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Table of Contents

Chapter 1 Notices / News Releases 9459
1.1 Notices 9459
1.1.1 Current Proceedings Before The Ontario Securities Commission 9459
1.1.2 CSA Notice 24-303 – CSA SRO Oversight Project – Review of Oversight of Self-Regulatory Organizations and Market Infrastructure Entities – Report of the CSA SRO Oversight Project Committee – December 2006 9462
1.2 Notices of Hearing 9496
1.2.1 Crown Capital Partners Ltd. et al. - s. 127 9496
1.3 News Releases ..... (nil)
1.4 Notices from the Office of the Secretary 9498
1.4.1 Bennett Environmental Inc. et al. 9498
1.4.2 Jose L. Castaneda 9499
1.4.3 Bennett Environmental Inc. et al. 9499
1.4.4 Crown Capital Partners Ltd. et al. 9500
1.4.5 Mega-C Power Corporation et al. 9500
1.4.6 Euston Capital Corp. and George Schwartz 9501

Chapter 2 Decisions, Orders and Rulings 9503
2.1 Decisions 9503
2.1.1 CHUM Limited - s. 83 9503
2.1.2 Hillsdale Canadian Long/Short Equity Fund et al. - MRRS Decision 9504
2.1.3 CIBC World Markets Inc. and Canadian Imperial Bank Of Commerce - MRRS Decision 9506
2.1.4 Sunrise Senior Living Real Estate Investment Trust - MRRS Decision 9509
2.1.5 Big Rock Brewery Income Trust - MRRS Decision 9512
2.1.6 Mackenzie Financial Corporation et al. - MRRS Decision 9516
2.1.7 H& R Block Canada, Inc. - MRRS Decision 9519
2.1.8 Burgundy Asset Management Ltd. 9521
2.1.9 Skye Resources Inc. - MRRS Decision 9522
2.2 Orders 9526
2.2.1 Orion Capital Incorporated and Tengtu International Corp. - s. 144 9526
2.2.2 Bennett Environmental Inc. et al. - s. 127 9527
2.2.3 Jose L. Castaneda - s. 127 9528
2.2.4 Bennett Environmental Inc. et al. - s. 127 9529
2.2.5 Mega-C Power Corporation et al. 9530
2.2.6 Research In Motion Limited - s. 144 9531
2.2.7 Authorization Order - s. 3.5(3) 9533
2.2.8 Euston Capital Corp. and George Schwartz - s. 127(7) 9534
2.3 Rulings ..... (nil)

Chapter 3 Reasons: Decisions, Orders and Rulings 9537
3.1 OSC Decisions, Orders and Rulings 9537
3.1.1 Bennett Environmental Inc. et al. 9537
3.1.2 Bennett Environmental Inc. et al. 9545
3.1.3 Bennett Environmental Inc. et al. 9553
3.2 Court Decisions, Order and Rulings ..... (nil)

Chapter 4 Cease Trading Orders 9555
4.1.1 Temporary, Permanent & Rescinding Issuer Cease Trading Orders 9555
4.2.1 Temporary, Permanent & Rescinding Management Cease Trading Orders 9555
4.2.2 Outstanding Management & Insider Cease Trading Orders 9555

Chapter 5 Rules and Policies ..... (nil)

Chapter 6 Request for Comments ..... (nil)

Chapter 7 Insider Reporting 9557

Chapter 8 Notice of Exempt Financings 9651
Reports of Trades Submitted on Forms 45-106F1 and Form 45-501F1 9651

Chapter 9 Legislation ..... (nil)

Chapter 11 IPOs, New Issues and Secondary Financings 9657

Chapter 12 Registrations 9667
12.1.1 Registrants 9667

Chapter 13 SRO Notices and Disciplinary Proceedings 9669
13.1.1 MFDA Issues Notice of Hearing Regarding Jean-Pierre Groulx 9669
13.1.2 CDS Notice and Request for Comments – Material Amendments to CDS Rules Relating to CREST Link 9670

Chapter 25 Other Information 9681
25.1 Exemptions 9681
25.1.1 Thistle Mining Inc. - s. 13.1 of NI 51-102 9681
25.2 Consents 9682
25.2.1 Boulder Mining Corporation - s. 4(b) of the Regulation 9682

Index 9685

Chapter 1

Notices / News Releases

1.1 Notices

1.1.1 Current Proceedings Before The Ontario Securities Commission

DECEMBER 08, 2006

CURRENT PROCEEDINGS

BEFORE

ONTARIO SECURITIES COMMISSION

- -

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

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Wendell S. Wigle, Q.C.	—	WSW

SCHEDULED OSC HEARINGS

December 8, 2006 **Thomas Hinke**

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

A. Sonnen in attendance for Staff

Panel: PMM/DLK

December 13, 2006 **Juniper Fund Management Corporation, Juniper Income Fund, Juniper Equity Growth Fund and**

10:00 a.m. **Roy Brown (a.k.a. Roy Brown-Rodrigues)**

s.127 and 127.1

D. Ferris in attendance for Staff

Panel: SWJ/ST

January 15, 2007 **Norshield Asset Management (Canada) Ltd., Olympus United**

10:00 a.m. **Group Inc., John Xanthoudakis, Dale Smith and Peter Kefalas**

s.127

M. MacKewn in attendance for Staff

Panel: WSW/DLK

February 27, 2007 **Crown Capital Partners Ltd., Richard Mellon and Alex Elin**

10:00 a.m.

s. 127

H. Craig in attendance for Staff

Panel: TBA

March 8, 2007 **First Global Ventures, S.A., Allen Grossman and Alan Marsh Shuman**

10:00 a.m.

s. 127

D. Ferris in attendance for Staff

Panel: TBA

March 26, 2007 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
	* October 3, 2006 – Notice of Withdrawal
May 7, 2007 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: 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
May 28, 2007 10:00 a.m.	**Jose Castaneda** s. 127 and 127.1
	H. Craig in attendance for Staff
	Panel: WSW/DLK
October 12, 2007 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 29, 2007 10:00 a.m.	**Mega-C Power Corporation, Rene Pardo, Gary Usling, Lewis Taylor Sr., Lewis Taylor Jr., Jared Taylor, Colin Taylor and 1248136 Ontario Limited**
	S. 127
	A. Sonnen 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	**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

TBA **Euston Capital Corporation and George Schwartz**

s. 127

Y. Chisholm in attendance for Staff

Panel: TBA

ADJOURNED SINE DIE

Global Privacy Management Trust and Robert Cranston

Andrew Keith Lech

S. B. McLaughlin

Livent Inc., Garth H. Drabinsky, Myron I. Gottlieb, Gordon Eckstein, Robert Topol

