluations critical to the success of the venture. If MBC underestimated the insureds' life expectancy, the chances increased that the investors would realize less of a profit, or no profit at all. And, investors had no ability to assess the accuracy of representations being made by MBC or the accuracy of the life-expectancy evaluations. They could not, by reference to market trends, independently assess the prospective value of their investments in MBC's viatical settlement contracts. There were important post-purchase managerial efforts of MBC as well. Often, life-expectancy evaluations were not completed until after closing. And, after closing on a policy, MBC assumed the responsibility of making premium payments. Escrow payments were collectively managed in such a manner that investors were not required to pay additional premiums. Thus, investors relied on both the pre- and post-purchase management activities of MBC to maximize the profit potential of investing in viatical settlement contracts. …
>
> The investors here relied on MBC to identify terminally ill insureds, negotiate purchase prices, pay premiums, and perform life expectancy evaluations critical to the success of the venture. The flexible test we are instructed to apply by Howey and Edwards covers these activities, qualifying MBC's viatical settlement contracts as "investment contracts" under the Securities Acts of 1933 and 1934.

[111] We have two conflicting cases of the U.S. Court of Appeals (*Life Partners* and *Mutual Benefits*) on the third prong of the *Howey* test. While we are not bound to follow U.S. cases, we are of the opinion that *Mutual Benefits* and Justice Wald's dissenting opinion in *Life Partners* are correct and reflect the economic reality and flexible approach endorsed by the Supreme Court of Canada in *Pacific Coast*. Furthermore, we are troubled by the inconsistency in the reasoning of the majority opinion in *Life Partners*. Even so, the facts in our case are sufficiently different from those in *Life Partners* – many of the pre-purchase activities that the majority in *Life Partners* described as "undeniably essential to the overall success of the investment" are post-purchase activities in our case [i.e., they occur after the assembling of investors and after the commitment of funds] – that based on *Life Partners* alone, we could find that USI's viatical products are investment contracts.

Siporin

[112] In *Siporin v. Carrington*, 23 P.3d 92 (Ariz. C.A. 2001), the Court of Appeals of Arizona held that the viatical settlements in question were securities under the Arizona Securities Act. The court found that the investor's profit realization on a viatical settlement depends on the price paid for the interest and the amount of time that passes between the purchase and the viator's death.

[113] The court disagreed with *Life Partners* and, not being bound by the federal Court of Appeals' interpretation of the U.S. federal statutes, and purporting to follow *Howey*, found that the profits investors' expected to realize depended almost entirely on the promoter's expertise in choosing which viaticals to purchase. This in turn depended entirely on the promoter's entrepreneurial and managerial skills. The court stated at p.97,

> In selecting life insurance policies to "viaticate," Carrington had to estimate the life expectancy of each prospective viator, which entailed reviewing medical records, gauging the truthfulness of the prospective viator's representation of his or her condition, and obtaining expert assistance to evaluate the prospective viator's medical condition. Carrington also had to review all potentially available medical treatments that might affect the prospective viator's life expectancy. More importantly, Carrington also obligated itself to investigate the prospective viator's life insurance policy to determine the actual death benefit payable and the likelihood that it would actually be paid in full. To do so, Carrington had to ensure that the policy was not contestable on any ground; that it was assignable; that it was not a group policy subject to cancellation with limited or nonexistent conversion rights; and that the insurance company's financial condition was such that it would be able to pay the death benefit when due.
>
> Once Carrington had completed its analysis, it negotiated an advantageous price at which it would purchase the prospective viator's life insurance policy. Thereafter, Carrington marketed fractional interests in the policy to the general public, and it undertook premium payment and monitoring services to keep the policy in force and to timely claim the death benefit on behalf of the investors. Although it is the viator's death that ultimately yields a return, the profitability of

> the return depends almost exclusively on the viatical seller's entrepreneurial pre-closing investigations, analyses, and negotiations in selecting the viator and the policy and in setting the terms on which the policy is purchased.

[114] The efforts USI undertakes on its investors' behalf are similar to those undertaken by the promoter in *Siporin*.

[115] The court disagreed with the statement in *Life Partners* that investors' profits from viatical settlements "depend entirely upon the mortality of the insured" and that in such a situation, a potential investor's "need for federal securities regulation is greatly diminished." On the contrary, the court in *Siporin* held at p. 99,

> The mortality of the viator is merely another factor to be considered when the seller assembles a viatical settlement agreement that will, the parties hope, be profitable for the investor upon the inevitable death of a viator. What truly determines viatical settlement profitability is the realization, over time, of an outcome predicted by the seller through its analyses of the viator's life expectancy, the soundness of the insurer, the actions needed to keep the policy in effect for the original face amount, and the insurer's unconditional liability under the policy's terms.

[116] We agree with this statement.

Lazerman

[117] *British Columbia (Superintendent of Brokers) v. Lazerman Investment Metals International Inc.*, [1985] B.C.J. No. 2338 (C.A.) concerned client account agreements for the purchase of precious metals and involved deposits of funds by clients in a segregated bank account and hedging contracts for the benefit of the customers. The British Columbia Securities Commission and the court agreed that the client account agreements were not investment contracts. The court observed that the company did not solicit or require venture capital from its customers. Their deposits were segregated from and not used as part of the company's capital or operating funds. The segregated moneys and hedged contracts purchased with them were held in trust for the customers. The Commission and the court found there was no common enterprise.

[118] The facts in *Lazerman* were quite different from the facts in our case. Further, *Life Partners* and *Mutual Benefits* make it clear that the fact customers' moneys are segregated, or held in trust, or not commingled with the promoter's funds, is not determinative of whether a transactional relationship may constitute a common enterprise under the second prong of the test in *Howey*.

Sisto

[119] In *R v. Sisto Finance NV*, [1994] O.J. No. 1184 (Ctr. J. (Prov. Div.)) the accused were charged under the Ontario Securities Act with trading and distributing investment contracts without complying with the Act. They were found guilty. The contracts were part of a scheme to raise funds from the public for the development of small placer gold mines in western North America without complying with the Act, by purporting to sell gold for future delivery at a discount from the current market price.

[120] The court stated at paras. 212 and 213,

> The basis on which the British Columbia Commission purported to distinguish the facts in the Lazerman case from the facts in Pacific Coast Coin is, quite frankly, not convincing.
>
> The decision of the B.C. Court of Appeals appears to be based on an acceptance of the findings of fact of the Commission, recognizing its "special expertise in the matter" (p. 310). Both the Commission and Court, however, applied the tests from the cases rigidly, an approach that I have rejected, and that I believe was rejected by the Ontario Courts and by the Supreme Court of Canada in the Pacific Coast Coin case.

[121] We agree with *Sisto*.

Other Cases

[122] While we considered the other cases referred to by counsel, we do not believe that a discussion of them is necessary or helpful to explain the reasons for our decision.

CONCLUSION

[123] Based on the facts, and consistent with the cases discussed above, we find that USI's relationship with its investors in GLS-II and GLS constitutes a common enterprise and that the profits of the common enterprise are derived from the undeniably significant efforts of USI and its agents. Accordingly, USI's viatical products are investment contracts, and, therefore securities under the Act.

Dated at Toronto, this 29th day of September, 2006

“Paul M. Moore”

“Harold P. Hands”

“Wendell S. Wigle”

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
Deer Valley Shopping Centre Limited Partnership	18 Sep 06	29 Sep 06	29 Sep 06	
Tengtu International Corp.	02 Oct 06	13 Oct 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
Diamond Fields International Ltd.	03 Oct 06	16 Oct 06			
Mindready Solutions Inc.	06 Apr 06	19 Apr 06	19 Apr 06	28 Sept 06	
Pacrim International Capital Inc.	29 Sept 06	12 Oct 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
Argus Corporation Limited	25 May 04	03 Jun 04	03 Jun 04		
Diamond Fields International Ltd.	03 Oct 06	16 Oct 06			
Fareport Capital Inc.	13 Sep 05	26 Sep 05	26 Sep 05		
Hip Interactive Corp.	04 Jul 05	15 Jul 05	15 Jul 05		
HMZ Metals Inc.	03 Apr 06	14 Apr 06	17 Apr 06		
Hollinger Inc.	18 May 04	01 Jun 04	01 Jun 04		
Mindready Solutions Inc.	06 Apr 06	19 Apr 06	19 Apr 06	28 Sept 06	
Neotel International Inc.	02 Jun 06	15 Jun 06	15 Jun 06		
Novelis Inc.	18 Nov 05	01 Dec 05	01 Dec 05		
Pacrim International Capital Inc.	29 Sept 06	12 Oct 06			

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Chapter 7

Insider Reporting

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

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

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

Chapter 8

Notice of Exempt Financings

REPORTS OF TRADES SUBMITTED ON FORMS 45-106F1 AND FORM 45-501F1

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
09/01/2006	52	2109453 Ontario Inc. - Common Shares	3,805,500.00	38,055,000.00
09/28/2006	22	Abitibi Mining Corp. - Units	192,500.00	2,566,667.00
09/22/2006	22	Airline Intelligence Systems Inc. - Common Shares	744,700.00	744,700.00
09/22/2006	7	Avenue Financial Corporation - Common Shares	293,035.00	5,860,700.00
09/15/2006	105	BCGold Corp. - Flow-Through Units	1,024,162.00	NA
09/06/2006	55	Black Pearl Minerals Consolidated Inc. - Units	1,510,390.08	8,391,056.00
09/15/2006	27	Blackstone Ventures Inc. - Units	10,000,055.00	15,384,700.00
09/15/2006	8	Canadian Arrow Mines Limited - Flow-Through Units	1,117,600.00	3,520,000.00
09/13/2006	35	Card One Plus Ltd. - Units	2,538,251.00	10,153,004.00
09/19/2006 to 09/26/2006	23	CareVest First Mortgage Investment Corporation - Preferred Shares	771,746.00	771,746.00
09/19/2006	30	CareVest Second Mortgage Investment Corporation - Preferred Shares	1,086,094.00	1,086,094.00
09/19/2006 to 09/26/2006	18	CareVest Second Mortgage Investment Corporation - Preferred Shares	525,480.00	525,480.00
09/22/2006	14	Caza Oil & Gas, Inc. - Units	906,400.00	581,800.00
09/21/2006	1	CommVault Systems, Inc. - Common Shares	405,601.25	25,000.00
09/26/2006	44	Continuum Resources Ltd. - Units	1,500,000.00	6,000,000.00
09/15/2006	5	Cyrium Technologies Incorporated - Preferred Shares	1,650,000.00	4,086,790.00
09/15/2006	1	Encore Trust - Non-Flow Through Units	50,000,000.00	500,000.00
09/15/2006	1	Encore Trust - Notes	55,000,000.00	550,000.00
09/18/2006	30	Epsilon Energy Limited - Common Shares	5,367,800.00	2,683,900.00

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
09/14/2006	23	EurAsia Holding AG - Debentures	27,000,000.00	27,000.00
09/20/2006	40	Fury Explorations Ltd. - Units	6,744,000.00	84,300,000.00
09/20/2006	1	Gatehouse Capital Inc. - Common Shares	100,000.00	100,000.00
09/19/2006	20	Gen 3 Solar, Inc. - Preferred Shares	8,820,000.00	1,102,500.00
09/18/2006 to 09/22/2006	16	General Motors Acceptance Corporation of Canada, Limited - Notes	14,920,005.31	110,145.40
09/14/2006	3	Georgia Ventures Inc. - Units	46,800.00	260,000.00
09/15/2006	-1	Glacier Ventures International Corp. - Bonds	12,000,000.00	NA
09/19/2006	1	GMO Development World Equity Invest Fund PLC. - Units	92,358.18	3,010.00
09/22/2006	5	Hipotecaria Su Casita, S.A. de C.V, Sociedad Financiera de Objeto Limitado - Non-Flow Through Units	2,235,200.00	2,000.00
09/13/2006	10	IGW Properties Limited Partnership I - Limited Partnership Units	1,070,000.00	1,070,000.00
08/04/2006	57	Impact Drilling Ltd. - Common Shares	2,650,250.00	1,060,100.00
09/19/2006	1	ING USA Global Funding Trust 3 - Note	112,810,000.00	1.00
09/22/2006	13	Innovotech Inc. - Units	550,000.00	2,894,739.00
09/22/2006	1	Irontree Oilfield Services Corp. - Common Shares	565,000.00	565,000.00
09/22/2006	6043	Japan Retail Fund Investment Corporation - Units	687,035,160.05	84,000.00
09/26/2006	1	Matregen Corp. - Debenture	500,000.00	1.00
09/11/2006	1	Monster Copper Corporation - Units	299,950.00	857,000.00
09/22/2006	16	Olivut Investments Ltd. - Receipts	3,047,500.00	3,047,500.00
09/25/2006	61	Orex Ventures Inc. - Units	1,000,000.00	4,000,000.00
09/18/2006	1	PharmaGap Inc. - Common Shares	200,000.00	200,000.00
09/18/2006	4	Plazacorp Retail Properties Ltd. - Debentures	901,000.00	901.00
09/20/2006	43	Pure Nickel Inc. - Common Shares	1,537,500.00	7,687,500.00
09/25/2006	19	R2D TO Limited Partnership - Limited Partnership Units	287,506.00	145.00

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
09/22/2006	37	Rare Element Resources Ltd. - Units	1,000,021.40	1,621,698.00
08/04/2006	2	RemoteLaw Online Systems Corp. - Notes	75,000.00	2.00
09/13/2006	11	Result Energy Inc. - Debentures	3,050,000.00	NA
09/26/2006	2	Riverbed Technology Inc. - Common Shares	767,676.00	70,000.00
09/20/2006	63	Route1 Inc. - Units	5,224,769.44	65,309,618.00
09/18/2006	1	SC Stormont Holdings Inc. - Debentures	200,000.00	200,000.00
09/21/2006	14	Silver Bear Resources Inc. - Common Shares	4,854,250.25	6,472,333.00
09/27/2006	1	SMART Trust - Note	2,642,716.40	1.00
09/27/2006	1	SMART Trust - Note	1,095,029.74	1.00
04/21/2006	26	Smokers Lozenge Inc. - Common Shares	5,000.00	500,000.00
09/22/2006	7	Stealth Ventures Ltd. - Flow-Through Shares	4,999,999.20	2,941,176.00
09/22/2006	7	Stealth Ventures Ltd. - Units	2,140,000.00	1,337,500.00
09/28/2006	25	Torch River Resources Ltd. - Common Shares	996,300.00	4,390,000.00
08/31/2006	10	Union Summit Minerals Corporation - Units	1,050,099.90	3,500,332.00
09/22/2006 to 09/29/2006	13	Veris Health Sciences Inc. - Units	1,224,748.85	1,440,881.00
09/26/2006	5	Warner Chilcott Limited - Common Shares	20,668,200.00	1,225,000.00
09/20/2006	98	Winalta Inc. - Receipts	7,500,000.00	5,000,000.00
09/07/2006	10	Woodbridge Finance Corporation - Note	200,000,000.00	1.00

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Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:
BluMont Equity Advantage Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated September 28, 2006
Mutual Reliance Review System Receipt dated September 29, 2006
Offering Price and Description:
$ * - * Units Price: $10.00 per Unit - Minimum Purchase: 200 Units ($2,000)
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
Scotia Capital Inc.
National Bank Financial Inc.
HSBC Securities (Canada) Inc.
Berkshire Securities Inc.
Dundee Securities Corporation
Raymond James Ltd.
Blackmont Capital Inc.
Desjardins Securities Inc.
GMP Securities L. P.
MGI Securities Inc.
Rothenberg Capital Management Inc.
Wellington West Capital Inc.
Promoter(s):
BluMont Capital Corporation
Project #997936

Issuer Name:
BMO Harris Emerging Markets Equity Portfolio
BMO Harris International Special Equity Portfolio
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectuses dated September 29, 2006
Mutual Reliance Review System Receipt dated October 2, 2006
Offering Price and Description:
Mutual Fund Securities Net Asset Value
Underwriter(s) or Distributor(s):
BMO Investments Inc.
Promoter(s):
BMO Trust Company
Project #998446

Issuer Name:
Copernican World Banks Split Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated October 2, 2006
Mutual Reliance Review System Receipt dated October 3, 2006
Offering Price and Description:
$ * - (Maximum) - Preferred Shares and Class A Shares Prices: $10.00 per Preferred Share and $10.00 per Class A Share Minimum Purchase: * Preferred Shares or * Class A Shares
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
Scotia Capital Inc.
TD Securities Inc.
Berkshire Securities Inc.
Canaccord Capital Corporation
Desjardins Securities Inc.
Dundee Securities Corporation
HSBC Securities (Canada) Inc.
Raymond James Ltd.
Bieber Securities Inc.
Blackmont Capital Inc.
Burgeonvest Securities Limited
Wellington West Capital Inc.
Promoter(s):
-
Project #999183

Issuer Name:
Core Canadian Dividend Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated September 25, 2006
Mutual Reliance Review System Receipt dated September 27, 2006
Offering Price and Description:
$ * - * Units Price: $10.00 per Unit
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
CIBC World Markets Inc.
Scotia Capital Inc.
TD Securities Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
HSBC Securities (Canada) Inc.
Blackmont Capital Inc.
Desjardins Securities Inc.
Dundee Securities Inc.
Canaccord Capital Corporation
Raymond James Ltd.
Berkshire Securities Inc.
Wellington West Capital Inc.
Promoter(s):
Mulvihill Capital Management Inc.
Project #996455

Issuer Name:
C.A. Bancorp Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated October 2, 2006
Mutual Reliance Review System Receipt dated October 2, 2006
Offering Price and Description:
$ * - * Common Shares Price: $ * per Common Share
Underwriter(s) or Distributor(s):
National Bank Financial Inc.
CIBC World Markets Inc.
TD Securities Inc.
BMO Nesbitt Burns Inc.
Scotia Capital Inc.
Blackmont Capital Inc.
Canaccord Capital Corporation
HSBC Securities (Canada) Inc.
Raymond James Ltd.
Promoter(s):
John Driscoll
Project #998802

Issuer Name:
Dividend 15 Split Corp. II
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated September 28, 2006
Mutual Reliance Review System Receipt dated September 29, 2006
Offering Price and Description:
$ * - * Preferred Shares and * Class A Shares Price: $10.00Preferred Shares and $10.00 Class A Shares
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 #997490

Issuer Name:
E-L Financial Corporation Limited
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated September 29, 2006
Mutual Reliance Review System Receipt dated September 29, 2006
Offering Price and Description:
$100,000,000.00 - (4,000,000 shares) 4.75% Non-Cumulative Redeemable First Preference Shares, Series 2 Price: $25.00 per Share to yield 4.75%
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
National Bank Financial Inc.
TD Securities Inc.
Promoter(s):
-
Project #997945

Issuer Name:
Financial Preferred Securities Corporation
Principal Regulator - Alberta
Type and Date:
Preliminary Prospectus dated October 3, 2006
Mutual Reliance Review System Receipt dated October 3, 2006
Offering Price and Description:
Maximum $ * - * Preferred Shares Price: $25.00 per Preferred Share Minimum Purchase: 100 Preferred Shares
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
TD Securities Inc.
National Bank Financial Inc.
Scotia Capital Inc.
Desjardins Securities Inc.
HSBC Securities (Canada) Inc.
Canaccord Capital Corporation
Blackmont Capital Inc.
Dundee Securities Corporation
Raymond James Ltd.
Bieber Securities Inc.
GMP Securities L.P.
MGI Securities Inc.
Research Capital Corporation
Wellington West Capital Inc.
Promoter(s):
Canadian Income Fund Group Inc.
CGF Funds Management Ltd.
Project #999229

Issuer Name:
Ford Floorplan Auto Securitization Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Shelf Prospectus dated October 3, 2006
Mutual Reliance Review System Receipt dated October 3, 2006
Offering Price and Description:
Up to $1,500,000,000 of Asset-Backed Notes
Underwriter(s) or Distributor(s):
-
Promoter(s):
Ford Credit Canada Limited
Project #999177

Issuer Name:
Global Alternative Investments Inc.
Principal Regulator - Alberta
Type and Date:
Preliminary CPC Prospectus dated September 26, 2006
Mutual Reliance Review System Receipt dated September 27, 2006
Offering Price and Description:
$300,000.00 - 1,500,000 Common Shares Price: $0.20 per Common Shares
Underwriter(s) or Distributor(s):
Blackmont Capital Inc.
Promoter(s):
John F. Driscoll
C.A. Bancorp Inc.
Project #996542

Issuer Name:
HSBC US$ HIGH YIELD BOND POOLED FUND
HSBC MM US$ HIGH YIELD BOND POOLED FUND
Principal Regulator - British Columbia
Type and Date:
Preliminary Simplified Prospectuses dated October 2, 2006
Mutual Reliance Review System Receipt dated October 2, 2006
Offering Price and Description:
Mutual Fund Securities Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
HSBC Investments (Canada) Limited
Project #999063

Issuer Name:
iShares CDN Dow Jones Canada TopCap Growth Index Fund
iShares CDN Dow Jones Canada TopCap Value Index Fund
iShares CDN Scotia Capital All Corporate Bond Index Fund
iShares CDN Scotia Capital All Government Bond Index Fund
iShares CDN Scotia Capital Long Bond Index Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated October 3, 2006
Mutual Reliance Review System Receipt dated October 3, 2006
Offering Price and Description:
Units @ net asset value
Underwriter(s) or Distributor(s):
Barclays Global Investors Canada Limited
Promoter(s):
-
Project #999141

Issuer Name:
RONA inc.
Principal Regulator - Quebec
Type and Date:
Preliminary Short Form Prospectus dated September 28, 2006
Mutual Reliance Review System Receipt dated September 29, 2006
Offering Price and Description:
$ * - * % Debentures Due * (Unsecured)
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
Desjardins Securities Inc.
Promoter(s):
-
Project #997916

Issuer Name:
Scotia CanAm U.S. $ Income Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectus dated September 28, 2006
Mutual Reliance Review System Receipt dated September 28, 2006
Offering Price and Description:
Scotia Private Client Units
Underwriter(s) or Distributor(s):
Scotia Securities Inc.
Promoter(s):
-
Project #997396

Issuer Name:
Universal Infrastructure Corp.
Principal Regulator - Alberta
Type and Date:
Preliminary CPC Prospectus dated September 26, 2006
Mutual Reliance Review System Receipt dated September 27, 2006
Offering Price and Description:
$300,000.00 -1,500,000 Common Shares Price: $0.20 per Common Share
Underwriter(s) or Distributor(s):
Blackmont Capital Inc.
Promoter(s):
John F. Driscoll
C.A. Bancorp Inc.
Project #996549

Issuer Name:
World Energy Solutions, Inc.
Principal Regulator - Ontario
Type and Date:
Amended and Restated Preliminary PREP Prospectus dated September 27, 2006
Mutual Reliance Review System Receipt dated September 28, 2006
Offering Price and Description:
$ * - * Shares of Common Stock Price: $ * per Share
Underwriter(s) or Distributor(s):
Sprott Securities Inc.
Promoter(s):
Richard Domaleski
Project #976399

Issuer Name:
AIC American Balanced Fund
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated September 22, 2006 to Simplified Prospectus and Annual Information Form dated May 29, 2006
Mutual Reliance Review System Receipt dated September 29, 2006
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
AIC Limited
Project #923249

Issuer Name:
AIC American Balanced Corporate Class
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated September 22, 2006 to Simplified Prospectus dated March 31, 2006
Mutual Reliance Review System Receipt dated September 29, 2006
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
AIC Corporate Fund Inc.
Project #891630

Issuer Name:
Atlantic Power Corporation
Principal Regulator - British Columbia
Type and Date:
Final Short Form Prospectus dated October 2, 2006
Mutual Reliance Review System Receipt dated October 2, 2006
Offering Price and Description:
Cdn$90,002,050.00 - 8,531,000 Income Participating Securities_ and Cdn$60,000,000.00 - 6.25% Convertible Secured Debentures due October 31, 2011
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
RBC Dominion Securities Inc.
Scotia Capital Inc.
CIBC World Markets Inc.
TD Securities Inc.
Dundee Securities Corporation
Promoter(s):
-
Project #995281

Issuer Name:
Atrium Biotechnologies Inc.
Principal Regulator - Quebec
Type and Date:
Final Short Form Prospectus dated September 28, 2006
Mutual Reliance Review System Receipt dated September 29, 2006
Offering Price and Description:
$62,094,000.00 - 3,930,000 Subordinate Voting Shares Price: $15.80 per Subordinate Voting Share
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
National Bank Financial Inc.
GMP Securities L.P.
Desjardins Securities Inc.
HSBC Securities (Canada) Inc.
Canaccord Capital Corporation
Dundee Securities Corporation
Promoter(s):
-
Project #995080

Issuer Name:
Barclays Bank Plc
Principal Regulator - Ontario
Type and Date:
Final Short Form Base Shelf Prospectus dated October 2, 2006
Mutual Reliance Review System Receipt dated October 3, 2006
Offering Price and Description:
U.S.$12,870,714,000.00 - Medium-Term Notes, Series A
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #967647

Issuer Name:
Brookfield Power Corporation
Principal Regulator - Ontario
Type and Date:
Final Short Form Shelf Prospectus dated September 28, 2006
Mutual Reliance Review System Receipt dated October 2, 2006
Offering Price and Description:
US$750,000,000.00 - Debt Securities Unconditionally guaranteed as to payment of principal, premium (if any) and interest by BROOKFIELD POWER INC
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #991155

Issuer Name:
BTB Real Estate Investment Trust
Principal Regulator - Quebec
Type and Date:
Final Prospectus dated September 26, 2006
Mutual Reliance Review System Receipt dated September 27, 2006
Offering Price and Description:
TRUST UNITS: Minimum 2,325,581 ($5,000,000.00) up to a Maximum of 11,627,907 ($25,000,000.00) $2.15 per Unit and SERIES A FIVE YEAR 8% SUBORDINATE CONVERTIBLE DEBENTURES in the Aggregate Principal Amount of $12,000,000.00 (No Minimum) $10.00 per Debenture TOTAL OFFERING: Minimum: $5,000,000.00 - Maximum: $37,000,000.00
Underwriter(s) or Distributor(s):
NATIONAL BANK FINANCIAL INC.
BLACKMONT CAPITAL INC.
.DUNDEE SECURITIES CORPORATION
Promoter(s):
CAPITAL ABTB INC.
Project #971704

Issuer Name:
Campbell Resources Inc.
Principal Regulator - Quebec
Type and Date:
Final Short Form Prospectus dated September 26, 2006
Mutual Reliance Review System Receipt dated September 27, 2006
Offering Price and Description:
$5,194,602.00 - 108,220,881 Rights to purchase 64,932,528 Units at a price of $0.08 per Unit
Underwriter(s) or Distributor(s):
Sprott Securities Inc.
Promoter(s):
-
Project #991644

Issuer Name:
Canadian Wireless Trust
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated September 28, 2006
Mutual Reliance Review System Receipt dated September 29, 2006
Offering Price and Description:
Maximum $150,000,000.00 (15,000,000 Units) $10.00 per Unit
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
TD Securities Inc.
HSBC Securities (Canada) Inc.
Blackmont Capital Inc.
Canaccord Capital Corporation
Desjardins Securities Inc.
Dundee Securities Corporation
Raymond James Ltd.
Richardson Partners Financial Ltd.
Wellington West Capital Inc.
Promoter(s):
Scotia Capital Inc.
Project #991711

Issuer Name:
Criterion Global Dividend Currency Hedged Fund
Criterion International Equity Currency Hedged Fund
Principal Regulator - Ontario
Type and Date:
Amended and Restated Simplified Prospectuses and Annual Information Forms dated September 5, 2006, amending and restating the Simplified Prospectuses and Annual Information Forms dated May 23, 2006
Mutual Reliance Review System Receipt dated October 3, 2006
Offering Price and Description:
Class A, B, C, D, F and I Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
Criterion Investment Limited
Project #915094

Issuer Name:
Genesis Trust
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated September 28, 2006
Mutual Reliance Review System Receipt dated September 29, 2006
Offering Price and Description:
(1) $139,345,000.00 - 4.202% Line of Credit Receivables-Backed Class A Notes, Series 2006-1 Expected Final Payment Date of September 15, 2009;
(2) $2,900,000.00 - 4.312% Line of Credit Receivables-Backed Class B Notes, Series 2006-1 Expected Final Payment Date of September 15, 2009; and
(3) $2,755,000.00 - 4.442% Line of Credit Receivables-Backed Class C Notes, Series 2006-1 Expected Final Payment Date of September 15, 2009
Underwriter(s) or Distributor(s):
TD Securities Inc.
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
RBC Dominion Securities Inc.
Scotia Capital Inc.
Promoter(s):
-
Project #994574

Issuer Name:
Genesis Trust
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated September 28, 2006
Mutual Reliance Review System Receipt dated September 29, 2006
Offering Price and Description:
(1) $821,655,000.00 - 4.245% Line of Credit Receivables-Backed Class A Notes, Series 2006-2 Expected Final Payment Date of September 15, 2011;
(2) $17,100,000.00 - 4.434% Line of Credit Receivables-Backed Class B Notes, Series 2006-2 Expected Final Payment Date of September 15, 2011; and
(3) $16,245,000.00 - 4.534% Line of Credit Receivables-Backed Class C Notes, Series 2006-2 Expected Final Payment Date of September 15, 2011
Underwriter(s) or Distributor(s):
TD Securities Inc.
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
RBC Dominion Securities Inc.
Scotia Capital Inc.
Promoter(s):
-
Project #994575

Issuer Name:
Horizons BetaPro S&P/TSX 60® Bull Plus Fund
Horizons BetaPro S&P/TSX 60® Bear Plus Fund
Horizons BetaPro NASDAQ -100® Bull Plus Fund
Horizons BetaPro NASDAQ -100® Bear Plus Fund
Horizons BetaPro Canadian Bond Bull Plus Fund
Horizons BetaPro Canadian Bond Bear Plus Fund
Horizons BetaPro U.S. Dollar Bull Plus Fund
Horizons BetaPro U.S. Dollar Bear Plus Fund
Horizons BetaPro Crude Oil Bull Plus Fund
Horizons BetaPro Crude Oil Bear Plus Fund
Horizons BetaPro S&P 500® Bull Plus Fund
Horizons BetaPro S&P 500® Bear Plus Fund
Horizons BetaPro Gold Bull Plus Fund
Horizons BetaPro Gold Bear Plus Fund
Principal Regulator - Ontario
Type and Date:
Final Prospectuses dated September 28, 2006
Mutual Reliance Review System Receipt dated September 29, 2006
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
Betapro Management Inc.
Project #983772

Issuer Name:
Life & Banc Split Corp.
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated September 28, 2006
Mutual Reliance Review System Receipt dated September 29, 2006
Offering Price and Description:
$450,000,000.00 (Maximum) 18,000,000 Preferred Shares and 18,000,000 Class A Shares $10.00 per Preferred Share and $15.00 per Class A Share - Prices: $10.00 per Preferred Share and $15.00 per Class A Sare
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
TD Securities Inc.
HSBC Securities (Canada) Inc.
Canaccord Capital Corporation
Desjardins Securities Inc.
Blackmont Capital Inc.
Dundee Securities Corporation
Raymond James Ltd.
Research Capital Corporation
IPC Securities Corporation
Wellington West Capital Inc.
Acadian Securities Incorporated
Promoter(s):
Brompton Funds Management Limited
Project #991041

Issuer Name:
Series A, F, I and O units (unless otherwise indicated) of:
Mackenzie Universal Future Fund (also offering Series G units)
Mackenzie Sentinel High Income Fund
Mackenzie Sentinel Mortgage Fund
Mackenzie Sentinel Short -Term Bond Fund (also offering Series G and M units)
Principal Regulator - Ontario
Type and Date:
Amendment #9 dated September 25, 2006 to the Simplified Prospectuses and Annual Information Forms dated November 30, 2005
Mutual Reliance Review System Receipt dated September 29, 2006
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Quadrus Investment Services Ltd.
Promoter(s):
Mackenzie Financial Corporation
Project #842703

Issuer Name:
Series A, F, I, O and R shares of:

Mackenzie Universal Future Capital Class
Mackenzie Select Managers Far East Capital Class (also offering Series M shares)
Mackenzie Universal Global Future Capital Class
Principal Regulator - Ontario
Type and Date:
Amendment #6 dated September 25, 2006 to the Simplified Prospectuses and Annual Information Forms dated October 30, 2005
Mutual Reliance Review System Receipt dated September 29, 2006
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
Mackenzie Financial Corporation
Project #835510

Issuer Name:
Premium Brands Income Fund
Principal Regulator - British Columbia
Type and Date:
Final Short Form Prospectus dated October 2, 2006
Mutual Reliance Review System Receipt dated October 2, 2006
Offering Price and Description:
$25,000,320.00 - 2,155,200 Units Price: $11.60 per Unit
Underwriter(s) or Distributor(s):
Sprott Securities Inc.
CIBC World Markets Inc.
Scotia Capital Inc.
Raymond James Ltd.
Promoter(s):
PREMIUM BRANDS OPERATING GP INC.
Project #995073

Issuer Name:
ScotiaMcLeod Canadian Core Portfolio
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus dated September 27, 2006
Mutual Reliance Review System Receipt dated September 29, 2006
Offering Price and Description:
Series A and Series F Units
Underwriter(s) or Distributor(s):
First Defined Portfolio Management Co.
Promoter(s):
-
Project #988389

Issuer Name:
Strait Gold Corporation
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated September 29, 2006
Mutual Reliance Review System Receipt dated September 29, 2006
Offering Price and Description:
Maximum Offering: $1,600,000.00 (8,000,000 Units); Minimum Offering: $1,200,000.00 (6,000,000 Units) Price: $0.20 per Unit
Underwriter(s) or Distributor(s):
Blackmont Capital Inc.
Promoter(s):
James S. Borland
Roger Moss
Project #967466

Issuer Name:
Synodon Inc.
Principal Regulator - Alberta
Type and Date:
Final Prospectus dated September 28, 2006
Mutual Reliance Review System Receipt dated September 29, 2006
Offering Price and Description:
Minimum Offering: $1,400,000.00 (2,800,000 Units); Maximum Offering: $3,400,000.00 (6,800,000 Units) $0.50 per Unit
Underwriter(s) or Distributor(s):
Union Securities Ltd.
Promoter(s):
Adrian Banica
Project #958101

Issuer Name:
Vista Gold Corp.
Principal Regulator - British Columbia
Type and Date:
Final Short Form Base Shelf Prospectus dated October 2, 2006
Mutual Reliance Review System Receipt dated October 3, 2006
Offering Price and Description:
US$32,000,000.00 - Common Shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #991818

Issuer Name:
Westfield Real Estate Investment Trust
Principal Regulator - Manitoba
Type and Date:
Final Short Form Prospectus dated October 3, 2006
Mutual Reliance Review System Receipt dated October 3, 2006
Offering Price and Description:
$34,999,992.00 - 2,430,555 Units
Underwriter(s) or Distributor(s):
Canaccord Capital Corporation
CIBC World Markets Inc.
National Bank Financial Inc.
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
Bieber Securities Inc.
Desjardins Securities Inc.
Westwind Partners Inc.
Promoter(s):
-
Project #995715