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 CSA Notice 24-303 – CSA SRO Oversight Project – Review of Oversight of Self-Regulatory Organizations and Market Infrastructure Entities – Report of the CSA SRO Oversight Project Committee – December 2006

CANADIAN SECURITIES ADMINISTRATORS NOTICE 24-303

CSA SRO OVERSIGHT PROJECT
REVIEW OF OVERSIGHT OF SELF-REGULATORY ORGANIZATIONS AND MARKET INFRASTRUCTURE ENTITIES
REPORT OF THE CSA SRO OVERSIGHT PROJECT COMMITTEE
DECEMBER 2006

Table of Contents

EXECUTIVE SUMMARY

A. RELIANCE ON SELF-REGULATORY ORGANIZATIONS (SROs) AND MARKET INFRASTRUCTURE ENTITIES AND THE CSA SRO OVERSIGHT PROJECT

B. HOW DO WE DETERMINE AN APPROPRIATE LEVEL OF RELIANCE?

Public Interest Criteria
Governance
Enforcement Powers

C. GAPS, DUPLICATIONS AND INCONSISTENCIES

Transparency of Role of SROs and Market Infrastructure Entities and Streamlining
SRO Consolidation

D. IMPROVING THE CURRENT OVERSIGHT APPROACH

Oversight Reviews
Review of Rules

E. CONCLUSION

I. ROLE OF SROs AND MARKET INFRASTRUCTRE ENTITIES IN A CHANGING ENVIRONMENT

A. THE PRINCIPLE OF RELIANCE AND THE CSA SRO OVERSIGHT PROJECT

B. THE CSA's OVERSIGHT EXPERIENCE

C. CHANGES IN THE SECURITIES INDUSTRY AND THE SCOPE OF THE CSA SRO OVERSIGHT PROJECT

II. HOW DO WE DETERMINE AN APPROPRIATE LEVEL OF RELIANCE?

A. PUBLIC INTEREST

1. Overview
2. Definition of Public Interest and How SROs Meet the Public Interest

B. GOVERNANCE

1. Overview
2. Independence
3. Nomination and Election Process

C. ROLE OF MEMBERS IN THE RULE-MAKING AND POLICY DEVELOPMENT PROCESSES

D. SROs' ENFORCEMENT TOOLS

1. Overview
2. Request for Statutory Enforcement Powers
3. Current Status

4. Evaluation of Request
5. Checks and Balances to Ensure Procedural Fairness and Protections
6. Application of Powers

III. GAPS, DUPLICATIONS AND INCONSISTENCIES AMONG SROs

A. COORDINATION AMONG SROs AND MARKET INFRASTRUCTURE ENTITIES

1. Multiple SROs
2. Regulatory Gaps
3. Public Transparency regarding Role of SROs and Market Infrastructure Entities
4. U.S. Developments

B. CIPF's OVERSIGHT ROLE OVER THE IDA

1. Duplication between CIPF and IDA
2. Proposed Industry Solution

C. SRO CONSOLIDATION

IV. EFFECTIVE CSA OVERSIGHT

A. IMPROVING THE CURRENT OVERSIGHT APPROACH

1. Current Oversight Approach
2. Oversight Review Coordination
3. Rule Review and Approval
4. Issues and Options for Improvement of Oversight Processes

B. OVERSIGHT REVIEWS

1. Nature of Oversight Reviews
2. Process for Conducting Oversight Reviews

C. REVIEW OF RULE PROPOSALS

1. Timelines and the Level of Review of Rule Proposals
2. U.S. Approach
3. Self-certification by Canadian SROs and Market Infrastructure Entities

D. INCONSISTENT APPROACHES TO REGULATION AND POLICY INTERPRETATION

E. LACK OF CLEAR CRITERIA FOR DIVISION OF RESPONSIBILITIES

F. TRANSPARENCY OF OVERSIGHT ACTIVITIES

V. IMPLEMENTATION

VI. CONCLUSION

APPENDIX A

CFTC's AND SEC's STUDIES ON SELF-REGULATION

(A) CFTC's SRO Study
(B) SEC's SRO Study

APPENDIX B

REPORTS OF THE FIVE YEAR REVIEW COMMITTEE AND THE STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS OF ONTARIO

(A) Five Year Review Committee
(B) Standing Committee on Finance and Economic Affairs (SCFEA)

CSA SRO OVERSIGHT PROJECT
REVIEW OF OVERSIGHT OF SELF-REGULATORY ORGANIZATIONS
AND MARKET INFRASTRUCTURE ENTITIES
DECEMBER 2006

EXECUTIVE SUMMARY

A. Reliance on Self-Regulatory Organizations (SROs) and Market Infrastructure Entities and the CSA SRO Oversight Project

The Canadian regulatory regime has relied increasingly on self-regulatory organizations and market infrastructure entities such as exchanges and clearing agencies to protect investors and to promote fair, efficient and competitive capital markets. The securities commissions[1] enhanced the oversight programs for these entities in 1999. Prior to that, oversight focused on the review and approval of by-laws and rules. Since then, the Canadian Securities Administrators (CSA) have also reviewed the activities and status of these entities including: their resources and financial position, decisions, material changes to operations and reporting on regulatory activities. As the scope of CSA oversight has expanded, generally in line with the increasing regulatory role of the entities, they have become subject to heightened levels of monitoring and scrutiny.

The CSA SRO Oversight Project Committee[2] (Project Committee or we) was struck with a mandate to examine both strategic and operational issues regarding self-regulatory organizations and CSA oversight processes. The project focused on issues related to the current regulatory system and was not intended to be a broader review from first principles of the pros and cons of self-regulation. However, it does not preclude such a review in the future, if needed.

The Project Committee met with board and management representatives of nine SROs and market infrastructure entities[3] to discuss issues that included:

- The major challenges facing SROs and market infrastructure entities from a strategic perspective and the impact of major market changes on the nature of self-regulation;
- Governance, including how an SRO or a market infrastructure entity balances its public interest mandate and the interests of its members or participants;
- The regulatory roles of SROs and market infrastructure entities;
- The role of the industry committees of an SRO or of a market infrastructure entity in the regulatory processes;
- How an SRO or a market infrastructure entity interprets and fulfills its public interest mandate; and
- The division of responsibilities among the SROs and market infrastructure entities, and that between the regulators and the entities they oversee.

This report summarizes the main issues we identified during the discussions and the Project Committee's recommendations to the CSA regarding those issues. The recommendations are not intended to be one-size-fits-all. The structure and functions of each SRO and each market infrastructure entity will impact on how each recommendation is applied.