Issuer Name:
ST ANDREW GOLDFIELDS LTD.
Principal Jurisdiction - Ontario
Type and Date:
Preliminary Short Form Prospectus dated July 18th, 2006
Withdrawn on September 27th, 2006
Offering Price and Description:
Up to $50,000,000.00 - Up to * Units (Each Unit consisting of one common share and one half of one common share purchase warrant) and Up to * Flow-Through Shares Price: $ * per Unit and $ 8 per Flow-Through Share
Underwriter(s) or Distributor(s):
Haywood Securities Inc.
Promoter(s):
-
Project #965146

Issuer Name:
Standard Radio Income Fund
Principal Jurisdiction - Ontario
Type and Date:
Preliminary Prospectus dated May 19th, 2006
Withdrawn on October 3rd, 2006
Offering Price and Description:
$ * - * Units Price: $10.00 per Unit
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
RBC Dominion Securities Inc.
Promoter(s):
Standard Radio Inc.
Project #942518

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Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
Change of Name	**From**: Kingwest and Company **To**: Kingwest & Company	Broker & Investment Dealer	May 17, 2006
Amalgamation	FundTrade Financial Corp. and FundEx Investments Inc. **To Form**: FundEx Investments Inc.	Mutual Fund Dealer and Limited Market Dealer	September 1, 2006
Change of Category	Putnam Investments Inc.	**From**: Investment Counsel & Portfolio Manager and Commodity Trading Counsel & Commodity Trading Manager **To**: Limited Market Dealer and Investment Counsel & Portfolio Manager and Commodity Trading Counsel & Commodity Trading Manager	September 13, 2006
New Registration	Bush Associes Ltee/Bush Associates Ltd.	Extra-Provincial Investment Counsel & Portfolio Manager	September 15, 2006
Change of Name	**From**: Dresdner Kleinwort Wasserstein Securities LLC **To**: Dresdner Kleinwort Securities LLC	International Dealer	September 28, 2006
Change of Name	**From**: RBC Action Direct Inc./RBC Actions en Direct Inc. **To**: RBC Direct Investing Inc./RBC Placements en Direct Inc.	Investment Dealer	September 30, 2006
Consent to Suspension (Rule 33-501 – *Surrender of Registration*)	McKay Financial Management Limited	Mutual Fund Dealer and Limited Market Dealer	October 2, 2006
New Registration	MBS Consultants Inc.	Limited Market Dealer	October 3, 2006

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Chapter 13

SRO Notices and Disciplinary Proceedings

13.1.1 RS Market Integrity Notice - Request for Comments – Provisions Respecting Competitive Marketplaces

RS MARKET INTEGRITY NOTICE

REQUEST FOR COMMENTS

PROVISIONS RESPECTING COMPETITIVE MARKETPLACES

Summary

This Market Integrity Notice provides notice that, on September 29, 2006, the Board of Directors of Market Regulation Services Inc. approved for publication proposed amendments to the Universal Market Integrity Rules to accommodate the introduction of multiple marketplaces trading the same securities. The proposed amendments incorporate revisions to various amendment proposals originally published in:

- Market Integrity Notice 2005-012 – *Request for Comments – Provisions Respecting "Off-Marketplace" Trades* (April 29, 2005);
- Market Integrity Notice 2005-018 – *Request for Comments – Definition of "Applicable Market Display"* (June 10, 2005); and
- Market Integrity Notice 2005-019 – *Request for Comments – Provisions to Accommodate the Introduction of Multiple Marketplaces* (June 10, 2005).

The proposed amendments would also incorporate directly into the rules certain aspects of the guidance provided in Market Integrity Notice 2006-017 – *Guidance – Trading Securities on Multiple Marketplace* (September 1, 2006).

Questions / Further Information

For further information or questions concerning this notice contact:

James E. Twiss
Chief Policy Counsel

Telephone: 416.646.7277
Fax: 416.646.7265
e-mail: james.twiss@rs.ca

PROVISIONS RESPECTING COMPETITIVE MARKETPLACES

Summary

This Market Integrity Notice provides notice that, on September 29, 2006, the Board of Directors ("Board") of Market Regulation Services Inc. ("RS") approved for publication proposed amendments ("Proposed Amendments") to the Universal Market Integrity Rules ("UMIR") to accommodate the introduction of multiple marketplaces trading the same securities. The Proposed Amendments incorporate revisions to various amendment proposals originally published in:

- Market Integrity Notice 2005-012 – *Request for Comments – Provisions Respecting "Off-Marketplace" Trades* (April 29, 2005);
- Market Integrity Notice 2005-018 – *Request for Comments – Definition of "Applicable Market Display"* (June 10, 2005); and
- Market Integrity Notice 2005-019 – *Request for Comments – Provisions to Accommodate the Introduction of Multiple Marketplaces* (June 10, 2005).

The Proposed Amendments would also incorporate directly into UMIR certain aspects of the guidance provided by RS in Market Integrity Notice 2006-017 – *Guidance – Trading Securities on Multiple Marketplace* (September 1, 2006).

Rule-Making Process

RS has been recognized as a self-regulatory organization by the Alberta Securities Commission, British Columbia Securities Commission, Manitoba Securities Commission, Ontario Securities Commission and, in Quebec, by the Autorité des marchés financiers (the "Recognizing Regulators") and, as such, is authorized to be a regulation services provider for the purposes of the National Instrument 21-101 (the "Marketplace Operation Instrument") and National Instrument 23-101 ("CSA Trading Rules").

As a regulation services provider, RS administers and enforces trading rules for the marketplaces that retain the services of RS. RS has adopted, and the Recognizing Regulators have approved, UMIR as the integrity trading rules that will apply in any marketplace that retains RS as its regulation services provider. Presently, RS has been retained to be the regulation services provider for: the Toronto Stock Exchange ("TSX"), TSX Venture Exchange ("TSXV") and Canadian Trading and Quotation System ("CNQ"), each as a recognized exchange ("Exchange"); and for Bloomberg Tradebook Canada Company ("Bloomberg"), Liquidnet Canada Inc. ("Liquidnet"), Perimeter Markets Inc. ("BlockBook") and Shorcan ATS Limited ("Shorcan"), each as an alternative trading system ("ATS").

The Rules Advisory Committee of RS ("RAC") reviewed the Proposed Amendments and recommended their adoption by the Board. RAC is an advisory committee comprised of representatives of each of: the marketplaces for which RS acts as a regulation services provider; Participants; institutional investors and subscribers; and the legal and compliance community.

The amendments to UMIR will be effective upon approval of the changes by the Recognizing Regulators following public notice and comment and ratification of the changes by the Board. The text of the Proposed Amendments is set out in Appendix "A". Comments on the Proposed Amendments should be in writing and delivered by ***November 6, 2006*** to:

James E. Twiss,
Chief Policy Counsel,
Market Policy and General Counsel's Office,
Market Regulation Services Inc.,
Suite 900,
145 King Street West,
Toronto, Ontario. M5H 1J8

Fax: 416.646.7265
e-mail: james.twiss@rs.ca

A copy should also be provided to Recognizing Regulators by forwarding a copy to:

Cindy Petlock
Manager, Market Regulation
Capital Markets Branch
Ontario Securities Commission
Suite 1903, Box 55,
20 Queen Street West
Toronto, Ontario. M5H 3S8

Fax: (416) 595-8940
e-mail: cpetlock@osc.gov.on.ca

Commentators should be aware that a copy of their comment letter will be publicly available on the RS website (www.rs.ca under the heading "Market Policy"). A summary of the comments contained in each submission will also included in a future Market Integrity Notice dealing with the revision or the approval of the Proposed Amendments.

Background to the Proposed Amendments

UMIR was drafted to accommodate the market structure envisaged by the requirements of Marketplace Operation Instrument and Trading Rules that became effective December 1, 2001. Effective January 4, 2004, a number of changes were made to Marketplace Operation Instrument and the Trading Rules. In particular:

- the deletion of requirement for a data consolidator and the substitution of the concept of an information processor or an "information vendor that meets the standards set by a regulation services provider";
- the deletion of the concept of the "principal market" for trading of a security; and
- the deletion of the requirement for marketplaces to maintain an electronic connection to every other marketplace trading the same securities.

UMIR was also drafted in contemplation of the order types and trading facilities which existed on the TSX and TSX V as of April 1, 2002. There is a need to ensure that the concepts used in UMIR are flexible enough to apply to order types and trading facilities that have been developed, or are proposed, by other competitive marketplaces. On June 10, 2005, RS published Market Integrity Notice 2006-019 – *Request for Comments – Provisions to Accommodate the Introduction of Multiple Marketplaces* that set out a series of proposed amendments to UMIR facilitate the introduction of multiple marketplaces trading the same securities (the "Original Multiple Marketplace Proposal"). The Proposed Amendments incorporate revisions to the Original Multiple Marketplace Proposal based on comments received in response to the Request for Comments and from the Recognizing Regulators.

The current definition of "consolidated market display" contemplates that there may be multiple data feeds that satisfy the definition. A Participant or Access Person, when complying with the provisions of UMIR, currently is entitled to rely on information respecting orders and trades on marketplaces to which the Participant or Access Person has access that is derived from a source which complies with the requirement of incorporating data from the "principal market" for a particular security. Under the existing provisions, there is no requirement that a Participant or Access Person subscribe for data feeds from sources that would provide information on orders or trades from more than one or all marketplaces.

On July 14, 2006, the Canadian Securities Administrators ("CSA") published a Notice of Proposed Amendments to National Instrument 21-101 – *Marketplace Operation* and Companion Policy 21-101CP and National Instrument 23-101 – *Trading Rules* and Companion Policy 23-101CP (the "CSA Notice"). In the CSA Notice, the CSA clarified their requirements with regard to information on orders and trades that each Participant is to take into account when fulfilling best execution obligations. In particular, the CSA confirmed their view "that availability of pre-trade and post-trade information is essential to facilitate best execution and market integrity, especially with multiple marketplaces trading the same securities". Although the CSA review of "trade-through" and "best execution" obligations generally is ongoing, the CSA proposed to clarify their requirements by amending Companion Policy 23-101CP to add the following section:

> In order to meet best execution obligations, we [the CSA] expect that a dealer will take into account order information from all marketplaces where a particular security is traded (not just marketplaces where a dealer is a participant) and take steps to access orders, as appropriate. This may include making arrangements with another dealer who is a participant of a particular marketplace or routing an order to a particular marketplace, where appropriate.

RS is proposing to amend UMIR to conform to the requirements of the CSA as set out in the CSA Notice regarding the obligation of a Participant to consider, if appropriate, information from all marketplaces trading a particular security. However, not all marketplaces provide transparency for orders entered on that marketplace and the provisions for post-trade transparency vary between marketplaces. In addition, not all marketplaces may be accessed by either Participants or Access Persons and not all marketplaces provide fully-automated order matching and trade execution. These differences in data dissemination, marketplace access and market structure impact on the steps which a Participant or Access Person must take in order to comply with various provisions of UMIR including:

- Rule 3.1 – Restrictions on Short Sales;
- Rule 5.1 – Best Execution of Client Orders;
- Rule 5.2 – Best Price Obligation;
- Rule 5.3 – Client Priority;
- Rule 7.7 – Restrictions on Trading During Certain Securities Transactions; and
- Rule 8.1 – Client-Principal Trading.

RS issued Market Integrity Notice 2006-017 - Guidance – *Trading Securities on Multiple Marketplace*s (September 1, 2006) to provide additional guidance on the application and interpretation of these rules in the current multiple marketplace environment. RS is proposing to incorporate into the Rules and Policies certain aspects of the guidance provided in that Market Integrity Notice.

On June 10, 2005, RS published Market Integrity Notice 2005-018 – *Request for Comments – Definition of "Applicable Market Display"* that set out a proposal to replace the concept of a "consolidated market display" with an "applicable market display" (the "Original Market Display Proposal"). The Proposed Amendments incorporate revisions to the Original Market Display based on comments received in response to the Request for Comments and from the Recognizing Regulators and based on the requirements of the CSA as set out in the CSA Notice.

In the CSA Notice, the CSA indicated that further amendments to the Marketplace Operation Instrument and CSA Trading Rules may be proposed on the completion of the study following Concept Paper 23-403 – *Developments in Market Structure and Trade-Through Obligations* published by the CSA on July 22, 2005. The provisions of UMIR and their interpretation and application will be modified to conform to the positions adopted by the CSA. Upon the publication of any proposed amendments to the Marketplace Operation Instrument and CSA Trading Rules respecting trade-through obligations, RS will issue additional Market Integrity Notices to request comments on proposed consequential amendments to UMIR and to provide further guidance on trading practices that may be required as a direct consequence of the final position adopted by the CSA with respect to trade-through obligations.

The Recognizing Regulators continue their review of proposed amendments to UMIR published in Market Integrity Notice 2005-012 – *Request for Comments – Provisions Respecting "Off-Marketplace" Trades* (April 29, 2005). With the exception of the proposed amendments to Rule and Policy 6.1 – Entry of Orders to a Marketplace that are incorporated into the Proposed Amendments, RS expects that the balance of the amendments will be dealt with by the Recognizing Regulators in conjunction with the CSA proposals on trade-through obligations.

Summary of the Proposed Amendments

The following is a summary of the most significant aspects of the Proposed Amendments:

Definition of "Consolidated Market Display"

The proposed definition of "consolidated market display" differs from the current definition of the term by:

- eliminating the requirement that the consolidated feed produced by an information processor or the information on orders and trades produced by an information vendor contain information on orders or trades for a particular security from the "principal market" for that security; and
- providing that, if there is not an information processor, information provided by one or more information vendors may be relied upon as a "consolidated market display" only if the information vendors meet the standards established in accordance with the Marketplace Operation Instrument.

The Original Market Display Proposal would have permitted a Participant or Access Person to take into account order and trade information from those marketplaces to which the Participant or Access Person has access. The CSA Notice confirmed the CSA requirements that a "dealer will take into account order information from all marketplaces where a particular security is traded (not just marketplaces where a dealer is a participant)". For this reason, the Proposed Amendments will conform the definition of "consolidated market display" to the requirements of the CSA as set out in the CSA Notice.

Definition of "Closing Price Order"

The Marketplace Operation Instrument requires that each marketplace establish operating hours for their marketplace. The Marketplace Operation Instrument does not require that each marketplace adopt the "standard" operating hours of the current exchanges in Canada. In order to facilitate trading at the closing price, trades may be permitted in special facilities at the "closing" price.

The ability to execute trades at the last sale price of a trading session accommodates index rebalancing at the closing price. In Market Integrity Notice 2006-013 – *Guidance – Designation of Indices and Exchange-Traded Funds* (May 26, 2006), RS provided notice of the indices which have been designated for the purposes of UMIR. Each of the designated indices is calculated using trading prices on the exchange which has listed the securities which are components of the index. Redemptions and issuances of units of Exchange-Traded Funds are based on the closing levels of the underlying index. For example, the value of the S&P/TSX 60 Index is calculated based on the prices of the constituent securities on the TSX and does not take into account the prices of trades on other marketplaces even when those other marketplaces may be open earlier or later than the regular trading session on the TSX. Various Exchange-traded Funds, mutual funds and other financial instruments which are designed to track certain indices therefore need to execute trades in the index-constituent securities at the closing prices used to calculate the underlying index.

On the TSX, the closing price of all securities which are a constituent of an index (and securities which are being added to an index) is determined in the Market-on-Close facility through the entry of a Market-on-Close Order. In addition, once the closing price has been determined on the TSX through the Market-on-Close facility, trading at the closing price is undertaken during the Special Trading Session on the TSX from 4:15 to 5:00 p.m. Based on trading during the first eight months of 2006, trading in the Special Trading Session accounted for approximately 2.8% of volume and 4.9% of value but only 0.5% of transactions on the TSX.

In order to accommodate such trading, the Proposed Amendments include a provision for a "Closing Price Order" which would be defined as an order that is subject to the conditions that it trade at the closing price of the security in a trade on the marketplace on that trading day and that the trade is executed subsequent to the establishment of the closing price. Given that prices disclosed in the consolidated market display may continue to vary during the period of time following the entry on a particular marketplace of the "Closing Price Order" and up to and including the execution of the order, it would also be necessary to provide exemptions for this type of order from:

- Rule 3.1 – Restrictions on Short Sales;
- Rule 5.2 - Best Price Obligation;
- Rule 5.3 – Client Priority;
- Rule 6.3 – Exposure of Client Orders; and
- Rule 8.1 - Client-Principal Trading.

UMIR presently provides an exemption from these particular rules for trades which execute as a "Market-on Close Order". While the provisions for a "Closing Price Order" would accommodate trading in the Special Trading Session of the TSX, the definition of "Closing Price Order" is generic and any marketplace, including an ATS, would be able to establish a session or facility to accommodate trades at the closing prices on that marketplace.

Definition of "Intentional Cross" and "Internal Cross"

While not included in the Original Multiple Marketplace Proposal, RS is suggesting a change in the definition of "intentional cross" to recognize that a subscriber to an ATS may be capable of entering an intentional cross. Similarly, RS is suggesting a change in the definition of "internal cross" to recognize that a subscriber to an ATS that is a portfolio manager may be capable of entering an internal cross. As presently drafted, the definitions of "intentional cross" and "internal cross" are limited in application to a Participant handling a client order. Internal crosses are often excluded from the calculation of volume-weighted average prices or obligations for "in line with volume" orders. The proposed changes will therefore help to insure that trades executed on ATSs that are in fact an "intentional cross" or an "internal cross" do not distort trading decisions.

Definition of "Market-on-Close Order"

The Proposed Amendments would clarify the difference between a "Market-on Close Order" and a "Closing Price Order" by amending the definition of a "Market-on-Close Order" to require that the order be entered for the purpose of not just executing at the closing price but also participating in the calculation of that closing price.

Definition of "Opening Order"

Presently, an order that is entered on a marketplace to execute at the opening price of the security on that marketplace continues to qualify as an Opening Order even if the order does not participate in the initial trades for the security on that marketplace. An Opening Order is exempt from various UMIR requirements, including the "best price" obligation under Rule 5.2 and the client-principal trading requirements under Rule 8.1, since the price at which the opening will occur is not known at the time of the entry of the order. If the order does not trade at the opening, there is a question whether the order should continue to qualify for these exemptions. The Proposed Amendments provide that an order would cease to qualify as an "Opening Order" if the order does not participate in the initial trades in the security on that marketplace.

Definition of "Special Terms Order"

Presently, UMIR defines a "Special Terms Order" as an order to purchase or sell:

- less than a standard trading unit;
- that is subject to a condition other than price or date of settlement; or
- that on execution would settle other than the third business day following execution (or other date stipulated for settlement by a direction of an Exchange or QTRS).

In addition, UMIR defines a number of "specialty" orders such as a Basis Order, Call Market Order, Market-on-Close Order, Opening Order and Volume-Weighted Average Price Order. As outlined above, the amendments propose to add a "Closing Price Order". Each of these order types could be considered to be a "Special Terms Order". However, a "Special Terms Order" is not exempt from Rule 8.1 dealing with Client-Principal Trading (which requires a "better price" when a Participant executes the trade as principal against the client order that is a Special Terms Order) and is exempt from the "best price obligation" under Rule 5.2 only if the Marketplace Rules provide that the order can trade at a price other than the "best price". In order to clarify the requirements applying to order types on future marketplaces, the amendments propose to vary the definition of "Special Terms Order" to specifically exclude the "specialty" order types.

In drafting UMIR, it was anticipated that the "conditions" that would be added to a Special Terms Order would be ones that were added by the client or person entering the order. It was not anticipated that "conditions" imposed by a marketplace on the entry of an order (such as the order being of a minimum size) would qualify an order to be treated as a "Special Terms Order". The amendments propose to clarify that conditions imposed by the marketplace on order entry or order execution will not make the order a "Special Terms Order" for the purposes of UMIR.

Definition of "Best Ask Price", "Best Bid Price" and "Last Sale Price"

The definition of "best ask price" and "best bid price" currently exclude any price that may be displayed for a Special Terms Order. While existing marketplaces do not display order information for "specialty" orders, new marketplaces could in fact decide to do so with respect to such orders entered on their marketplace. Because of the "specialty" nature of such orders, the price for such orders to the extent that the price may be publicly available should not be part of the price discovery mechanism. The amendments provide that the determination of the "best ask price" and "best bid price" exclude the price of any order that is:

- a Basis Order;
- a Call Market Order;
- a Closing Price Order;
- a Market-on-Close Order;
- an Opening Order;
- a Special Terms Order; and
- a Volume-Weighted Average Price Order.

While the price at which an Opening Order or a Market-on-Close Order executes may be considered to have properly established the market price of a security at that point in time, other types of "specialty" orders reflect terms and conditions that should be excluded from the determination of "last sale price" (which is used principally to determine the price at which a short sale may be made under Rule 3.1 and the price at which market stabilization and market balancing may be undertaken under Rule 7.7). As the definition is presently proposed, the execution of a Special Terms Order would be able to establish the last sale price.

Abuse of a Market Maker

Presently, one of the examples given in Policy 2.1 of unacceptable activity that would constitute a violation of Rule 2.1 on just and equitable principles is order splitting to take advantage of the market maker obligations in respect of odd lot trades on the TSX and TSX V. Given that another Exchange, including CNQ, or a recognized quotation and trade reporting system ("QTRS") may have market making systems and provide for different obligations on the market makers, the amendments would make the language of the Policy more generic. The amendment would indicate that entering orders to take advantage of or abuse market makers would be an example of an activity that would be considered contrary to the requirements to conduct business openly and fairly and in accordance with just and equitable principles of trade.

Best Execution Obligation

The obligation to monitor information on orders entered on and trades executed on marketplaces trading the same security falls to the Participant handling the client order. Neither UMIR nor the CSA Trading Rules requires a Participant necessarily to maintain trading access to every Canadian marketplace on which a security may trade. However, with the publication of the CSA Notice, the CSA has confirmed their requirement that each Participant will take into account order and trade information from all marketplaces that trade the same securities when discharging their best execution obligations. As set out in the CSA Notice, the CSA expects that a Participant will make arrangements with another dealer who is a participant of a particular marketplace or will route an order to a particular marketplace, where appropriate. In the view of RS, a Participant would be expected to make such arrangements if the particular marketplace had demonstrated that there is a reasonable likelihood that the marketplace will have liquidity for a specific security relative to the size of the client order.

RS is also of the view that a Participant in discharging its best execution obligation should consider possible liquidity on marketplaces that do not provide transparency of orders in a consolidated market display if:

- the displayed volume in the consolidated market display is not adequate to fully execute the client order on advantageous terms for the client; and
- the non-transparent marketplace has demonstrated that there is a reasonable likelihood that the marketplace will have liquidity for the specific security.

As originally set out in Market Integrity Notice 2005-015 – *Guidance – Complying with "Best Price" Obligations*, RS is of the opinion that a Participant may have an obligation to consider execution opportunities in special trading facilities of a marketplace if the price at which such trades will execute in such special facilities is a better price than available on another marketplace. For example, both BlockBook and Shorcan offer facilities to "discover" additional volume at the price of the last trade on their market. In the case of BlockBook this facility is known as the "Follow-on Auction" and on Shorcan the facility is known as the "Trade Expansion Protocol". Reference should be made to "Provision for Last Sale Price Orders" under the heading "Specific Matters on Which Comment is Requested" for a summary description of these facilities.

RS set out this guidance on the interpretation of the "best execution" obligation in Market Integrity Notice 2006-017 - Guidance – *Trading Securities on Multiple Marketplace*s (September 1, 2006). The Proposed Amendments would incorporate certain of this guidance into Part 2 of Policy 5.1. In addition, the proposed addition to the Policy would indicate that RS would consider two additional factors when determining whether a Participant has diligently pursued the best execution of a client order, namely:

- any specific client instructions regarding the timeliness of the execution of the order; and
- whether organized regulated markets outside of Canada have been considered (particularly if the principal market for the security is outside of Canada).

The existence of specific client instructions on timeliness of execution is presently listed in Policy 5.2 as one of the factors to be taken into account in determining whether a Participant has fulfilled its "best price obligation". In the view of RS, this factor is more appropriate for best execution since a client can not consent to the Participant trading at an inferior price on another marketplace. The addition of the factor to consider organized regulated markets outside of Canada as part of best execution of a client order parallels a provision on best execution contained in the Companion Policy to the CSA Trading Rules. (Even if a foreign market is considered in order to provide a client with "best execution" in accordance with Rule 5.1, the Participant would

nonetheless have an obligation to better-priced orders on Canadian marketplaces under the "best price" obligation under Rule 5.2.)

Best Price Obligation

Under Rule 5.2, a Participant has an obligation to make reasonable efforts to fill better-priced orders on a marketplace before executing a trade at an inferior price on another marketplace or a foreign market. Currently, this obligation is qualified by a number of factors set out in Part 1 of Policy 5.2 including:

- the information available to the Participant from the information processor or information vendor;
- whether the Participant is a member, user or subscriber of the marketplace with the best price;
- any specific client instructions regarding the timeliness of the execution of the order; and
- whether organized regulated markets outside of Canada have been considered (particularly if the principal market for the security is outside of Canada).

In accordance with the requirements of the CSA as set out in the CSA Notice, a Participant must take into account order information from all marketplaces trading a particular security (and not just marketplaces for which the Participant is a member, user or subscriber). In order to undertake "reasonable efforts" to effect a trade at the best price, a Participant must take appropriate steps to access orders on any marketplace. In order to conform to the requirements of the CSA as set out in the CSA Notice, the Proposed Amendments would delete as considerations the information available to the Participant and whether the Participant is a member, user or subscriber of the marketplace with the best price. In addition, as set out above under the heading "Best Execution Obligation", the Proposed Amendments would delete as considerations for determining compliance with the "best price obligation" any specific client instructions regarding the timeliness of the execution of the order and whether markets outside of Canada have been considered and move these two factors to be taken into account in determining compliance with the "best execution" obligation.

In the view of RS, the "best ask price" and "best bid price" can only be determined by reference to orders on marketplaces that provide pre-trade transparency and only with respect to that portion of any order that is "visible" in the consolidated market display. In order for a Participant to demonstrate that it had made "reasonable efforts" to execute a client order at the best price, RS expects the Participant will deal with "better-priced" orders on another marketplace if that marketplace:

- disseminates order data in real-time and electronically through one or more information vendors;
- permits dealers to have access to trading in the capacity as agent;
- provides fully-automated electronic order entry; and
- provides fully-automated order matching and trade execution.

RS set out this guidance on the interpretation of the "best price" obligation in Market Integrity Notice 2006-017 - Guidance – *Trading Securities on Multiple Marketplace*s (September 1, 2006). The Proposed Amendments would incorporate certain of this guidance into Part 1 of Policy 5.2.

Client Priority

Effective May 26, 2006, Rule 5.3 of UMIR was amended to provide that a Participant must give priority to a client order over all principal orders and non-client orders that are entered on a marketplace after the receipt of the client order:

- for the same security;
- at the same or better price;
- on the same side of the market; and
- on the same conditions and settlement terms.

The amendments to Rule 5.3 provided a number of exceptions including the ability of a Participant to rely on the allocations made by the trading system of a marketplace in certain circumstances. The amendments to Rule 5.3 recognized that if there are multiple marketplaces trading the same securities and each marketplace has distinct allocation algorithms, the interests of a client could be affected intentionally or unintentionally based on the marketplace on which either the client order or the principal

order or non-client order is entered. The amendments that became effective on May 26, 2006 provided a Participant will only be able to rely on the trading system exemption if:

- the security which is the subject of the orders trades on a single marketplace;
- the principal order or non-client is a Call Market Order, an Opening Order, a Market-on-Close Order or a Volume-Weighted Average Price Order; or
- each of the client order and the principal order or non-client order was entered on the same marketplace.

In each case, the Participant is able to rely on the trading system allocation only if the client order was entered on a marketplace upon receipt and was not varied subsequent to entry on the marketplace except on the specific instructions of the client.

The Proposed Amendments would further expand the circumstances in which the Participant could rely on the allocations of the trading systems of the marketplaces. Under the Proposed Amendments, the Participant would not have to provide priority to a client order received prior to the entry of a principal order or non-client order entered on a marketplace if the client has instructed the marketplace on which the client order is to be entered. Clients may provide specific or standing instructions that orders which are not immediately tradable are to be entered on a particular marketplace. (If a client order would be immediately tradable as against orders displayed in a consolidated market display, the "best price" obligation under Rule 5.2 would require Participant send orders to the other marketplace sufficient to satisfy the better-priced orders prior to or concurrent with the execution of the client order.) With the client selecting the marketplace on which its order is entered, the Participant has not prejudiced the interests of the client by entering a principal order or non-client order on another marketplace. "Best price" and trade through obligations will preclude the possibility that the principal order or non-client order will trade at an "inferior price" ahead of the client order though the principal or non-client order may be executed at the same price as the client order.

Trading Increments

In Market Integrity Notice 2005-012 – *Request for Comments – Provisions Respecting "Off-Marketplace" Trades* (April 29, 2005) Under the Revised Proposal, Rule 6.1 will set out the minimum trading increment as one cent for orders with a price of $0.50 or more and one-half cent for orders less than $0.50. The standardization of minimum trading increments will permit the direct comparison of whether an order on a particular marketplace is a "better-priced" order and allow a Participant to determine whether a period of time to move the market is required in order to execute an intentional cross or prearranged trade. The Revised Proposal provides for trades resulting from Basis Orders, Call Market Orders or Volume-Weighted Average Price Orders to be reported to the information processor or an information vendor at the closest trading increment (while permitting the trade to be confirmed to the parties to the trade at whatever fraction of a trading increment is permitted by the marketplace on which the traded is executed).

Requirement to Expose Client Orders on a Transparent Marketplace

Rule 6.3 requires, subject to certain enumerated exceptions, that client orders to purchase or sell 50 standard trading units or less of a security be immediately entered on a marketplace. The purpose of the rule was to ensure that client orders were exposed to the market. The exposure of the order contributed to the operating of the price discovery mechanism that would help to establish the "best bid price" and "best ask price" used in various UMIR provisions including the best price obligation.

The amendments to the Marketplace Operation Instrument confirm that a marketplace need not distribute order information to an information vendor if the marketplace does not make details of orders available to persons other than those retained to assist in the operation of the marketplace. The policy objectives behind Rule 6.3 are not met if the client order is entered on a marketplace that does not provide information on the order to an information vendor for inclusion in a consolidated market display. The proposed amendments to Rule 6.3 would require the entry of the client order on a marketplace that discloses order information in a consolidated market display.

In the view of RS, client orders which are routed to a non-transparent marketplace to determine if liquidity is available on that marketplace at prices that are the same or better than displayed in a consolidated market display would comply with the proposed rule if any unexecuted portion of the client order was then immediately entered on a marketplace that did provide order transparency. As set out in Market Integrity Notice 2006-017 – *Guidance – Securities Trading in Multiple Marketplaces* (September 1, 2006), a Participant may have a "best execution" obligation under Rule 5.1 to consider non-transparent marketplaces in certain circumstances when handling a client order.

Summary of the Revisions from the Original Proposals

Based on comments received in response to the Request for Comments on the Original Multiple Marketplace Proposal and Original Market Display Proposal and based on comments received from the Recognizing Regulators, RS has revised the Proposed Amendments. The changes to the Original Market Display Proposal are highlighted in Appendix "B" while the

changes to the Original Multiple Marketplace Proposal are highlighted in Appendix "C". In summary, the Original Proposals have been revised by:

- replacing the concept of "applicable market display" (which would permit a Participant or Access Person to consider information only from those marketplaces to which they had access) with "consolidated market display" (which will include order and trade information from all marketplaces trading a particular security which is provided to an information processor or information vendor in accordance with the transparency provisions of the Marketplace Operation Instrument);

- setting out in a policy the factors to be considered when determining whether a Participant has diligently pursued best execution of a client order;

- varying the factors set out in the policy to be considered when determining whether a Participant has made "reasonable efforts" to obtain "best price" to take account of the requirements of the CSA as set out in the CSA Notice and the guidance provided by RS in Market Integrity Notice 2006-017 - *Guidance – Trading Securities on Multiple Marketplaces* (September 1, 2006);

- replacing the proposed "Last Sale Price Order" with a more restrictive "Closing Price Order" that will trade only at the closing price of a security on a marketplace;

- expanding the exceptions to the client priority rule to permit a Participant to rely on the allocation made by the trading system of a marketplace when the client has specifically instructed that the client order be entered on a particular marketplace;

- amending the definition of "Market-on-Close Order" to provide that such an order is to be used for the purpose of calculating the closing price (thereby differentiating a Market-on-Close Order from a "Closing Price Order"); and

- amending the definitions of "intentional cross" and "internal cross" to provide that such trades may be completed by an Access Person as well as a Participant.

Summary of the Impact of the Proposed Amendments

The principal impacts of the Proposed Amendments would be to:

- clarify the application of various concepts in UMIR to facilities that may be offered by ATSs and other marketplaces;

- require a minimum one cent trading increment for orders entered at $0.50 or more;

- permit certain "specialty trades" (such as trades resulting from a Call Market Order or a Volume-Weighted Average Price Order) to execute at non-standard trading increments provided the trade price is reported to an information vendor is rounded to the nearest trading increment;

- require the exposure of client orders for 50 standard trading units or less on a marketplace that displays orders in accordance with Part 7 of the Marketplace Operation Instrument;

- remove access to a marketplace and availability of information as considerations to be taken into account in determining whether a Participant has satisfied its "best price" obligation;

- expand the exceptions to the client priority rule to permit a Participant to rely on the allocation made by the trading system of a marketplace when the client has specifically instructed that the client order be entered on a particular marketplace; and

- clarify the factors to be taken into account in determining whether a Participant has satisfied its "best execution" obligation.

Specific Matters on Which Comment is Requested

Comment is requested on all aspects of the Proposed Amendments. However, comment is specifically requested on the following matters:

Provision for a "Single Price Session Order"

The Original Multiple Marketplace Proposal included provision for a "Last Sale Price Order" that would have included not only the "Closing Price Order" as set out in the Proposed Amendments but would also have included orders to trade during the trading day at the price of the "last sale" on a particular marketplace.

While traditional auction markets are structured to discover the best price for the purchase or sale or securities, two of the ATSs have been specifically designed to "discover volume" available for a particular at a single price established by the "last sale" on that marketplace of that security.

- BlockBook offers a "continuous auction" that matches the buy and sell limit orders of subscribers based on price and time priority subject to limits on price, time in force, minimum fill and lot size constraints. The limits on price may include a "peg" to the best bid price, best ask price or mid-point with or without offsets. If a match occurs in the "continuous auction", and a "stability period" passes with no further trades in that security, then a fixed price "follow-on auction" for the security begins at the price of the match. During the 120 second "follow-on auction", the "continuous auction" in the security is suspended and all BlockBook subscribers may enter orders for that security at the match price with a minimum order size of 100 shares. Orders entered during the "follow-on auction" are matched either on a priority basis (for those subscribers who set the matching price) or on a pro-rata basis (for all other subscribers).

- Shorcan accepts indications of interest from subscribers by telephone. Each indication of interest at the best price on Shorcan is considered to be an order and all orders are entered by Shorcan into the "book" in time priority. There may be multiple orders at the best price. If a price match occurs between one or more passive order(s) in the "book" and an incoming order not previously disclosed in the book, a "trade expansion protocol" begins at the price of the match. During the 60 seconds following the match, any Shorcan subscriber may enter orders for that security at the match price. If the incoming order matched the entire volume of the "passive" order(s), the subscriber who submitted the incoming order and the subscriber with a passive order who was first in time priority may trade further at that price with one another. Once their further orders have matched to the extent possible, all orders entered during the "trade expansion protocol" are matched in time priority. If the incoming order matched only part of the volume of the "passive" order(s), the subscriber who submitted the incoming order and the subscriber with a passive order that was not completely filled by the match may trade further with each other. The subscriber with the incoming order may then trade with the subscribers with unfilled passive orders in time priority. Once their further orders have matched, other orders entered during the "trade expansion protocol" are matched in time priority.