B. How Do We Determine an Appropriate Level of Reliance?

As a general principle, the Project Committee believes that the CSA should increase the degree of reliance on SROs and market infrastructure entities where they can clearly demonstrate that they meet their public interest mandate and the high level standards in their recognition orders and related documents. Increased reliance might entail, for example, a less hands-on approach to oversight generally or less detailed analysis by the CSA of decisions and submissions (such as rules developed) of SROs and market infrastructure entities.

---

1 In this paper we use "securities commissions" and "commissions" when referring to the securities regulatory authorities.

2 Members of the Project Committee are: Elaine Lanouette (AMF); Shaun Fluker (ASC); David McKellar (ASC); Robin Ford (BCSC); Doug Brown (MSC); Susan Wolburgh Jenah (OSC and Chair of the Project Committee); Antoinette Leung (OSC); Randee Pavalow (OSC); Cindy Petlock (OSC); and Ruxandra Smith (OSC).

3 The SROs are the Investment Dealers Association of Canada (IDA), the Mutual Fund Dealers Association of Canada (MFDA) and Market Regulation Services Inc. (RS). The market infrastructure entities that participated in the project included: exchanges such as the Bourse de Montréal (Bourse) (including its wholly owned subsidiary, the Canadian Derivatives Clearing Corporation (CDCC)), the Toronto Stock Exchange (TSX), the TSX Venture Exchange (TSXV), the Canadian Trading and Quotation System Inc. (CNQ); a clearing agency, The Canadian Depository for Securities Limited (CDS); and an investor protection fund, the Canadian Investor Protection Fund (CIPF).

Public Interest Criteria

SROs and market infrastructure entities should always act either in accordance with, or not contrary to, the public interest. Each SRO and each market infrastructure entity should be able to demonstrate and explain in writing how it meets its public interest mandate when making regulatory decisions and, while they should remain flexible in determining how they meet this mandate, they should consider certain high-level criteria in the process, including:

- The decision would be in the interest of, or would not negatively impact, investors;
- The decision would not inappropriately stifle innovation or competition;
- The decision would not unfairly discriminate against certain types of businesses, participants, products or investors;
- The decision would appropriately balance investor protection and the efficiency of the capital markets; and
- Any other criterion that may be appropriate for the subject of the specific decision.

In addition, the SROs and market infrastructure entities must meet high-level standards covering areas such as governance, rule-making and membership. These standards are generally included in their recognition orders or related documents and include:

- Governance structure – an SRO or market infrastructure entity should have an appropriate governance structure that allows it to manage conflicts of interest and ensure different stakeholders are fairly represented;
- Rule-making and policy development processes – the processes for rule-making and policy development should foster investor protection and promote fair, efficient and competitive capital markets;
- Membership or access – an SRO or market infrastructure entity should have processes and policies for granting membership or access to its facilities or regulation services to prevent unfair discrimination among members and to avoid the creation of undue barriers to entry;
- Systems and controls – an SRO or market infrastructure entity should have systems and internal controls to ensure that it is carrying out its functions effectively and efficiently;
- Fees or costs – an SRO or market infrastructure entity's fee setting process should be fair and the fees proportionate to ensure the entity has adequate financial resources and staffing for performing its functions without creating undue barriers to entry;
- Information sharing and transparency – SROs and market infrastructure entities should, when appropriate, share information with each other and with the securities commissions to the extent possible under applicable laws, to ensure effective oversight, minimize duplications and inconsistencies, and maximize coordination; and
- Accountability to recognizing regulators – an SRO or market infrastructure entity must be accountable to its recognizing regulators by demonstrating that it is meeting its mandate and these high level standards.

Governance and regulatory processes are key areas where performance of SROs and market infrastructure entities can influence the CSA's level of reliance. In this report, we make recommendations in these areas, as well as on enhanced coordination, transparency and accountability.

Governance

Effective governance is, of course, a pre-condition to increased reliance. For this reason, SROs and market infrastructure entities need to demonstrate effective governance in order to allow the CSA to increase reliance on them. Effective governance structures require appropriate representation of independent or public directors on the board or other mechanisms, such as a Regulatory Oversight Committee, to help entities carry out their regulatory responsibilities without undue influence from their members or their commercial operations. The Project Committee also recognizes the importance of the board nomination process, and recommends that the SROs and market infrastructure entities review their existing board nomination and election processes and consider whether modifications are appropriate.

Enforcement Powers

SROs indicated that they currently do not have sufficient enforcement powers to carry out their regulatory functions in the most efficient and effective manner. The IDA, MFDA and RS made a joint submission to the Ontario Five Year Review Committee to request certain statutory enforcement powers to support their jurisdiction and enforcement process. During the course of the CSA SRO Oversight Project, one SRO renewed its request for the following statutory powers:

- Authority to file disciplinary decisions with the courts;
- Power to compel third parties to produce documents and attend as witnesses during investigations and at hearings;
- Statutory immunity;
- Jurisdiction over current and former non-registered employees of members;
- Jurisdiction over current and former members and approved persons; and
- Power to seek judicial appointment of a monitor.

For jurisdictions where these powers are not already in place,[4] the Project Committee unanimously supports, subject to each jurisdiction's assessment of the appropriate timing for such a recommendation, the granting of the authority to file disciplinary decisions with the courts. Members of the Project Committee, other than BC, also support the granting of statutory immunity to SROs. In BC, statutory immunity already extends to the exercise of statutory functions authorized by the BCSC.

Although the Project Committee is not prepared to recommend that additional statutory powers be granted to the SROs at this time, we acknowledge the rationale for the SROs' request. The CSA will continue the dialogue with the SROs in order to review the appropriateness of these recommendations from time to time.

C. Gaps, Duplications and Inconsistencies

In our regulatory system, multiple SROs and market infrastructure entities have different jurisdictions and may oversee the same or different market participants. Inevitably there are some duplications, inconsistencies and gaps. The SROs acknowledged the increasing regulatory burden faced by their members and some made specific suggestions about how to reduce this burden. The Project Committee was also concerned that there may be a lack of clarity about the roles of the various SROs and market infrastructure entities.

Transparency of Role of SROs and Market Infrastructure Entities and Streamlining

We think that there should be increased cooperation among SROs and market infrastructure entities, and enhanced transparency regarding their roles and responsibilities. They should clarify and make public their respective regulatory roles and describe the processes in place to address duplications, inconsistencies and gaps between them.

SRO Consolidation

During the meetings held as part of the CSA SRO Oversight Project, it was noted that one way to deal with the inefficiencies associated with multiple SROs would be a merger among the IDA, MFDA and RS. The Project Committee recommends that any merger proposal assess the expected benefits of the merger against its anticipated costs and explain how the merger is in the public interest. In addition, to help guide CSA decisions on mergers, we propose a number of high level evaluation criteria.

D. Improving the Current Oversight Approach

The SROs and market infrastructure entities perform roles and functions that are important to the capital markets specifically, and to the economy generally. Oversight of these entities is necessary to establish and monitor their accountability and compliance with their public interest mandate.

The oversight of SROs and market infrastructure entities operating in multiple jurisdictions is a task that is shared among multiple regulators. The CSA have acknowledged the inefficiencies caused by the involvement of multiple regulators and have established formal memoranda of understanding (MOUs) and informal processes in order to coordinate oversight.

[4] Some jurisdictions already grant certain of these powers or protections, and did not revisit them in the course of the project.

Oversight Reviews

For oversight reviews, which are generally coordinated to some extent, more consistency in the different approaches of the recognizing regulators could be achieved. One option is for staff from different recognizing regulators to work as a team in conducting oversight reviews.

At the same time, the CSA should establish clear, high level qualitative and quantitative performance benchmarks for the evaluation of the entities they oversee. Such benchmarks must be objective and meaningful. This will be a difficult challenge, but we are of the view that adopting such performance measures would improve the quality and consistency of oversight reviews.

For their part, each SRO and each market infrastructure entity should more meaningfully self-assess and document its efficiency and effectiveness in meeting its strategic plan and objectives, regulatory mandate, and any relevant high level standards and benchmarks. They should measure outcomes and not activities. This information would be used by the CSA in conjunction with the results of oversight reviews to evaluate the overall performance of the entities they oversee.

Review of Rules

We recommend a more streamlined CSA rule review process, where the CSA would limit their review to material rule proposals. The CSA, SROs and market infrastructure entities would need to agree on criteria for what is "material" and to set out expectations on how the entities would assess and self-certify whether proposed changes to an existing rule or proposed new rules are material. The non-material rule proposals would be deemed approved at the end of a public comment period and there would be a process in place for periodic review of the appropriateness of the classification criteria and procedures.

E. Conclusion

More reliance on the increasingly mature SROs and, as applicable, market infrastructure entities, in carrying out their regulatory functions, may be appropriate. The challenge, however, is achieving a proper balance between reliance and oversight. To the extent that these entities demonstrate effective performance of their respective regulatory mandates, the CSA should take this into account in determining the appropriate level of oversight. The CSA will also review and improve their current oversight processes to streamline them and increase their overall efficiency.

I. ROLE OF SROS AND MARKET INFRASTRUCTURE ENTITIES IN A CHANGING ENVIRONMENT

A. The Principle of Reliance and the CSA SRO Oversight Project

Self-regulatory organizations and market infrastructure entities develop standards of practice and business conduct, monitor their members' or participants' compliance with these standards, and take appropriate enforcement actions against those who violate these requirements.[5]

The Canadian regulatory regime employs government regulation together with self-regulatory organizations and market infrastructure entities such as exchanges and clearing agencies to protect investors and to promote fair, efficient and competitive capital markets. Canadian securities legislation enables securities commissions to recognize self-regulatory organizations, exchanges and clearing agencies,[6] and encourages reliance on SROs.[7] Reliance on SROs is one of the objectives and principles of securities regulation of the International Organization of Securities Commissions (IOSCO), which states that "[t]he regulatory regime should make appropriate use of Self-Regulatory Organizations that exercise some direct oversight responsibility for their respective areas of competence and to the extent appropriate to the size and complexity of the markets".[8]

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5 The current regulatory regime provides for parallel regulation of members and participants of these organizations and entities. For instance, securities commissions make general rules for dealers, while self-regulatory organizations make rules that are consistent but may be more restrictive on the same subject matter; therefore, both securities commissions and self-regulatory organizations may take enforcement actions against members.

6 Part 4 of the *Securities Act* (Alberta) (ASA), Part 4 of the *Securities Act* (British Columbia) (BCSA), Section 14 of the *Commodity Futures Act* (Manitoba), Section 31.1 of the *Securities Act* (Manitoba), Part VIII of the *Securities Act* (Ontario) (OSA) and Title III of *An Act respecting the Autorité des marchés financiers* (Québec) (AMF Act) authorize the respective securities commissions to recognize self-regulatory organizations, exchanges and clearing agencies.

7 For example, section 2.1 of the OSA states, in part, that "In pursuing the purposes of this Act, the Commission shall have regard to the following fundamental principles: ... 4. The Commission should, subject to an appropriate system of supervision, use the enforcement capability and regulatory expertise of recognized self-regulatory organizations."

8 See *Objectives and Principles of Securities Regulation*, International Organization of Securities Commission, May 2003, page 12.

The SROs, specifically the IDA, the MFDA and RS, are recognized as self-regulatory organizations as defined in various jurisdictions' securities legislation,[9] and some jurisdictions have delegated to them certain powers under their securities legislation, such as registration and compliance functions.[10] Market infrastructure entities, which are exchanges, quotation and trade reporting systems, clearing agencies and compensation funds, operate facilities and systems to facilitate trading, reduce risk and improve the efficiency of the capital markets. They also set rules and monitor and enforce participants' compliance with these rules. Examples of market infrastructure entities are the Bourse[11], CNQ, TSX, the Winnipeg Commodity Exchange Inc. (WCE), CDS, CDCC and CIPF. Some of these entities are for-profit organizations, others are not, and some have competitors while others have monopoly positions.

The nature and degree of CSA reliance on SROs and market infrastructure entities varies across entities. Certain SROs (such as the Bourse, IDA, MFDA and RS) are expected to perform a broad range of front-line regulatory functions and identify, through their ongoing regulatory activities, concerns that will be referred to the securities commissions where appropriate (for example, an exchange may identify and refer potential insider trading). Other entities are limited to specific functions.[12]

Securities commissions conduct regular oversight of SROs and market infrastructure entities to evaluate their effectiveness, to confirm that they are acting in the public interest and to ensure that any conflicts of interest between the public and their members/users and any conflicts among members/users are properly managed. IOSCO's *Objectives and Principles of Securities Regulation*[13] and legislation in many jurisdictions[14] outline this oversight responsibility.

This report is the product of a review by the Project Committee to identify ways of improving the CSA oversight regime, to clarify the respective roles of SROs, market infrastructure entities and securities commissions, and to identify and analyze other current issues relating to self-regulation.