Under Rule 5.2, a Participant that executes a trade on BlockBook or Shorcan while a "better-priced" order is on another marketplace, has an obligation, concurrent with or immediately following the execution on BlockBook or Shorcan, to send to that other marketplace orders of sufficient volume to execute as against any better-priced orders. (Presently, the obligation to fill "better-priced" orders on other marketplaces under Rule 5.2 does not apply to Access Persons.) This obligation presently applies in respect of any trade that occurs during the "follow-on auction" on BlockBook or during the "trade expansion protocol" on Shorcan.

Comment is specifically requested on the following questions:

1. *Should the execution of a Single Price Session Order be exempt from the "best price" obligations under Rule 5.2?*

2. *Should any exemption from the "best price" obligations for a Single Price Session Order be limited:*

   (a) *to the persons who were parties to the original "last sale" trade that gave rise to the procedures to discover additional volume at the price of that trade?*

   (b) *to trades completed within a prescribed time period after the original match and, if so, what should that time period be?*

3. *If a Single Price Session Order is not exempt from the "best price" obligations, should the obligation to better-priced order on other marketplaces be limited to the volume of the Single Price Session Order that executes?*

Appendices

- Appendix "A" sets out the text of the Proposed Amendments to the Rules and Policies to accommodate the introduction of competitive marketplaces;

- Appendix "B" sets out a summary of two comment letters received in response to the Request for Comments on the Original Market Display Proposal set out in Market Integrity Notice 2005-018 *Request for Comments – Definition of "Applicable Market Display"* (June 10, 2005); and

- Appendix "C" sets out a summary of four comment letters received in response to the Request for Comments on the Original Multiple Marketplace Proposal set out in Market Integrity Notice 2005-019 *Request for Comments – Provisions to Accommodate the Introduction of Multiple Marketplaces* (June 10, 2005).

Both Appendix "B" and "C" set out the response of RS to the comments received and provide additional commentary on the revisions the Proposed Amendments made to the Original Market Display Proposal and the Original Marketplace Proposal respectively. Appendix "B" and "C" also contains the text of the relevant provisions of the Rules and Policies as they would read on the adoption of the Proposed Amendments. The text has been marked to indicate changes from the Original Market Display Proposal and the Original Multiple Marketplace Proposal.

Questions / Further Information

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Appendix "A"

Provisions Respecting Competitive Marketplaces

The Universal Market Integrity Rules are amended as follows:

1. Rule 1.1 is amended by:

(a) deleting in the definition of "best ask price" the phrase "Special Terms Order" and substituting "Basis Order, Call Market Order, Closing Price Order, Market-on-Close Order, Opening Order, Special Terms Order or Volume-Weighted Average Price Order".

(b) deleting in the definition of "best bid price" the phrase "Special Terms Order" and substituting "Basis Order, Call Market Order, Closing Price Order, Market-on-Close Order, Opening Order, Special Terms Order or Volume-Weighted Average Price Order".

(c) adding the following definition of "Closing Price Order":

> **"Closing Price Order"** means an order for the purchase or sale of a listed security or a quoted security entered on a marketplace and subject to the conditions that the order trade at the closing price of that security on that marketplace for that trading day and that the trade is executed subsequent to the establishment of the closing price.

(d) replacing the definition of "consolidated market display" with the following:

> **"consolidated market display"** means, in respect of a particular security, information on orders or trades from each marketplace on which such particular security trades that has been:
>
> (a) produced by an information processor in a timely manner in accordance with Part 14 of the Marketplace Operation Instrument; or
>
> (b) if there is no information processor, produced by an information vendor that meets the standards set in accordance with Part 7 of the Marketplace Operation Instrument.

(e) inserting in the definition of "intentional cross" the phrase "or Access Person" after the first occurrence of the word "Participant".

(f) replacing the definition of "internal cross" with the following:

> **"internal cross"** means an intentional cross between two accounts which are managed by a single firm acting as a portfolio manager with discretionary authority to manage the investment portfolio granted by each of the holders of the accounts and includes a trade in respect of which the Participant or Access Person is acting as a portfolio manager in authorizing the trade between the two accounts.

(g) inserting in the definition of "last sale price" the phrase ", Closing Price Order" after "Call Market Order".

(h) inserting in the definition of "Market-on-Close Order" the phrase "calculating and" prior to "executing".

(i) inserting at the end of the definition of "Opening Order" the phrase "provided an order shall cease to be an Opening Order if the order does not trade at the opening of trading of that security on that marketplace on that trading day".

(j) replacing the definition of "Special Terms Order" with the following:

> **"Special Terms Order"** means an order for the purchase or sale of a security:
>
> (a) for less than a standard trading unit;
>
> (b) the execution of which is subject to a condition other than as:

(i) to price,

(ii) to the date of settlement, or

(iii) imposed by the marketplace on which the order is entered as a condition for the entry or execution of the order; or

(c) that on execution would be settled on a date other than:

(i) the third business day following the date of the trade, or

(ii) any settlement date specified in a special rule or direction referred to in subsection (2) of Rule 6.1 that is issued by an Exchange or a QTRS,

but does not include an order that is a Basis Order, Call Market Order, Closing Price Order, Market-on-Close Order, Opening Order or Volume-Weighted Average Price Order.

2. Clause (f) of subsection (2) of Rule 3.1 is amended by:

(a) deleting the word "or" at the end of subclause (iii);

(b) inserting the phrase ", or" after the word "Order" in subclause (iv); and

(c) adding the following as subclause (v):

(v) a Closing Price Order.

3. Clause (c) of subsection (2) of Rule 5.2 is amended by:

(a) deleting the word "or" at the end of subclause (iv);

(b) inserting the phrase ", or" after the word "Order" in subclause (v); and

(c) adding the following as subclause (vi):

(vi) a Closing Price Order.

4. Subclause (i) of clause (e) of subsection (2) of Rule 5.3 is amended by:

(a) inserting in Paragraph (B) the phrase ", a Closing Price Order" after "Call Market Order";

(b) deleting the word "or" at the end of Paragraph (B);

(c) inserting the phrase ", or" after the word "marketplace" in Paragraph (C); and

(d) adding the following as Paragraph (D):

(D) the client has instructed the Participant to enter the client order on a particular marketplace.

5. Subsection (1) of Rule 6.1 is amended by adding at the end of the subsection the phrase "in respect of an order with a price of less than $0.50".

6. Clause (b) of subsection (1) of Rule 6.2 is amended by adding the following as subclause (v.2):

(v.2) a Closing Price Order.

7. Subsection (1) of Rule 6.3 is amended by inserting the phrase "that displays orders in accordance with Part 7 of the Marketplace Operation Instrument" after the first occurrence of the word "marketplace".

8. Clause (h) of subsection (1) of Rule 6.3 is amended by:

(a) deleting the word "or" at the end of subclause (v);

(b) inserting the phrase ", or" after the word "Order" in subclause (vi); and

(c) adding the following as subclause (vii):

(vii) a Closing Price Order.

9. Subsection (2) of Rule 8.1 is amended by:

(a) deleting the word "or" at the end of clause (d);

(b) inserting the phrase "; or" after the word "Order" in clause (e); and

(c) adding the following as clause (f):

(f) a Closing Price Order.

The Policies under the Universal Market Integrity Rules are amended as follows:

1. Clause (d) at the end of Part 1 of Policy 2.1 is deleted and the following substituted:

(d) when trading a security on a marketplace that is subject to Market Maker Obligations, intentionally entering on that marketplace on a particular trading day two or more orders which would impose an obligation on the Market Maker to:

(i) execute with one or more of the orders, or

(ii) purchase at a higher price or sell at a lower price with one or more of the orders

in accordance with the Market Maker Obligations that would not be imposed on the Market Maker if the orders had been entered on the marketplace as a single order or entered at the same time.

2. Policy 5.1 is amended by adding the following as Part 2:

Part 2 – Factors to be Considered

In determining whether a Participant has diligently pursued the best execution of a client order, the Market Regulator will consider a number of factors including:

- any specific client instructions regarding the timeliness of the execution of the order;
- whether organized regulated markets outside of Canada have been considered (particularly if the principal market for the security is outside of Canada);
- whether the Participant has considered orders on a marketplace that has demonstrated a reasonable likelihood of liquidity for a specific security relative to the size of the client order; and
- whether the Participant has considered possible liquidity on marketplaces that do not provide transparency of orders in a consolidated market display if:
  - the displayed volume in the consolidated market display is not adequate to fully execute the client order on advantageous terms for the client, and
  - the non-transparent marketplace has demonstrated that there is a reasonable likelihood that the marketplace will have liquidity for the specific security.

3. Part 1 of Policy 5.2 is deleted and the following substituted:

Part 1 – Qualification of Obligation

The "best price obligation" imposed by Rule 5.2 is subject to the qualification that a Participant make "reasonable efforts" to ensure that a client order receives the best price. In determining whether a Participant has made "reasonable efforts", the Market Regulator will consider:

- the transactions costs and other costs (including access fees and settlement charges) that would be associated with executing the trade on a marketplace; and
- whether a "better-priced" order is on another marketplace that:
    - disseminates order data in real-time and electronically through one or more information vendors,
    - permits dealers to have access to trading in the capacity as agent,
    - provides fully-automated electronic order entry, and
    - provides fully-automated order matching and trade execution.

4. Part 2 of Policy 5.3 is amended by:

(a) inserting in the second sub-bullet of the fourth bullet the phrase ", a Closing Price Order" after "a Call Market Order";

(b) deleting the word "or" at the end of second sub-bullet;

(c) inserting the phrase ", or" after the word "marketplace" in the third sub-bullet;

(d) adding the following as the fourth sub-bullet:

- the client has instructed the Participant to enter the client order on a particular marketplace;

(e) inserting at the end of the paragraph following the sixth bullet the following:

In the case of a Closing Price Order, the order is subject to the condition that it trade only at the closing price of the security on that particular marketplace notwithstanding that the order might otherwise have been capable of executing at a better price on another marketplace. A Closing Price Order will likely be entered by a person with an interest in a security that is tied to the closing price (e.g. part of a portfolio that tracks an index). Given the condition attached to a Closing Price Order, the use of such an order for a principal account or non-client account will not be considered an attempt to bypass client orders.

5. Policy 6.1 is deleted and the following substituted as Part 1:

Part 1 – Exceptions for Certain Types of Orders

Notwithstanding that all orders for a security at a price of $0.50 or more must be entered on a marketplace at a price that does not include a fraction or a part of a cent, an order which is entered on a marketplace as a Basis Order, Call Market Order or a Volume-Weighted Average Price Order may execute at such price increment as established by the marketplace for the execution of such orders provided that the marketplace shall report the price at which the trade was executed to the information processor or an information vendor as the nearest trading increment and if the price results in one-half of a trading increment the price shall be rounded up to the next trading increment.

Appendix "B"

Comments Received on Proposed Amendments

Respecting Definition of "Applicable Market Display"

On June 10, 2005, RS issued Market Integrity Notice 2005-018 requesting comments on the Original Market Display Proposal. In response to that Market Integrity Notice, RS received comments from the following persons:

Canadian Trading and Quotation System Inc. ("CNQ")
Shorcan Brokers Limited ("Shorcan")

The following table presents a summary of the comments received together with the response of RS to those comments. Column 1 of the table indicates the revisions to the Original Market Display Proposal that are proposed by RS in response to these comments and the comments of the Recognizing Regulators.

Text of Provisions Following Adoption of Proposed Amendments (Changes from the Original Market Display Proposal Highlighted)	Commentator and Summary of Comment	RS Response to Comment and Additional RS Commentary
1. Rule 1.1 amended by deleting the definition of "consolidated market display" and inserting the following ~~definition of "applicable market display":~~ **"<u>consolidated</u> ~~applicable~~ market display"** means, in respect of a particular security, information on orders or trades from each marketplace <u>on which such particular security trades</u> ~~to which a particular Participant or Access Person has access~~ that has been: (a) produced by an information processor in a timely manner in accordance with Part 14 of the Marketplace Operation Instrument; or (b) if there is no information processor, produced by an information vendor that meets the standards set ~~by a Market Regulator~~ in accordance with Part 7 of the Marketplace Operation Instrument.		In a notice accompanying proposed amendments to the ATS Rules published by the CSA on July 14, 2006, the CSA confirmed that the CSA expects each Participant, when trading a particular security, will take into account order and trade information from all marketplaces trading that particular security. RS is therefore proposing to vary the amendment proposal to be consistent with the requirements of the CSA. The effect of the change is to retain the current terminology for a "consolidated market display".
	CNQ – Concerned that by permitting Participants to rely only on information from those marketplaces to which they have access will have a negative impact on best execution and trade-through. Believes that market data is readily available at a reasonable cost and that any marketplace may be accessed by any dealer through a jitney. In the view of CNQ, the amendment as originally proposed would hinder the development of competitive alternative marketplaces. If a dealer cannot have access to a marketplace (as opposed to choosing not to obtain access), the dealer should be permitted to disregard that marketplace. Acknowledges that there may be marketplaces with excessive charges for data or excessive trading fees, but this should be dealt with on a case-by-case basis. Also need	As noted above, RS is proposing revisions to the amendment to conform to the requirements of the CSA regarding the information to be considered by a Participant or Access Person. The issue of access to data and its costs are beyond the purview of UMIR and must be addressed by the CSA in the context of the approval of each marketplace. The UMIR provisions, and in particular the "best price" obligation, are based upon "reasonable efforts". As such, Participants and Access Persons would have latitude to deal with information from "slow marketplaces" and "fast markets". Similarly, "reasonable efforts" would exclude marketplaces to which a Participant or Access Person would not be entitled to obtain access.

Text of Provisions Following Adoption of Proposed Amendments (Changes from the Original Market Display Proposal Highlighted)	Commentator and Summary of Comment	RS Response to Comment and Additional RS Commentary
	exceptions for marketplaces that are slow to update market information and "fast market" situations where the order book changes as an order is being entered.	
~~2. The Rules are amended by striking out "a consolidated market display" wherever it appears and by substituting "the applicable market display" in every case.~~		
~~The Policies under the Universal Market Integrity Rules are amended as follows:~~ ~~1. The Policies are amended by striking out "a consolidated market display" wherever it appears and by substituting "the applicable market display" in every case.~~		
POLICY 5.1 – BEST EXECUTION OF CLIENT ORDERS **Part 2 – Factors to be Considered** In determining whether a Participant has diligently pursued the best execution of a client order, the Market Regulator will consider a number of factors including: • any specific client instructions regarding the timeliness of the execution of the order; • whether organized regulated markets outside of Canada have been considered (particularly if the principal market for the security is outside of Canada); • whether the Participant has considered orders on a marketplace that has demonstrated a reasonable likelihood of liquidity for a specific security relative to the size of the client order; and • whether the Participant has considered possible liquidity on marketplaces that do not provide transparency of orders in a consolidated market display if: o the displayed volume in the consolidated market display is not		RS is proposing to specifically include a number of the factors enumerated in the guidance provided in Market Integrity Notice 2006-017 - *Guidance – Trading Securities on Multiple Marketplaces* (September 1, 2006). RS is also proposing to include factors previously included in Part 1 of Policy 5.2 (related to consideration of foreign markets and client instructions on timeliness of execution) that are more relevant to the performance of the best execution obligation than the best price obligation.

Text of Provisions Following Adoption of Proposed Amendments (Changes from the Original Market Display Proposal Highlighted)	Commentator and Summary of Comment	RS Response to Comment and Additional RS Commentary
adequate to fully execute the client order on advantageous terms for the client, and o the non-transparent marketplace has demonstrated that there is a reasonable likelihood that the marketplace will have liquidity for the specific security.		
POLICY 5.2 – BEST PRICE OBLIGATION **Part 1 – Qualification of Obligation** The "best price obligation" imposed by Rule 5.2 is subject to the qualification that a Participant make "reasonable efforts" to ensure that a client order receives the best price. In determining whether a Participant has made "reasonable efforts", the Market Regulator will consider: • ~~the information available to the Participant from the information processor or information vendor;~~ • the transaction~~s~~ costs and other costs (including access fees and settlement charges) that would be associated with executing the trade on a marketplace; and • whether a "better-priced" order is on another marketplace that: o disseminates order data in real-time and electronically through one or more information vendors, o permits dealers to have access to trading in the capacity as agent, o provides fully-automated electronic order entry, and o provides fully-automated order matching and trade execution. • ~~whether the Participant is a member, user or subscriber of the marketplace with the best price;~~ • ~~whether market outside of Canada have been considered (particularly if the principal market for the security is outside of Canada); and~~		If a Participant is obligated to take into account order and trade information from all transparent marketplaces, the qualification of the "best price obligation" by the availability of information, access to marketplaces and consideration of foreign markets is no longer appropriate. RS is therefore proposing to delete these qualifications from Part 1 of Policy 5.2. RS is also proposing to specifically include a number of the factors enumerated in the guidance provided in Market Integrity Notice 2006-017 - *Guidance – Trading Securities on Multiple Marketplaces* (September 1, 2006).