Between February 2005 and February 2006, the Project Committee held fact finding meetings with SRO and market infrastructure entity board and management representatives. The topics discussed at the meetings with the SROs and market infrastructure entities included:

- The major challenges facing these entities from a strategic perspective and the impact of major market changes on the nature of self-regulation;
- Governance, including how they balance their public interest mandate and the interests of their members or participants;
- The regulatory role of SROs and market infrastructure entities, as well as the role of their industry committees in the regulatory processes;
- How these entities interpret and fulfill their public interest mandate; and
- The division of responsibilities among SROs, among certain SROs and market infrastructure entities, and between the regulators and the entities they oversee.

The CSA SRO Oversight Project covered issues related to the current regulatory system, and was not intended to be a broader review from first principles of the pros and cons of self-regulation or the appropriateness of reliance on SROs and market infrastructure entities. We note, however, that this project does not preclude such a review in the future, if warranted. The CSA will continue to analyze the relationship between the CSA, SROs and market infrastructure entities periodically and, in the process, will review other approaches to regulation.

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9 The AMF Act does not define "self-regulatory organization", but states, in section 60, that: "A legal person, a partnership or any other entity may monitor or supervise the conduct of its members or participants...only if it is recognized…as a self-regulatory organization". The OSA defines "self-regulatory organization" as "a person or company that represents registrants and is organized for the purpose of regulating the operations and the standards of practice and business conduct of its members and their representatives with a view to promoting the protection of investors and the public interest." The *Securities Act* (BC) (2004) (not yet in force) defines a "self-regulatory organization" as "a person, other than a marketplace, that sets standards for, or monitors conduct of, its members or participants relating to trading in or advising on securities."

10 The ASC, the BCSC and the OSC have delegated certain registration functions to the IDA; the AMF has delegated registration and inspection functions and powers to the IDA.

11 We note that the Bourse is also a recognized SRO in Québec.

12 CIPF performs certain oversight functions over the IDA's financial compliance activities. A proposed change in its role is described later in this paper.

13 Principles of self-regulation in IOSCO's *Objectives and Principles of Securities Regulation* state that "SROs should be subject to the oversight of the regulator and should observe standards of fairness and confidentiality when exercising powers and delegated responsibilities."

14 For example, section 2.1 of the OSA.

During the same period, the Commodity Futures Trading Commission (CFTC) and the Securities and Exchange Commission (SEC) each initiated a review of their self-regulatory system[15] and oversight regime. The CFTC commenced its SRO study in 2003, sought public comments in 2004[16] and 2005[17] and, in February 2006, conducted a public hearing on various aspects of self-regulation. The SEC published for comment, in November 2004, a concept release regarding self-regulation[18] and proposed regulations to improve self-regulation and regulatory oversight.[19] See Appendix A for a summary of the topics covered in the CFTC's and SEC's reviews. Neither the CFTC nor the SEC have concluded their studies at this time.

Recent studies in this area that precede this project include those conducted by the Ontario Five Year Review Committee and the Standing Committee on Finance and Economic Affairs (SCFEA).[20] Both Committees discussed the following topics:

- The potential conflict of interest due to an SRO's dual role as a trade association and a regulator;
- The role of self-regulatory organizations;
- Whether self-regulatory organizations and other market infrastructure entities should be required to be recognized by the securities commission; and
- Whether recognized self-regulatory organizations should have legislated enforcement powers.

See Appendix B for a further description of the issues raised in these reports. We note that other current publications also address some of these issues.[21]

This paper summarizes the main issues we identified during our discussions with the SROs and market infrastructure entities and our recommendations for addressing them. Part II covers issues concerning reliance on and oversight of SROs and market infrastructure entities. Part III discusses gaps, duplications and inconsistencies resulting from multiple SROs and market infrastructure entities. Part IV discusses potential improvements to the CSA's oversight. Lastly, Part V discusses how the Project Committee's recommendations could be implemented.

B. The CSA's Oversight Experience

The CSA carried out a comprehensive review of their oversight programs in 1999. Prior to that, oversight focused on the review and approval of the by-laws and rules of an SRO or exchange. Since then, the CSA have also incorporated the review of a broader range of functions and activities of each SRO and market infrastructure entity into oversight programs. This includes reviewing the entity's resources and financial position, its decisions, any material changes to its operations and its reporting on its regulatory activities. The CSA have also established MOUs among themselves to coordinate their oversight activities to minimize disruptions to the entities they oversee.[22]

As the scope of CSA oversight has expanded, the SROs and market infrastructure entities have become subject to increasing levels of monitoring and scrutiny. Some have raised concerns regarding the nature and burden of the oversight, as well as the potential delays it causes, for example, due to the CSA approval process for rule proposals. There was also a view that the CSA's oversight approach should take into account the quality of the governance of the entities they oversee and, where merited, greater reliance should be placed on the entities' boards.

C. Changes in the Securities Industry and the Scope of the CSA SRO Oversight Project

Sweeping changes have taken place in the securities industry. For example, technological developments have facilitated the creation of new competitive market structures, such as alternative trading systems (ATSs); electronic trading has changed the nature of and access to the markets; and legislative changes have broadened the options available to market participants. To respond to the increasingly competitive environment, many exchanges, such as the Bourse, the TSX and the WCE, have

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15 We note that the SEC and CFTC studies focused on the self-regulatory organizations that also operate markets.
16 Release No. 4936-04.
17 Release No. 5138-05.
18 Release No. 34-50700.
19 Release No. 34-50699.
20 Ontario, Five Year Review Committee (Purdy Crawford, Q.C., Chair), *Five Year Review Committee Final Report: Reviewing the Securities Act (Ontario)*, March 21, 2003; and SCFEA, *Report on the Five Year Review of the Securities Act*, October 2004.
21 For example, Autorité des marchés financiers, *Regulation of Derivatives Markets in Québec*, May 1, 2006 and *Ontario Commodity Futures Act Advisory Committee Interim Report*, May 26, 2006.
22 Examples of these MOUs are the Memorandum of Understanding about the Oversight of Exchanges and Quotation and Trade Reporting Systems among the ASC, the BCSC, the CVMQ (now AMF), the MSC and the OSC, dated September 13, 2002; and the agreement on the Coordination of Oversight of the IDA by the CSA among the IDA, the ASC, the BCSC, the OSC, the NSSC and the SFSC, dated June 5, 2001 (IDA Oversight MOU) (The CVMQ, now AMF, participated in the drafting of the IDA agreement, and is co-operating with the other recognizing regulators in IDA oversight following the terms of this agreement, although it is not a signatory).

demutualized and become for-profit organizations. In the U.S., the New York Stock Exchange has also demutualized, and questions have been raised about its governance and oversight, raising broader issues about the regulatory framework of market self-regulation and pressures to re-examine that framework.[23]

Membership in the IDA and MFDA is no longer voluntary. This development recognizes the increasing importance of the role of SROs for investor protection and market integrity. Both large and small investors depend on the SROs to effectively use their resources in order to monitor the industry's compliance with applicable rules and requirements, and on the oversight by the CSA to monitor how the SROs fulfill their mandate. The CSA have increased their resources in the areas of member and market SRO oversight as the SROs have assumed more significant roles in protecting investors and market integrity. While this paper recognizes that the SROs should have appropriate independence in order to carry out their roles, it also acknowledges that the CSA must maintain an effective oversight role. Effective oversight depends upon clarity of roles, including a common understanding regarding the degree of reliance on SROs and the appropriate exercise by the CSA of their oversight authority.

II. HOW DO WE DETERMINE AN APPROPRIATE LEVEL OF RELIANCE?

In considering which criteria might help us to determine the appropriate level of reliance, the Project Committee considered the standards, oversight processes and mechanisms that would need to be in place, as well as the nature and functions of the entities. In our view, the high level standards that SROs and market infrastructure entities should meet include those set out below. When applying these standards, the CSA would take into account the particular structure and functions of each organization.

(1) Governance structure – an SRO or market infrastructure entity should have an appropriate governance structure that allows it to manage conflicts of interest and ensure different stakeholders are fairly represented;

(2) Rule-making and policy development processes – the processes for rule-making and policy development should foster investor protection and promote fair, efficient and competitive capital markets;

(3) Membership or access – an SRO or market infrastructure entity should have processes and policies for granting membership or access to its facilities or regulation services to prevent unfair discrimination among members and to avoid the creation of undue barriers to entry;

(4) Systems and controls – an SRO or market infrastructure entity should have systems and internal controls to ensure that it is carrying out its functions effectively and efficiently;

(5) Fees or costs – an SRO or market infrastructure entity's fee setting process should be fair and the fees proportionate to ensure the entity has adequate financial resources and staffing for performing its functions without creating undue barriers to entry;

(6) Information sharing and transparency – SROs and market infrastructure entities should, when appropriate, share information with each other and with the securities commissions to the extent possible under applicable laws, to ensure effective oversight, minimize duplications and inconsistencies, and maximize coordination; and

(7) Accountability to recognizing regulators – an SRO or market infrastructure entity must be accountable to its recognizing regulators by demonstrating that it is meeting its mandate and these high level standards.

Generally, these standards are set out in recognition orders and related documents. To the extent SROs and market infrastructure entities are transparent in demonstrating how they meet their public interest mandate and achieve these high-level standards, the CSA can increase reliance and take a less hands-on approach in their oversight.

This part examines certain key factors that influence our views on the appropriate level of reliance, i.e, how SROs and market infrastructure entities interpret their public interest mandate, and the need for appropriate governance and regulatory processes for them to fulfill their public interest mandate. Lastly, this part examines SRO enforcement powers.

A. Public Interest

1. Overview

Although most of the recognition orders of the SROs and market infrastructure entities require them to make decisions "in the public interest", or in some cases, "not contrary to the public interest",[24] they do not have a clear set of criteria to guide them in meeting this requirement.

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[23] *Reinventing Self-Regulation, White Paper for the Securities Industry Association*, January 5, 2000 and updated by SIA staff on October 14, 2003, section I.

2. Definition of Public Interest and How SROs Meet the Public Interest

There is no "one-size-fits-all" definition of "public interest". The securities commissions' public interest mandate is generally interpreted in the light of their objectives to protect investors and foster fair and efficient capital markets and confidence in the capital markets.[25]

We recognize that the SROs' and market infrastructure entities' interpretation of their public interest mandate must be based on their objectives and functions. For this reason, the SROs' public interest mandates are the most consistent with that of the securities commissions, because they have the same objectives of investor protection and capital market fairness and efficiency. On the other hand, exchanges indicated that they focus primarily on their participants' interests, the interests of the market and the end users. Similarly, a clearing agency noted its focus on the continuous operation and systemic risk of its clearing and settlement system, and on the safeguarding of its users' deposits. Given these differences, we believe that it is important that there be collaboration between the CSA, the SROs and the market infrastructure entities to ensure that the interpretation of their public interest mandate remains appropriate and appropriately aligned with that of the CSA.

While the board and the professional staff of the SROs and market infrastructure entities have a general understanding of their public interest mandate, our discussions revealed that the entities do not have a clear process in place to specifically evaluate and document whether they are meeting this mandate in their decision making. Some entities believed that they address the public interest through a governance structure that minimizes conflicts and facilitates diverse views and interests. Others stated that they meet their public interest mandate through consultation with the industry and the public.

The Project Committee considered whether all SROs and all market infrastructure entities should be required to meet the public interest mandate in the same manner or apply the same criteria when fulfilling the public interest mandate. However, we noted that different entities are responsible for providing different functions or services. For example, the traditional SROs are responsible for monitoring and enforcing their members' compliance with their rules; exchanges are responsible for operating fair and efficient markets; and clearing agencies are responsible for reducing systemic risk by providing effective clearing and settlement services. While we identified certain high-level criteria that SROs and market infrastructure entities should generally consider, the Project Committee concluded that it is not necessarily appropriate to expect all these entities to have the same objectives or to meet their public interest mandate in the same way.

Recommendations

Each SRO and market infrastructure entity should explain in writing how it ensures that it meets its public interest mandate generally. Going forward, for relevant decisions made (such as rules developed), an SRO or market infrastructure entity should explain how it has taken the public interest into account, and why a proposal for approval by the CSA is in the public interest. The following high-level criteria should be considered by all entities, however, the importance of each factor may differ for each SRO and each market infrastructure entity, and there may be other factors appropriate for the specific decision:

- The decision would be in the interest of, or would not negatively impact, investors;
- The decision would not inappropriately stifle innovation or competition;
- The decision would not unfairly discriminate against certain types of businesses, participants, products or investors;
- The decision would appropriately balance investor protection and the efficiency of the capital markets; and
- Any other criterion that may be appropriate for the subject of the specific decision.

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[24] RS (T&C 4(c) of the recognition order of RS' recognizing jurisdictions), TSX (T&C 3 of the OSC recognition order) and TSXV (T&Cs 4 and 30 of both the ASC and BCSC recognition orders) are required to operate or carry out their functions in or consistent with the public interest. The OSC recognition order for the MFDA states that protection of the public interest is a primary goal of the MFDA. In addition, the recognition orders or rule review protocols for the Bourse, the IDA, RS and TSXV require them to make rules that are not contrary to the public interest.