Text of Provisions Following Adoption of Proposed Amendments (Changes from the Original Market Display Proposal Highlighted)	Commentator and Summary of Comment	RS Response to Comment and Additional RS Commentary
• ~~any specific client instructions regarding the timeliness of the execution of the order.~~		

Appendix "C"

Comments Received on Proposed Amendments

to Accommodate the Introduction of Multiple Marketplaces

On June 10, 2005, RS issued Market Integrity Notice 2005-019 requesting comments the Original Multiple Marketplace Proposal. In response to that Market Integrity Notice, RS received comments from the following persons:

Scotia Capital Inc. ("Scotia")
Shorcan Brokers Limited ("Shorcan")
TD Securities Inc. ("TD")
TSX Markets ("TSX")

The following table presents a summary of the comments received together with the response of RS to those comments. Column 1 of the table indicates the revisions to the Original Multiple Marketplace Proposal that are proposed by RS in response to these comments and the comments of the Recognizing Regulators. Shaded rows represent proposed additional amendments to other provisions of UMIR not covered in the Original Multiple Marketplace Proposal and include:

- changes in Rule 1.1 to the definition of "intentional cross", "internal cross" and "Market-on-Close Order";
- consequential amendments to Rule 5.3 and Policy 5.3 to recognize a "Closing Price Order";
- amendments to Rule 5.3 and Policy 5.3 to expand the circumstances in which a Participant may rely on an allocation from a marketplace trading system; and
- amendments to Rule 6.1 and Policy 6.1 to address the issue of reporting of trades in standard increments addressed initially in Market Integrity Notice 2005-012 – *Request for Comments - Provisions Respecting "Off-Marketplace" Trades* (April 29, 2005).

Text of Provisions Following Adoption of Proposed Amendments (Changes from the Original Multiple Marketplace Proposal Highlighted)	Commentator and Summary of Comment	RS Response to Comment and Additional RS Commentary
1.1 Definitions **"best ask price"** means the lowest price of an order on any marketplace as displayed in a consolidated~~an applicable~~ market display to sell a particular security, but does not include the price of any order that is a Basis Order, Call Market Order, Closing~~Last Sale~~ Price Order, Market-on-Close Order, Opening Order, Special Terms Order or Volume-Weighted Average Price Order.		RS is suggesting a wording change to reflect that the proposal for an "applicable market display" to replace "consolidated market display" as set out in the Original Market Display Proposal will not be pursued in the form initially proposed. A consequential change is also suggested to reflect the renaming of the proposed "Last Sale Price Order" as a "Closing Price Order".
"best bid price" means the highest price of an order on any marketplace as displayed in a consolidated~~an applicable~~ market display to buy a particular security, but does not include the price of any order that is a Basis Order, Call Market Order, Closing~~Last Sale~~ Price Order, Market-on-Close Order, Opening Order, Special Terms Order or Volume-Weighted Average Price Order.		RS is suggesting a wording change to reflect that the proposal for an "applicable market display" to replace "consolidated market display" as set out in the Original Market Display Proposal will not be pursued in the form initially proposed. A consequential change is also suggested to reflect the renaming of the proposed "Last Sale Price Order" as a "Closing Price Order".
"Closing~~Last Sale~~ Price Order" means an order for the purchase or sale of a listed security or a quoted security	**TSX** – Suggests use of a different defined term to avoid confusion with the use of the term "last sale" under TSX	The Original Multiple Marketplace Proposal has been modified to define the type of order as trading only at the

Text of Provisions Following Adoption of Proposed Amendments (Changes from the Original Multiple Marketplace Proposal Highlighted)	Commentator and Summary of Comment	RS Response to Comment and Additional RS Commentary
entered on a marketplace and subject to the conditions that the order trade at the closing~~last sale~~ price of that security on that marketplace for that trading day and that the trade is executed subsequent to the establishment of the closing price.	rules.	"closing" price rather than during the trading day at the "last sale" price. To reflect the change in ambit, RS would propose that the defined term be changed to "Closing Price Order" from "Last Sale Price Order". As part of this Market Integrity Notice, RS requests comments on whether trades during the day on a marketplace at the last sale price on that marketplace should be exempted from a number of UMIR provisions including "best price" obligation. Consideration of such a provision may be undertaken as part of proposals related to trade-through obligations that may be advanced following the publication by the CSA of the results of Concept Paper 23-403 – *Developments in Market Structure and Trade-Through Obligations* published by the CSA on July 22, 2005.
"intentional cross" means a trade resulting from the entry by a Participant or Access Person of both the order to purchase and the order to sell a security, but does not include a trade in which the Participant has entered one of the orders as a jitney order.		While not included in the Original Multiple Marketplace Proposal, RS is suggesting a change in the definition of "intentional cross" to recognize that a subscriber to an alternative trading system may be capable of entering an intentional cross.
"internal cross" means an intentional cross between two ~~client~~ accounts ~~of a Participant~~ which are managed by a single firm acting as a portfolio manager with discretionary authority to manage the investment portfolio granted by each of the holders of the accounts ~~clients~~ and includes a trade in respect of which ~~where~~ the Participant or Access Person is acting as a portfolio manager in authorizing the trade between the two ~~client~~ accounts.		While not included in the Original Multiple Marketplace Proposal, RS is suggesting a change in the definition of "internal cross" to recognize that a subscriber to an alternative trading system that is a portfolio manager may be capable of entering an internal cross. Internal crosses are often excluded from the calculation of volume-weighted average prices or obligations for "in line with volume" orders.
"last sale price" means the price of the last sale of at least one standard trading unit of a particular security displayed in a consolidated~~an applicable~~ market display but does not include the price of a sale resulting from an order that is a Basis Order, Call Market Order, Closing~~Last Sale~~ Price Order or Volume-Weighted Average Price Order.		RS is suggesting a wording change to reflect that the proposal for an "applicable market display" to replace "consolidated market display" as set out in Original Market Display Proposal will not be pursued in the form initially proposed. A consequential change is also suggested to reflect the renaming of the proposed "Last Sale Price Order" as a "Closing Price Order".

Text of Provisions Following Adoption of Proposed Amendments (Changes from the Original Multiple Marketplace Proposal Highlighted)	Commentator and Summary of Comment	RS Response to Comment and Additional RS Commentary
"Market-on-Close Order" means an order for the purchase or sale of a security entered on a marketplace on a trading day for the purpose of calculating and executing at the closing price of the security on that marketplace on that trading day.		In order to clearly differentiate the differences between a "Market-on-Close Order" and a "Closing Price Order", RS would propose to expand the definition of a Market-on-Close Order to include reference to participating in the "calculating" the closing price. This addition will parallel the "calculation" component in the definition of an "Opening Order".
"Opening Order" means an order for the purchase or sale of a security entered on a marketplace on a trading day for the purpose of calculating and executing at the opening price of the security on that marketplace on that trading day provided an order shall cease to be an Opening Order if the order does not trade at the opening of trading of that security on that marketplace on that trading day.		
"Special Terms Order" means an order for the purchase or sale of a security: (a) for less than a standard trading unit; (b) the execution of which is subject to a condition other than as: (i) to price, (ii) to the date of settlement, or (iii) imposed by the marketplace on which the order is entered as a condition for the entry or execution of the order; or (c) that on execution would be settled on a date other than: (i) the third business day following the date of the trade, or (ii) any settlement date specified in a special rule or direction referred to in subsection (2) of Rule 6.1 that is issued by an Exchange or a QTRS, but does not include an order that is a Basis Order, Call Market Order, Closing~~Last Sale~~ Price Order, Market-on-Close Order, Opening Order or Volume-Weighted Average Price Order.		A consequential change is suggested to reflect the renaming of the proposed "Last Sale Price Order" as a "Closing Price Order".
3.1 Restriction on Short Selling (2) A short sale of a security may be made on a marketplace at a price below the last sale price if		A consequential change is suggested to reflect the renaming of the proposed "Last Sale Price Order" as a "Closing Price Order".

Text of Provisions Following Adoption of Proposed Amendments (Changes from the Original Multiple Marketplace Proposal Highlighted)	Commentator and Summary of Comment	RS Response to Comment and Additional RS Commentary
the sale is: … (f) the result of: (i) a Call Market Order, (ii) a Market-on-Close Order, ~~or~~ (iii) a Volume-Weighted Average Price Order, (iv) a Basis Order, or (v) a Closing~~Last Sale~~ Price Order.		
5.2 Best Price Obligation (2) Subsection (1) does not apply to the execution of an order which is: … (c) directed or consented to by the client to be entered on a marketplace as: (i) a Call Market Order, (ii) a Volume-Weighted Average Price Order, (iii) a Market-on-Close Order, (iv) an Opening Order, (v) a Basis Order, or (vi) a Closing~~Last Sale~~ Price Order.		A consequential change is suggested to reflect the renaming of the proposed "Last Sale Price Order" as a "Closing Price Order".
5.3 Client Priority (2) Despite subsection (1) but subject to Rule 4.1, a Participant is not required to give priority to a client order if: … (e) the principal order or non-client order is executed pursuant to an allocation by the trading system of a marketplace and: (i) either: (A) the security which is the subject of the order trades on no marketplace other than that marketplace, (B) the principal order		Effective May 26, 2006, Rule 5.3 was amended to provide certain exceptions when a principal order or non-client order would have to provide priority to a client order. A Closing Price Order is a special type of order that is subject to the condition that the order trade at the closing price of the security on that marketplace on the particular trading day. As such, any principal order or non-client order entered as a Closing Price Order is not on the same terms and conditions as a client order that is not subject to the condition of trading at the closing price. RS is also proposing to expand the exceptions to the client priority rule to permit a Participant to rely on the allocation made by the trading system of a marketplace when the client has

Text of Provisions Following Adoption of Proposed Amendments (Changes from the Original Multiple Marketplace Proposal Highlighted)	Commentator and Summary of Comment	RS Response to Comment and Additional RS Commentary
or non-client order is a Call Market Order, a Closing Price Order, an Opening Order, a Market-on-Close Order or a Volume-Weighted Average Price Order, ~~or~~ (C) each of the client order and the principal order or non-client order was entered on the same marketplace, or (D) the client has instructed the Participant to enter the client order on a particular marketplace, (ii) the client order was entered by the Participant on that marketplace immediately upon receipt by the Participant, and (iii) if the client order was varied or changed by the Participant at any time after entry, the variation or change was on the specific instructions of the client; …		specifically instructed that the client order be entered on a particular marketplace.
6.1 Entry of Orders to a Marketplace (1) No order to purchase or sell a security shall be entered to trade on a marketplace at a price that includes a fraction or a part of cent other than an increment of one-half of one cent in respect of an order with a price of less than $0.50.		RS would propose to adopt the amendment as proposed in Market Integrity Notice 2005-012 – *Request for Comments – Provisions Respecting "Off-Marketplace" Trades* (April 29, 2005) to provide that all orders entered on a marketplace for a security traded at $0.50 or more can not include a fraction or part of a cent and orders to trade at less than $0.50 may be entered in half-cent increments.

Text of Provisions Following Adoption of Proposed Amendments (Changes from the Original Multiple Marketplace Proposal Highlighted)	Commentator and Summary of Comment	RS Response to Comment and Additional RS Commentary
6.2 Designations and Identifiers (1) Each order entered on a marketplace shall contain: … (b) a designation acceptable to the Market Regulator for the marketplace on which the order is entered, if the order is: (i) a Call Market Order, (ii) an Opening Order, (iii) a Market-on-Close Order, (iv) a Special Terms Order, (v) a Volume-Weighted Average Price Order, (v.1) a Basis Order, (v.2) a Closing~~Last Sale~~ Price Order, (vi) part of a Program Trade, (vii) part of an intentional cross or internal cross, (viii) a short sale which is subject to the price restriction under subsection (1) of Rule 3.1, (ix) a short sale which is exempt from the price restriction on a short sale in accordance with subsection (2) of Rule 3.1, (x) a non-client order, (xi) a principal order, (xii) a jitney order, (xiii) for the account of a derivatives market maker, (xiv) for the account of a person who is an insider of the issuer of the security which		A consequential change is suggested to reflect the renaming of the proposed "Last Sale Price Order" as a "Closing Price Order".

Text of Provisions Following Adoption of Proposed Amendments (Changes from the Original Multiple Marketplace Proposal Highlighted)	Commentator and Summary of Comment	RS Response to Comment and Additional RS Commentary
is the subject of the order, (xv) for the account of a person who is a significant shareholder of the issuer of the security which is the subject of the order, or (xvi) of a type for which the Market Regulator may from time to time require a specific or particular designation.		
6.3 Exposure of Client Orders (1) A Participant shall immediately enter on a marketplace that displays orders in accordance with Part 7 of the Marketplace Operation Instrument a client order to purchase or sell 50 standard trading units or less of a security unless: … (h) the client has directed or consented to the order being entered on a marketplace as: (i) a Call Market Order, (ii) an Opening Order, (iii) a Special Terms Order, (iv) a Volume-Weighted Average Price Order, (v) a Market-on-Close Order, (vi) a Basis Order, or (vii) a Closing~~Last Sale~~ Price Order.		A consequential change is suggested to reflect the renaming of the proposed "Last Sale Price Order" as a "Closing Price Order".
8.1 Client-Principal Trading (2) Subsection (1) does not apply if the client has directed or consented that the client order be: (a) a Call Market Order; (b) an Opening Order;		A consequential change is suggested to reflect the renaming of the proposed "Last Sale Price Order" as a "Closing Price Order".

Text of Provisions Following Adoption of Proposed Amendments (Changes from the Original Multiple Marketplace Proposal Highlighted)	Commentator and Summary of Comment	RS Response to Comment and Additional RS Commentary
(c) a Market-on-Close Order; (d) a Volume-Weighted Average Price Order, (e) a Basis Order, or (f) a Closing~~Last Sale~~ Price Order.		
Policy 2.1 – Just and Equitable Principles **Part 1 – Examples of Unacceptable Activity** Without limiting the generality of the Rule, the following are example of activities that would be considered to be in violation of the obligation to conduct business openly and fairly or in accordance with just and equitable principles of trade: … (d) when trading a security on a marketplace that is subject to Market Maker Obligations, intentionally entering on that marketplace on a particular trading day two or more orders which would impose an obligation on the Market Maker to: (i) execute with one or more of the orders, or (ii) purchase at a higher price or sell at a lower price with one or more of the orders in accordance with the Market Maker Obligations that would not be imposed on the Market Maker if the orders had been entered on the marketplace as a single order or entered at the same time.		
Policy 5.3 – Client Priority **Part 2 – Prohibition on Intentional Trading Ahead** Rule 5.3 provides that a Participant must give priority of the execution to client orders over all principal orders and non-client orders of the Participant that are entered on a marketplace or an organized regulated market after the receipt of the client order for the same security at the same price on the same side of the market on the same		Effective May 26, 2006, Rule 5.3 was amended to provide certain exceptions when a principal order or non-client order would have to provide priority to a client order. An amendment to Rule 5.3 is proposed to provide that a Closing Price Order is a special type of order that is subject to the condition that the order trade at the closing price of the security on that marketplace on the particular trading day. As such, any principal order or non-client order

Text of Provisions Following Adoption of Proposed Amendments (Changes from the Original Multiple Marketplace Proposal Highlighted)	Commentator and Summary of Comment	RS Response to Comment and Additional RS Commentary
conditions and settlement terms. The requirement is subject to certain exceptions necessary to ensure overall efficiency of order handling. In particular, exceptions to the client priority rule are provided if the principal order or non-client order that is entered after the receipt of the client order is: • automatically generated by the trading system of an Exchange or QTRS in accordance with the Market Maker Obligations of that marketplace; • a Basis Order; or • required or permitted to be executed by a Market Integrity Official in priority to the client order. A principal order which is automatically generated by the trading system of an Exchange or QTRS in accordance with that marketplace's rules on market-making activities is not an intentional attempt by a Participant to trade ahead of or along with a client order. An exemption from the client priority rule is therefore provided in order to ensure overall market liquidity in accordance with established Market Making Obligations. A Basis Order is undertaken at a price that is determined by prices achieved in related trades made in the derivatives markets. As such, the execution of a Basis Order is not an intentional attempt by a Participant to trade ahead of or along with a client order. An exception to the client priority rule is also provided where the trading system of a marketplace allocates the fill to a principal order or non-client order. In order to be able to rely on this exception the following three conditions must be met: • either: o the security does not trade on any marketplace other than the one on which the client order and the principal order or non-client order is entered, o the principal order or non-client		entered as a Closing Price Order is not on the same terms and conditions as a client order that is not subject to the condition of trading at the closing price. RS is also proposing to expand the exceptions in Rule 5.3 to the client priority rule to permit a Participant to rely on the allocation made by the trading system of a marketplace when the client has specifically instructed that the client order be entered on a particular marketplace. The changes to Part 2 of Policy 5.3 are consequential on the adoption of the proposed amendments to Rule 5.3.