[25] This interpretation is derived from the mandates of securities commissions (e.g. the BCSC and the OSC) and the objectives of securities legislation in different jurisdictions (e.g. the ASC).

B. Governance

1. Overview

The Project Committee believes that, for a CSA jurisdiction to rely on an entity it oversees, such entity must have a governance structure that ensures its mandate is met and is seen to be met. We considered whether specific elements of governance should be required for SROs and market infrastructure entities to ensure that they are properly addressing their public interest mandate and complying with their recognition orders. This section focuses on three specific governance topics: independent board members, regulatory oversight committees, and the board nomination and election process.

2. Independence

An SRO or market infrastructure entity faces potential conflicts of interest between its members/participants and the public, between different types of members/participants, and in some cases, between its commercial and regulatory operations. It must put in place mechanisms to address these conflicts and to ensure that it can conduct its regulatory functions in the public interest without undue influence from its members/participants or commercial operations. Two mechanisms that have been adopted by a number of entities for these purposes are: (a) independent directors to promote the independent operation of the board, and (b) a Regulatory Oversight Committee that oversees the regulatory functions (where the entity has both commercial operations and regulatory functions).

(i) Independent Board Directors

In Canada, SROs and market infrastructure entities are required to meet criteria relating to fair representation with respect to their governance structure. They must manage their conflicts properly and act independently of the industry, while taking into account the interests of their members, participants and the public in their decision making. We considered whether there should be a certain number or percentage of independent or public directors on such entities' boards.

For public companies, there is increasing support for a majority of the board to be made up of directors who are independent, and independence in this context generally means being independent from management and free from any interest or business relationship with the company.[26]

The recognition order of each SRO and market infrastructure entity, other than CDS and the IDA, contains a condition that requires its board to have a majority of, or at least, 50% independent or public directors excluding the CEO. In addition, recognition orders or by-laws of most SROs and market infrastructure entities contain a definition of "independent director" or "public director".[27] An independent director would be a director that does not have a direct or indirect material relationship with the SRO or market infrastructure entity it represents. Generally speaking, a director would have a material relationship with the entity if such a relationship would be reasonably expected to interfere with the exercise of the director's independent judgment. Employees, associates, executive officers and directors of an entity's members or participant organizations are generally not considered to be independent. For TSX Group as a public company, the two concepts of independence, i.e. independence from management and free from any interest or business relationship with the company and independence from its participating organizations, are combined.[28]

The SEC has proposed rules that require a majority of the members of an SRO's board to be independent,[29] and defines an independent director as a director who has no material relationship with the entity or its affiliates that could reasonably affect the independent judgment or decision-making of the director.[30]

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[26] *The Combined Code on Corporate Governance*, Financial Reporting Council, U.K., July 2003, *National Policy 58-201, Corporate Governance Guidelines*, CSA, June 30, 2005, and *Corporate Governance Listing Standards*, New York Stock Exchange (NYSE), November 3, 2004 (section 303A) contain the requirement for public companies to have a majority of independent directors on the board. This principle is also listed as a best practice in the following publications: *Beyond Compliance: Building a Governance Culture*, Joint Committee on Corporate Governance, November 2001; *Corporate Governance Guidelines for Building High Performance Boards*, Canadian Coalition for Good Governance, November 2005. Some best practices guidelines do not specifically require a board to have a majority of independent directors, but they suggest that a board should have a "sufficient" number or "strong presence" of independent non-executive directors to ensure that the board is capable of exercising objective independent judgement. These guidelines include *OECD Principles of Corporate Governance*, Organization for Economic Co-operation and Development, 2004, *ICGN Statement on Global Corporate Governance Principles*, International Corporate Governance Network, July 8, 2005, and The Commission of the European Communities*, Committee Recommendation of 15 February 2005*, (see http://eur-lex.europa.eu/LexUriServ/site/en/oj/2005/l_052/l_05220050225en00510063.pdf) .

[27] The definitions of public/independent directors are included in the recognition orders of the Bourse, CDS, CIPF, CNQ, MFDA, RS and TSX, and in IDA by-law 10.

[28] Board standards on the independence of directors for TSX Group and TSX are published at (2005) 28 OSCB 7287.

[29] In order to preserve the "self" in self-regulation, the SEC proposed to allow members of an SRO to select at least 20% of the directors.

[30] Proposed SEC Rules 6(a)-5(b)(12) and 15Aa-3(b)(13) contain specific circumstances in which a director would not be considered independent.

Not everyone agrees that a governance structure that requires at least 50% independent directors is necessarily appropriate for a market infrastructure entity that performs specialized functions, and for which directors must have a certain level of expertise in order to understand the operations, to ensure that any risks are properly managed and to provide constructive input to the board. The Project Committee, however, concludes that that an SRO or a market infrastructure entity must have a governance structure that has appropriate public or independent representation. We believe that, generally, the percentage of independent directors should be at least 50%. An independent director, as explained above, would have no direct or indirect material relationship with the entity.

We are, however, of the view that alternative governance structures may be appropriate, as long as the entity can show adequate independence of oversight of the regulatory functions and an effective board, that fair and effective representation of, or input from, all stakeholders is achieved, and that there are mechanisms to ensure the public interest is addressed.

(ii) Regulatory Oversight Committee (ROC)

Another mechanism to enhance the independence of an SRO and the regulatory functions of a market infrastructure entity is to create an independent body within the entity to oversee its regulatory functions; in other words a ROC.

The use of a ROC is common in both Canada and the U.S. for entities that have both commercial and regulatory functions, especially exchanges. The Bourse, the Chicago Board Options Exchange, the Chicago Stock Exchange, the Chicago Mercantile Exchange, the Chicago Board of Trade, the National Stock Exchange, the New York Board of Trade, and the WCE have a ROC or an equivalent committee.[31] The IDA also has a ROC that oversees how the IDA is fulfilling its regulatory obligations.

In general, the mandate of the ROC is to oversee the performance of regulatory functions, ensure the adequacy of resources allocated to these functions, and review regulatory policy proposals. ROC members can be directors or persons appointed by the board[32] and most ROCs are composed of at least a majority of independent or public members.[33] The ROCs of the Bourse and the WCE report to the boards of these entities, and are also accountable to the regulators – they report annually to the AMF and the MSC respectively on regulatory matters.

The SEC has proposed that exchanges and SROs have a ROC that is composed solely of independent members and has certain specified responsibilities, similar to those noted above, with respect to regulation.[34]

We believe that a ROC that is responsible for overseeing the regulatory responsibilities of a market infrastructure entity is valuable when such an entity has both regulatory and commercial operations because of the significant potential conflicts between the regulatory and commercial operations. Since a ROC is charged with overseeing the regulatory responsibilities of an entity, including in most cases its commitment to fund those responsibilities, the ROC can lead to a greater degree of objective decision-making by this entity.