Text of Provisions Following Adoption of Proposed Amendments (Changes from the Original Multiple Marketplace Proposal Highlighted)	Commentator and Summary of Comment	RS Response to Comment and Additional RS Commentary
order is a Call Market Order, a Closing Price Order, an Opening Order, a Market-on-Close Order or a Volume-Weighted Average Price Order, ~~or~~ o each of the client order and the principal order or non-client order was entered on the same marketplace, or o the client has instructed the Participant to enter the client order on a particular marketplace, • the client order was entered immediately upon receipt by the Participant; and • after entry, the client order is not varied or changed except on the specific instructions of the client. The exception that is provided for a principal or non-client order which is a Call Market Order, Opening Order, Market-on Close Order or a Volume-Weighted Average Price Order recognizes that the price at which such an order may execute will not generally be known at the time the principal or non-client order is entered on a marketplace. Provided the client order has been entered on receipt and not varied without the consent of the client, any allocation by the trading system of the marketplace for these particular types of orders is not an attempt to bypass client orders. In the case of a Closing Price Order, the order is subject to the condition that it trade only at the closing price of the security on that particular marketplace notwithstanding that the order might otherwise have been capable of executing at a better price on another marketplace. A Closing Price Order will likely be entered by a person with an interest in a security that is tied to the closing price (e.g. part of a portfolio that tracks an index). Given the condition attached to a Closing Price Order, the use of such an order for a principal account or non-client account will not be considered an attempt to bypass client		

Text of Provisions Following Adoption of Proposed Amendments (Changes from the Original Multiple Marketplace Proposal Highlighted)	Commentator and Summary of Comment	RS Response to Comment and Additional RS Commentary
orders. A Participant can never intentionally trade ahead of a client market or tradeable limit order received prior to the entry of the principal order or non-client order without the specific consent of the client. Examples of "intentional trades" include, but are not limited to: • withholding a client order from entry on a marketplace (or removing an order already entered on a marketplace) to permit the entry of a competing principal or non-client order ahead of the client order; • entering a client order in a relatively illiquid market and entering a principal or non-client order in a more liquid marketplace where the principal or non-client order is likely to obtain faster execution; • adding terms or conditions to a client order (other than on the instructions of the client) so that the client order ranks behind principal or non-client orders at that price; • putting terms or conditions on a principal or non-client order for the purpose of differentiating the principal or non-client order from a client order that would otherwise have priority at that price; and • entering a principal order or non-client order as an "anonymous order" (without the identifier of the Participant) which results in an execution in priority to a previously entered client order where the identifier of the Participant has been disclosed on the entry of the client order.		
Policy 6.1 – Entry of Orders to a Marketplace Notwithstanding that all orders for a security at a price of $0.50 or more must be entered on a marketplace at a price that does not include a fraction or a part of a cent, an order which is entered on a marketplace as a Basis Order, Call Market Order or a Volume-Weighted Average Price Order may execute at	**TriAct** – (In response to Market Integrity Notice 2005-012 – Request for Comments – Provisions Respecting "Off-Marketplace Trades (April 29, 2005)). Systems limitations on the accuracy of public trade price displays should not govern the rules respecting trade price increments for certain "specialty trades" given that such trades are not used to establish the "last sale price" benchmark.	RS would propose to modify the amendment as proposed in Market Integrity Notice 2005-012 – *Request for Comments – Provisions Respecting "Off-Marketplace Trades* (April 29, 2005) to permit certain trade executions at whatever level of price accuracy may be provided by the marketplace provided that the execution price of the trade is reported to the information processor or a data vendor at the nearest trading

Text of Provisions Following Adoption of Proposed Amendments (Changes from the Original Multiple Marketplace Proposal Highlighted)	Commentator and Summary of Comment	RS Response to Comment and Additional RS Commentary
such price increment as established by the marketplace for the execution of such orders provided that the marketplace shall report the price at which the trade was executed to the information processor or an information vendor as the nearest trading ~~and be reported in an~~ increment and if the price results in one-half of a trading increment the price shall be rounded up to the next trading increment~~of one-half of one cent in accordance with the method of calculation of the trade price established by the marketplace on which the order has traded~~. *[Changes are marked to the proposal in Market Integrity Notice 2005-012 Request for Comments – Provisions Respecting "Off-Marketplace Trades]*		increment (being either one cent for a security traded at $0.50 or more or one-half cent for a security traded at less than $0.50).
General Comments	**Scotia** – The commentator notes that introduction of multiple marketplaces will require greater manual intervention by Participant in the order flow process thereby diminishing the efficiency of markets. Order routing and allocation responsibilities should not be downloaded from marketplaces onto individual Participants.	UMIR provides for the obligations of participants in Canadian marketplaces. The requirements imposed on marketplaces are established under the Marketplace Operation Instrument. The proposed amendments to UMIR are a response to the introduction of multiple competitive marketplaces under the current provisions of the Marketplace Operation Instrument.
	Shorecan – The commentator suggests that UMIR needs to be flexible enough to enable traders to achieve "best execution" not just "best price". The suggested amendments do not acknowledge the need to make future changes that may be necessary to accommodate special features of emerging marketplaces.	Under UMIR, "best execution" is an obligation owed by a Participant to its clients whereas "best price" is an obligation owed by the Participant to the marketplaces. RS has always stated that the rules are "dynamic" but can not anticipate all future marketplace facilities.

13.1.2 TSX Inc. – Request for Comments – Implementation of a Pre-Trade Matching Facility – Alternative Trade eXecution

REQUEST FOR COMMENTS
IMPLEMENTATION OF A PRE-TRADE MATCHING FACILITY
ALTERNATIVE TRADE EXECUTION

The Board of Directors of TSX Inc. ("TSX") has approved amendments ("Amendments") to the Rules of the Toronto Stock Exchange ("TSX Rules"). The Amendments provide for an additional rule set and definitions to govern the operations of a pre-trade matching facility within the Toronto Stock Exchange, referred to as the Alternative Trade eXecution ("ATX").

The text of the Amendments is attached. The Amendments will be effective upon approval by the Ontario Securities Commission ("Commission") following public notice and comment. Comments on the proposed Amendments should be in writing and delivered within 30 days of the date of this notice to:

Amer Chaudhry
Legal Counsel
TSX Group Inc.
The Exchange Tower
130 King Street West, 3rd Floor
Toronto, Ontario M5X 1J2
Fax: (416) 947-4461
e-mail: amer.chaudhry@tsx.com

A copy should also be provided to:

Cindy Petlock
Manager, Market Regulation
Capital Markets Branch
Ontario Securities Commission
Suite 1903, Box 55
20 Queen Street West
Toronto, Ontario M5H 3S8
Fax: (416) 595-8940
e-mail: cpetlock@osc.gov.on.ca

Terms not defined in this Request for Comments are defined in the TSX Rules.

1.0 OVERVIEW

1.1 ATX will be a subscription-based trading facility of the Toronto Stock Exchange ("Exchange") designed to match subscriber order flow against in-house interests as well as the interests of other subscribers in a blind electronic book ("Central Intent Book" or "CIB"). Each of these interests is represented by an intent ("Intent") that constitutes a willingness of an ATX subscriber to buy or sell a security if certain conditions are met in the market. Orders and Intents that are matched on ATX will be sent to the trading engine of the Exchange for trade execution at an improved price from the posted best bid/offer. The introduction of ATX will provide market participants with an additional facility to enter orders to trade securities, in addition to the Exchange's existing trading facilities.

1.2 ATX is intended to consolidate multiple streams of liquidity from multiple trading desks within a Participating Organization ("PO"), other POs' trading desks and from the pooling of upstairs client interest (negotiated block trades agreed to off-Exchange). This consolidation and other ATX features are designed to deliver subscribers additional accessible liquidity**,** price improvement over the posted best bid/offer and lower execution costs. The primary utility of the ATX facility is to enable subscribers to process large blocks of demand and supply of a security in a cost efficient manner. Large blocks of demand and supply within ATX will have access to additional depth of liquidity at the top of book price. These large hidden blocks, once designated as Intents, may then be filled gradually by applying smaller orders of the subscriber's own ATX designated order flow, as well as the ATX designated order flow of all other subscribers. Such large blocks of Intents will be able to fill against smaller orders without causing any movement of the posted best bid/offer because the price matches in ATX are within the posted best bid/offer and Intents are not visible to the market. Also, Intents that represent large blocks of demand can interact with other Intents that are large blocks of supply to generate single ticket fills, thereby lowering execution costs.

2.0 DESCRIPTION OF THE PROPOSED ATX FACILITY

Provided below is a description of the proposed features of the ATX facility.

ATX Participants

2.1 All POs that subscribe to the ATX facility will be eligible to participate in ATX, and will be required to enter into a standard ATX subscriber agreement ("Subscriber Agreement") with the TSX. Also, POs may grant their eligible clients access to the ATX facility in accordance with TSX Rules 2-501, 2-502 and 2-503 and the respective policies (such subscribers and their eligible clients are collectively referred to as "ATX Participants").

Orders and Intents

2.2 Currently, a PO's order flows are entered on its trading terminals through user IDs ("User IDs") provided by the Exchange. POs that subscribe to the ATX facility will be able to designate which of their current User IDs will channel order flows to the ATX facility. This feature will allow subscribers the option (i) to direct orders through the ATX facility en route to the central limit order book of the Exchange, or (ii) direct orders to by-pass the ATX facility and flow directly to the central limit order book by assigning order flow to the appropriate User IDs.

2.3 Only ATX Participants may enter Intents to the ATX facility. Intents will be visible only to the user that entered the Intent and the designated trading administrator of the PO. Intents entered into the ATX facility are considered active Intents until they reach the Central Intent Book unmatched. Once such Intents enter the CIB they are considered to be passive Intents that reside in the CIB until a match is made or when such Intent is cancelled or expires.

2.4 Intents will include a specific limit price, which entails buying up to or selling down to the specified limit price of such Intents. Also, ATX Participants will be able to specify for each Intent entered in ATX, a minimum quote spread and minimum quote volume, as described below. These spread and volume parameters, along with the limit price, will indicate the conditions under which an Intent will match in the ATX facility. If the minimum quote spread or the minimum quote volume of the Intent is not satisfied, the Intent will remain in the Central Intent Book and will not match until the posted best bid/offer meets the desired conditions. Minimum quote spreads and volume targets will provide greater trading flexibility to enable ATX Participants to carry out their trading strategies.

2.5 A minimum quote spread is a spread value that is entered on an Intent that specifies a minimum quote spread that must be satisfied in order for an Intent to be eligible to match in ATX. A minimum quote spread is satisfied if the posted best bid/offer spread is greater than or equal to the spread on the Intent.

2.6 A minimum quote volume is a volume level that is entered on an Intent that specifies a minimum quote volume that must be satisfied in order for an Intent to be eligible to match in ATX. A minimum quote volume is satisfied if the aggregate volume of the posted best bid/offer, on the same side as the Intent, is greater than or equal to the Intent's specified minimum volume.

ATX Matching

2.7 ATX orders and active Intents will attempt to find matches with passive Intents in the CIB on a continuous basis during Exchange hours. Although ATX Intents can be entered during the pre-open session and the extended trading session, no matching will occur until the regular trading session opens and a posted best bid/offer is available. During the pre-open session and the extending trading session, Intents will be booked in the CIB but ATX orders will by-pass ATX en route to the Exchange.

2.8 ATX will hold passive Intents from multiple ATX subscribers in the CIB. The CIB and the Exchange's central limit order book will not interact with each other. Intents will not interact with the Exchange's central limit order book, and orders passing through the ATX facility that are not matched within the ATX facility will be booked in the central limit order book of the Exchange. Unlike the Exchange's central limit order book, the CIB will provide anonymity by not making Intents and the detail relating to such Intents visible to the market.

2.9 Orders designated for ATX will pass through the ATX facility in search of a match with passive Intents en route to the Exchange's central limit order book. Active Intents will likewise attempt to match with passive Intents before they become passive Intents. Orders can match with multiple Intents and Intents can match with multiple orders.

2.10 ATX orders and active Intents are queued in time priority by symbol and attempt to match with passive Intents in the CIB as they leave the queue. For this reason, an order will not interact with another order or active Intent, and active Intents will not interact with each other in ATX.

2.11 Based on their respective time priority, orders and active Intents will scan the CIB for potential partial or complete matches with passive Intents. When a full or partial match occurs, a match message will be sent to the Exchange for validation, and after such validation the match becomes a trade on the Exchange. Any unmatched order or residual volume thereof will not be booked in the CIB, but will proceed to the Exchange's central limit order book, and will interact within such book as any other non-ATX designated order. Any unmatched active Intent or residual volume thereof will proceed to the CIB and become a passive Intent. These passive Intents will no longer actively seek a match against other passive Intents. The passive Intent will continue to reside in the CIB until it (i) matches an ATX designated order or an active Intent, (ii) expires or (iii) is cancelled.

2.12 If a PO changes the conditions of a passive Intent, such changed passive Intent will be cancelled and replaced in the CIB. The change to an Intent will trigger a new match attempt against the passive orders in the CIB; in other words, the change will cause the passive Intent to act as an active Intent and seek a match before the existing passive Intent is replaced in the CIB.

2.13 For a match to occur within ATX, the specified limit price, the minimum quote spread and minimum quote volume of the Intent must be satisfied, as described above.

Multi-Tiered Priority

2.14 ATX applies a multi-tiered methodology to allocate ATX orders and active Intents to passive Intents in the CIB. The matching of ATX orders and Intents will occur in the following sequential manner: intra-dealer priority (internalization), volume priority, and then time priority.

(a) Intra-dealer Priority: When an order or active Intent is entered into the ATX facility, ATX will first try to generate a full or partial match within the PO's passive Intents. The matching of a PO's Intent or order flow**,** will be determined by its in-house priority allocation groups ("PAGs") for passive Intents. PAGs will be established by POs to optimize their intra-firm liquidity strategy. PAG assignments will be determined by the PO in accordance with Universal Market Integrity Rules ("UMIR"), and not by the Exchange or individual traders at the PO. Within a PO, ATX matches will be allocated sequentially according to PAG priority, and within each PAG priority matches will be allocated based on time priority. PAGs are intended to automate internal allocation methods currently used by POs. For example, a dealer may choose a sequential PAG priority that gives top priority to client accounts followed by the proprietary trading desk and then the registered trader's desk. In this example, passive Intents of PO clients would have the first opportunity to match with incoming ATX orders and active Intents of the same PO. Any residual (unmatched) volume in the active Intent or order would then attempt to match with the proprietary desk's passive Intents. Any further residual (unmatched) volume would then attempt to match with passive Intents from the registered trader's desk.

(b) Volume Priority: After the intra-dealer matching opportunities are exhausted, the ATX facility will attempt to match based on volume priority any unfilled orders and Intents with all other ATX Participants. This volume priority is achieved by meeting a specific volume threshold set by the Exchange. The Exchange, in consultation with potential subscribers, has determined that the initial volume requirement will be 5,000 shares. The Exchange may change this initial volume threshold, but will provide advance notice, in accordance with the Subscriber Agreement, to subscribers of such change. The volume threshold is intended to encourage subscribers to enter large blocks of demand and supply of securities as Intents on the ATX facility. If there are multiple Intents that meet or exceed the volume priority threshold then such Intents will match in time priority.

(c) Time Priority: In the final tier, unfilled orders and active Intents will attempt to match with passive Intents in strict time priority based on the CIB time stamp of passive Intents.

Orders that do not match in ATX, including orders with residual unmatched volume are sent immediately to the Exchange while unmatched Intents or Intents with residual volume remain in the CIB.

Price of Matches

2.15 All matches in ATX will occur at a price that improves on the posted best bid/offer. The amount of price improvement described below has been established by the TSX with input from potential subscribers. Subject to notifying all ATX subscribers in advance, TSX may, from time to time, change the amount of price improvement on ATX matches. This notification provision will be set out in the Subscriber Agreement.

2.16 The initial amount of price improvement to be provided by the ATX facility will depend on the type of match that has occurred.

2.17 When an order matches against a passive Intent in the CIB, a one-tick price improvement will be provided to the order side of the match. A sell order will be matched at a price that is one tick above the posted best bid, and a buy order will be matched at a price that is one tick below the posted best offer.

2.18 When an active Intent matches against a passive Intent, the match will be priced at the midpoint of the posted best bid/offer. This midpoint pricing shall provide equal price improvement to both sides of the match, except where the calculated midpoint price results in a tick increment less than one cent. In such cases, the midpoint match price shall be rounded to the next valid tick increment as set out in Rule 4-404 (minimum ticks), with the benefits of the rounding accruing to the passive Intent because it will have a higher time priority in the CIB.

Best Bid/Offer

2.19 TSX anticipates that other visible equity marketplaces that trade Exchange-listed securities will eventually operate in Canada. In this event, TSX intends to incorporate a posted best bid/offer within the ATX facility that reflects the best bid or best offer on the Exchange or any other significant visible equity marketplaces to facilitate regulatory requirements. Until such time, posted best bid/offer will refer to the Exchange's best bid/offer.

Match Execution and Attribution

2.20 All ATX matches are sent to the Exchange for execution. The ATX match becomes a trade only after the match is validated by the Exchange. If, after the ATX match and before execution occurs on the Exchange, the posted best bid/offer changes so that the match price is outside the posted best bid/offer, the Exchange will reject the match (Price Validation Feature). No trade will result from such match and a message will be sent by the Exchange to the applicable POs.

2.21 If the same subscriber to ATX is on both sides of the match and neither side of the match is designated as a "client" (CL) or "non-client" (NC) order or Intent, such a match will be executed on the Exchange but will not be eligible for distribution on any TSX outbound data feeds ("Off-Market Trade"). Also, the summary and historical data of the Exchange will not incorporate such Off-Market Trades.

2.22 Matches in ATX that are executed on the Exchange will be reported to the trading community via outbound data feeds, including the Toronto Broadcast Feed, and will be attributed to ATX. Also, ATX will feature the same attribution choices as the Exchange for orders; POs can choose to attribute an order to their firm or trade anonymously under broker number 01.

Messages

2.23 ATX will generate STAMP or FIX order entry response messages based on the protocol under which the order was entered.

2.24 ATX matches will generate match requests that will then be validated by the Exchange. Validated matches executed by the Exchange will become trades. Trade reports will be generated for such trades and disseminated in the same manner as other trade reports occurring on the Exchange. A trade report relating to an Off-Market Trade will be encrypted and visible only to the ATX Participant, the Exchange and regulators.

Order and Intent Type Restrictions; Minimum Intent and Order Size

2.25 Market orders and limit orders will be eligible for ATX, however, the entry of orders and Intents on ATX are restricted to standard trading and settlement terms. Short sales may be entered but must be marked appropriately. Jitney orders are not eligible for crosses on the Exchange. Consistent with this practise, jitney orders will not be eligible to match in ATX. Ineligible orders that are routed through ATX will pass through the ATX facility without matching, and will be directed to the Exchange.

2.26 Intents and orders must be at least one security in volume.

Eligible Stock

2.27 Any of the securities listed on the Exchange are eligible for the ATX facility. The Exchange will maintain a list of valid symbols. Upon entry of an order or Intent, participants will receive a reject message if the stock symbol on the order or Intent is not valid. Securities that are halted, delayed, frozen, or inhibited on the Exchange will not be eligible for matching in ATX.

Last Sale Price

2.28 ATX trades of at least one board lot, as defined in the TSX Rules, are considered by TSX to be representative of the publicly visible market in a security and, therefore eligible to set the last sale price posted on the Exchange. Odd lot orders less than one board lot in size that are matched on ATX and executed on the Exchange are not eligible to set the last sale price. This restriction is intended to prevent the manipulation of last sale price by very small orders or Intents, which could generate adverse price movements. An Off-Market Trade will not be eligible to set last sale price.

Connecting to ATX

2.29 The ATX facility will reside between the ATX subscriber's trading terminal and the Exchange, and operate on hardware that is physically separate from the core trading engine of the Exchange. ATX will, however, utilize the front end gateway and protocols (STAMP and FIX) currently used for order entry on existing PO trading terminals. Such terminals are connected by direct telecommunication lines with the Exchange.

2.30 Subscribers will route their orders through the ATX facility by establishing a new front end telecommunication connection to the Exchange or reassigning an existing telecommunication connection, and designate the User IDs whose orders will flow through this new connection. Intent entry and the management of ATX functionalities will be provided to subscribers through a secure, web-based interface with the ATX facility, which can be integrated into existing trading terminals by TSX certified vendors.

ATX Feed

2.31 ATX will utilize existing back end systems at the Exchange to disseminate trade data.

Implementation

2.32 Implementation is anticipated by the end of 2006.

3.0 UMIR

3.1 All subscribers to ATX are expected to comply with UMIR in accordance with TSX Rules. Furthermore, the functionalities and features of the ATX facility are consistent with UMIR, and will assist POs in complying with their UMIR obligations as described below.

3.2 If an Intent in the ATX facility for the short sale of a security results in a match price below the last sale price, no match will occur. In this event, a short sale Intent shall be retained in the CIB until such time as last sale price permits a match or it is cancelled. Also, an order for the short sale of a security for a price below last sale price will not be eligible for a match within ATX and such order will pass to the Exchange and be subject to existing trading protocol. These features are consistent with UMIR requirements on short selling.

3.3 The PAG feature of the ATX facility will be designed to allow POs to prioritize their ATX trading strategy to make it consistent with the client priority requirements in UMIR. POs can ensure client Intents are filled first by assigning them top PAG priority; therefore, allowing a PO not to trade ahead of a client Intent that was received prior to the entry of a principal order or non-client order.

3.4 ATX facilitates the prevention of trading through better posted prices on the Exchange. The Price Validation Feature of the ATX facility ensures that ATX matches will not trade through better-priced visible orders.

3.5 Also, the opportunity for price improvements on orders designated for ATX and Intents will facilitate compliance with best execution obligations for POs.

4.0 PROPOSED AMENDMENTS

4.1 The proposed Amendments implement an additional rule set and definitions to govern the operations of the ATX facility, and are set out in Appendix "A" hereto.

5.0 AMENDMENT PROCESS

5.1 After discussion with various POs, proposed changes were raised for discussion at the July 2006 meeting of the Trading Advisory Committee ("TAC") for TSX. In July 2006, a draft of the amendments to the TSX Rules with respect to ATX were reviewed and approved by TAC. On July 26, 2006, the Board of Directors of TSX approved the Amendments.

6.0 PUBLIC INTEREST ASSESSMENT

6.1 The proposed ATX facility is designed to improve efficiencies in trading securities listed on the Exchange by:

- Providing access to greater liquidity
- Delivering better-priced fills
- Reducing market impact costs
- Providing greater opportunity for single price execution of large orders
- Lowering execution costs
- Expanding the set of trading facilities and strategies available to marketplace participants

6.2 ATX is designed to deliver an additional source of liquidity to ATX Participants by enabling the interaction of small retail order flow with large blocks of supply and demand, which have typically been inaccessible and restricted to trading in the upstairs market.

6.3 ATX will provide better execution to all ATX Participants through automated price improvement on the posted best bid/offer. The ATX's CIB, which is a blind electronic book, keeps undeclared interest hidden thereby lowering market impact costs by preventing unintended information leakage which may adversely affect the posted best bid/offer for a security.

6.4 Also, ATX enables Intents to potentially match with a greater volume of securities than what is otherwise visible on the Exchange's central limit order book and with price improvement over the posted best bid/offer. This feature may reduce the need to execute against multiple orders on the Exchange's central limit order book at potentially less favourable prices. In addition, this feature allows an investor to reach its trading objective with fewer executions thereby reducing overall transaction costs.

6.5 With ATX, ATX Participants will have greater choice within the Canadian capital market in selecting a trading facility that optimizes their trading strategies.

6.6 For these reasons, the Exchange believes that introducing the proposed ATX facility is not contrary to the public interest.

6.7 We submit that in accordance with the Protocol for Commission Oversight of Toronto Stock Exchange Rule Proposals, the Amendments will be considered "public interest" in nature. The Amendments would, therefore, only become effective following public notice, a comment period and the approval of the Commission.

7.0 QUESTIONS

7.1 Questions concerning this notice should be directed to Amer Chaudhry, Legal Counsel, TSX Group Inc. at (416) 947-4501.

APPENDIX "A"

THE RULES

OF

THE TORONTO STOCK EXCHANGE

RULES (as at •, 2006)	POLICIES
PART 1 - INTERPRETATION **1-101 Definitions (Amended)**	
(1) In all Exchange Requirements, unless the subject matter or context otherwise requires:	
"Alternative Trade eXecution (ATX)" is a subscription-based facility of the Exchange to match Intents against Exchange destined order flow as well as other Intents. All matches in ATX are sent to the Exchange for trade execution. **Added (•, 2006)**	
"ATX Subscriber" means a Participating Organization that has subscribed to use ATX. **Added (•, 2006)**	
"Best Bid" means the highest price of committed orders on the Exchange (or another marketplace as determined by the Exchange) to buy a particular security, where each order is at least one board lot. **Added (•, 2006)**	
"Best Bid Offer (BBO)" means the Best Bid and Best Offer. **Added (•, 2006)**	
"Best Offer" or "Best Ask" means the lowest price of committed orders on the Exchange (or another marketplace as determined by the Exchange) to sell a particular security, where each order is at least one board lot. **Added (•, 2006)**	
"Central Intent Book (or CIB)" means a blind electronic book that holds all Intents entered by ATX Subscribers. **Added (•, 2006)**	

RULES (as at •, 2006)	POLICIES
"Intent" means a willingness of a person to buy or sell a security provided that certain specified conditions are satisfied, such as a quote spread and bid offer quote volume. **Added (•, 2006)**	
"Minimum Quote Spread" is a spread value that is entered on an Intent by an ATX Subscriber that specifies a minimum quote spread that must be satisfied in order for an Intent to be eligible to match in ATX. **Added (•, 2006)**	
"Minimum Quote Volume" is a volume that is entered on an Intent by an ATX Subscriber that specifies a minimum quote volume that must be satisfied in order for an Intent to be eligible to match in ATX. **Added (•, 2006)**	
"Priority Allocation Group (PAG)" is a feature in ATX that allows an ATX Subscriber to define its in-house priority allocation for purposes of matching orders and Intents. **Added (•, 2006)**	
PART 4 – TRADING OF LISTED SECURITIES	
DIVISION 1 - MARKET FOR LISTED SECURITIES **4-108 ATX Facility** (1) Intent Entry Intents may be entered, by an ATX Subscriber, into the CIB at any time on a Trading Day. Intents entered in the CIB will not interact with the Book. (2) Intent Size Increment The ATX facility operates in a minimum size increment of one security for each Intent. (3) Order Entry Orders from an ATX Subscriber may be routed to ATX at any time on a Trading Day. Orders that an ATX Subscriber routes to ATX will not be held in the CIB but will match with Intents held in the CIB in accordance this Rule 4-108.	

RULES (as at •, 2006)	POLICIES
(4) Eligible Orders Orders which are at least one security in volume are eligible for matching in ATX. (5) Matching of Intents and Orders (a) All Intents entered by an ATX Subscriber must have a Minimum Quote Spread and a Minimum Quote Volume specified. Both of these conditions must be satisfied in order for an Intent to be eligible to match in ATX. A Minimum Quote Spread is satisfied, if, at the time of the match, the spread value of the BBO is greater than or equal to the Intent's Minimum Quote Spread. A Minimum Quote Volume is satisfied if, at the time of the match, the aggregate volume of the BBO, on the same side as the Intent, is greater than or equal to the Intent's Minimum Quote Volume. (b) Orders will be immediately matched with Intents in the CIB that are on the contra side of the order, subject to Rule 4-108(5)(a). A buy order will be matched with a sell Intent at the Best Offer, at such time, plus price improvement as determined by the Exchange, from time to time, with such price improvement being provided to the order. A sell order will be matched with a buy Intent at the Best Bid, at such time, plus price improvement as determined by the Exchange, from time to time, with such price improvement being provided to the order. (c) Subject to Rule 4-108(5)(a), active Intents will be immediately matched with other Intents in the CIB that are on the contra side of the active Intent. An active buy Intent will be matched with a sell Intent at the Best Offer, at such time, plus price improvement as determined by the Exchange, from time to time, with such price improvement being provided to the active buy Intent. An active sell Intent will be matched with a buy Intent at the Best Bid, at such time, plus price improvement, as determined by the Exchange from time to time, with such price improvement being provided to the active sell Intent. (d) All matching in ATX will occur during the Regular Session but will not occur if the security is halted or delayed by the Exchange or RS. (e) Matches will not execute if at the time the match is reported to the Exchange it is outside the posted BBO quote. (6) Priority of Matches Notwithstanding Rules 4-801 and 4-802 and subject to Rule 4-108(5)(a), orders shall match with Intents in the CIB, active Intents shall match with other Intents in the CIB:	

RULES (as at •, 2006)	POLICIES
(a) Orders shall match with Intents in the CIB in the following manner and sequence: (i) orders with Intents from the same ATX Subscriber according to such ATX Subscriber's PAG assignment. Intents with the same PAG assignment are matched with orders in time priority; then (ii) orders with Intents that meet a minimum volume requirement, as determined by the Exchange from time to time. Where multiple Intents meet the minimum volume requirement, these Intents shall be matched in time priority, without regard to the size of the Intents; then (iii) orders with all other Intents in time priority; then (iv) any residual volume of the order is sent immediately to the Book. (b) Active Intents shall match against Intents in the CIB in the following manner and sequence: (i) Intents with other Intents from the same ATX Subscriber according to such ATX Subscriber's PAG assignment. Intents with the same PAG assignment are matched with other Intents in time priority; then (ii) Intents with other Intents that meet a minimum volume requirement, as determined by the Exchange from time to time. Where multiple Intents meet the minimum volume requirement, these Intents shall be matched in time priority, without regard to the size of the Intent; then (iii) Intents with all other Intents in time priority. (7) Unmatched Intents An unmatched Intent will remain in the CIB until such Intent: (a) is matched with an order or an active Intent; (b) is cancelled by the ATX Subscriber; or (c) expires based on the duration of the Intent. (8) Application of Exchange Requirements Except as otherwise provided in this Rule, all Exchange Requirements shall apply to the entry and execution of Intents and orders. For greater certainty, for purposes of Rule 2-501, Rule 2-502, Rule 2-503 and their related policies, reference to the term orders shall include both	

RULES (as at •, 2006)	POLICIES
orders and Intents entered in the ATX facility, and reference to the term Book in Policy 2-502(2)(e) shall include CIB. **Added (•, 2006)**	

13.1.3 CNQ - Revised Trader Approval Form

CNQ Notice 2006-006
Pure Trading Notice 2006-004
September 21, 2006

REVISED TRADER APPROVAL FORM

CNQ has revised the form for new applications to become Approved Traders. The new form is effective immediately as a "housekeeping" amendment as the only changes are to add a contact phone number in Vancouver and to add columns indicating whether approval is sought for the CNQ listed market, the Pure Trading Market or both.

The form must be signed by the CNQ Representative. The CNQ Representative may by letter addressed to CNQ authorize another person(s) to make applications.

A copy of the amended form is attached. Clean copies are available on the CNQ website at www.cnq.ca under "Info for Dealers."

For further information, please contact Mark Faulkner, Director, Listings and Regulation, at 416.572.2000 x2305 (Mark.Faulkner@cnq.ca).

CNQ REQUEST TO ADD TRADERS

This form must be completed and sent back or faxed to Account Services (F: 416-572-4160 or 604-408-2303) in order to add new traders to an existing CNQ Dealer application and agreement. The named traders must complete the CNQ Trader Training before they will become approved to trade the CNQ listed market. This form must be signed by the individual appointed as the CNQ Representative.

1. *Please list the name, address, phone number, and email address of all traders requiring access to the CNQ marketplace.*

2. *Please indicate which order entry vendor system the trader will use and what their 7 digit ID number is for that machine.*

3. *Place a check mark in the appropriate box to indicate if the trader is an Approved Trader on the TSX or TSX Venture Exchange and/or whether the trader has completed the CSI Trader Training Course (check all that apply).*

4. *Confirmation of registration in either Ontario or the province the trader is located in must also be provided for each trader.*

Name	Location	Phone	Email	Order Entry Vendor	7 Digit ID Number	TSX	TSX-V	CNQ	Pure	CSI Trader Training	Registration

Dated at_____ this _____ day of _____.

By

_____
Print Name of Partner or Senior Officer appointed as CNQ Representative

_____
Title

_____
Signature

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Chapter 25

Other Information

25.1 Exemptions

25.1.1 Mavrix Explore Québec 2006 FT Limited Partnership - Form 41-501F1, item 27.2

Headnote

Exemption from the provisions of Item 27.2 of Form 41-501F1 which requires that an issuer attach a copy of the limited partnership agreement to both the preliminary and final prospectus, subject to certain conditions.

Rules Cited

Ontario Securities Commission Rule 41-501 - General Prospectus Requirements, s. 15.1.
Form 41-501F1 - Information Required in a Prospectus, item 27.2.

September 19, 2006

Blake, Cassels & Graydon LLP

Attention: Kym Zelinski

Dear Sirs/Mesdames:

Re: Mavrix Explore Québec 2006 FT Limited Partnership (the "Partnership")
Exemptive Relief Application under Part 15 of OSC Rule 41-501 General Prospectus Requirements ("Rule 41-501")
Application No. 665/06, SEDAR Project No. 988405

By letter dated August 30, 2006 (the "Application"), the Partnership applied to the Director of the Ontario Securities Commission (the "Director") pursuant to section 15.1 of Rule 41-501 for relief from the operation of item 27.2 of Form 41-501F1 which requires that an issuer attach a copy of the limited partnership agreement to both its preliminary and final prospectus.

This letter confirms that, based on the information and representations made in the Application, and for the purposes described in the Application, the Director intends to grant the requested exemption to be evidenced by the issuance of a receipt for the Partnerships' prospectus, subject to the following conditions:

1. the final prospectus will include a summary of all material provisions of the limited partnership agreement; and

2. the final prospectus will advise investors and potential investors of the various means by which they can obtain copies of the limited partnership agreement, which will include:

   a. inspection during normal business hours at the Partnership's principal place of business;

   b. from SEDAR;

   c. upon written request to the General Partner; and

   d. from the website of the Partnership's manager.

Yours very truly,

"Leslie Byberg"
Manager, Investment Funds Branch

25.2 Consents

25.2.1 ROC Pref Corp. - s. 4(b) of the Regulation

Headnote

Consent given to an offering corporation under the OBCA to continue under the BCBCA.

Statutes Cited

Business Corporations Act, R.S.O. 1990, c. B.16, as am.
Business Corporations Act, S.B.C. 2002, c. 57.
Securities Act, R.S.O. 1990, c. S.5., as am.

Regulation Cited

Regulation made under the Business Corporations Act, Ont. Reg. 289/00, as am., s.4(b)

September 26, 2006

IN THE MATTER OF
ONT. REG. 289/00 (THE "REGULATION")
MADE UNDER
THE BUSINESS CORPORATIONS ACT
R.S.O. 1990, c.B.16, AS AMENDED
(THE "OBCA")

AND

IN THE MATTER OF
ROC PREF CORP.

CONSENT
(Subsection 4(b) of the Regulation)

UPON the application (the Application) of ROC PREF CORP. (the Corporation) to the Ontario Securities Commission (the Commission) requesting the consent of the Commission to continue into another jurisdiction pursuant to Subsection 4(b) of the Regulation;

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

AND UPON the Corporation having represented to the Commission that:

1. the Corporation proposes to make application (the Application for Continuance) to the Director appointed under the OBCA for authorization to continue under the *Canada Business Corporations Act*, R.S.C. 1985, chapter C-44 (the CBCA), pursuant to section 181 of the OBCA;

2. pursuant to Subsection 4(b) of the Regulation, where the Corporation is an offering corporation, the Application for Continuance must be accompanied by the consent of the Commission;

3. the Corporation is an offering corporation under the OBCA and is a reporting issuer under the *Securities Act*, R.S.O. 1990, c. S.5, as amended, (the Act);

4. the Corporation is not a defaulting reporting issuer under the Act or the Regulation thereunder and, to the best of its knowledge, information and belief, is not a party to any proceeding under the Act;

5. the continuance of the Corporation under the CBCA has been proposed because the Corporation believes it to be in the best interests of the Corporation;

6. the sole voting shareholder of the Corporation will approved the continuance under the CBCA by special resolution on September 1, 2006; and

7. the Corporation intends to continue to be a reporting issuer in the Province of Ontario.

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

THE COMMISSION HEREBY CONSENTS to the continuance of the Corporation under the CBCA.

"Robert L. Shirriff"

"Susan Wolburg Jenah"

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