We considered whether a ROC should be composed of 100% independent members. We recognize that, without industry members, a ROC may not have the right knowledge or expertise about the industry to effectively oversee the regulatory activities of the entity it represents. Also, it may be difficult for some, especially smaller entities, to find independent members that have the right skill set and expertise to participate in the ROC. We therefore do not recommend that a ROC must be 100% independent.

In order to ensure that a ROC has the authority to discharge its oversight function, we are of the view that it should report directly to the board. However, we do not believe it is necessary for the securities commissions to mandate specific responsibilities for a ROC. Each market infrastructure entity should have the flexibility to decide the specific responsibilities of its ROC and how it discharges its mandate.

Recommendations

Each SRO and market infrastructure entity must have effective governance, including processes to identify and manage conflicts of interest appropriately, to allow the CSA to increase their reliance on it. The following are examples of structures that would support effective governance:

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31 The New York Stock Exchange had a ROC which was dissolved after the merger of the New York Stock Exchange and Archipelago Holdings, Inc. NYSE Regulation Inc., a separate legal entity from the exchange, has been set up to conduct regulation functions.

32 Members of the ROC of each of New York Mercantile Exchange, National Stock Exchange, the Bourse and the WCE are non-board members who are appointed by the board.

33 The ROCs of the Chicago Board Options Exchange, the Chicago Mercantile Exchange, the New York Board of Trade, and the National Stock Exchange are, and the previous ROC of the New York Stock Exchange was, composed solely of independent members. The ROCs of the Bourse, the Chicago Stock Exchange and the Winnipeg Commodity Exchange comprise a majority of independent members.

34 Proposed SEC Rules regarding governance, administration, transparency and ownership of SROs that are national securities exchanges or registered securities association (release no. 34-50699), SEC, November 9, 2004.

(a) The board should generally have at least 50% independent directors, excluding the CEO, and an independent director would be a director that does not have a material relationship with the entity.

(b) A ROC should be established for any market infrastructure entity, such as an exchange or a clearing agency, or for any other entity with both commercial and regulatory operations.

(c) An entity may have an alternative governance structure that does not comply with recommendations (a) and (b); however, it should assess the appropriateness of having 50% independent directors or a ROC, and explain how its alternative governance structure would ensure effective and independent oversight of the entity and management of any conflicts of interest without such tools.

(d) A ROC should be composed of at least 50% independent members, who may be directors of the board or who may be appointed by the board.

(e) A ROC should report directly to the board to afford it with the necessary authority and independence to carry out its responsibilities.

(f) Communication lines should be open to facilitate a ROC's ability to raise any significant matters directly with the CSA.

3. Nomination and Election Process

Another governance issue that was raised related to whether an SRO or market infrastructure entity represents the diversity of interests of different members or participants. Some SRO members, especially regional or smaller members, have expressed concerns that their SROs are dominated by big players in the industry and their views are not properly represented. Most SROs and market infrastructure entities have processes in place to ensure that they do not unfairly disadvantage any member or group of members, or create undue barriers to entry.

One way to accomplish this is by ensuring that the board represents the diversity of their members or participants. The recognition orders of the Bourse, CDS, CNQ, MFDA, RS and TSX include a term and condition that reflects this requirement. For instance, the MFDA is required to select a board that reflects diversity based on the geographic locations of various members, sizes of its members' businesses, types of business, and members' ownership structures (such as small owner-operated firms, large independent fund company dealer groups). RS' board must have directors that represent the Canadian public venture capital market and ATSs.

The Bourse, CIPF, IDA, MFDA, and RS each has a board committee that is responsible for reviewing the qualifications of candidates and recommending candidates for election to the board. The nominating committee of RS is only responsible for nominating independent directors. For the IDA, members may nominate additional candidates for industry director positions. The nominating committees of CIPF, the IDA, the MFDA and RS present a slate of candidates for election.

The Organisation for Economic Co-operation and Development recommends that shareholders should have the right to participate in the nomination and election of board members.[35] The International Corporate Governance Network recommends that shareholders should have the right to nominate, appoint and remove directors on an individual basis.[36] The Canadian Coalition for Good Governance (CCGG) suggests that shareholders should be able to vote "for" or "against" individual directors, allowing the candidate who receives a majority vote to win, or, alternatively, a director should resign from the board if the number of shares withheld exceeds the number of shares voted in his/her favour.[37] The CCGG would also like to see slate voting eliminated eventually.[38]

We also reviewed the board nomination and election process for some not-for-profit member organizations, including the Institute of Chartered Accountants of Ontario (ICAO), the Law Society of Upper Canada (Law Society), and the CFA Institute. For the ICAO and the Law Society, any member can nominate candidates to stand for election. The CFA Institute has a board committee responsible for reviewing the qualifications of candidates and recommending candidates for election to the board; however, its members may nominate additional candidates.

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35 *OECD Principles of Corporate Governance*, Organisation for Economic Co-operation and Development, 2004, page 18.
36 *ICGN Statement on Global Corporate Governance Principles*, International Corporate Governance Network, July 2005, at page 4.
37 Canadian Coalition for Good Governance Best Practices: https://www.ccgg.ca/web/ccgg.nsf/web/ccggbestpractices.
38 Comments by CCGG reported by Janet McFarland in "For activist investors, it's all about who has the power: a priority of a watchdog group is to see slate voting ended in Canada", *Globe and Mail*, October 14, 2004.

Corporate governance publications also provide guidance on how an entity should identify and select candidates to stand for election. [39]

Whatever system is used, an entity must demonstrate fair representation, address any constraints imposed by its recognition order (e.g. geographic diversity, size of members, etc.) and ensure that input from all members is encouraged and taken into account.

Recommendation

SROs and market infrastructure entities should, if they have not already done so, review their board nomination and election processes to ensure they meet current best practices and consider whether modifications are appropriate. In the process, these entities should review and consider alternative nomination and election processes.

C. Role of Members in the Rule-Making and Policy Development Processes

Members become involved in an SRO or market infrastructure entity's policy process in different ways: by participating in industry committees, through representation on the board, and by commenting on rule proposals.

We recognize the value of obtaining industry input in policy development through industry committees. The sectoral and regional input provided by these committees is at the heart of self-regulation. However, the roles of industry committees have differed and their mandates are not always clear. Some industry committees have only acted in an advisory capacity to provide feedback to either staff or the board on policy proposals, while others have had broader authority, such as setting standards and approving policy proposals. The Project Committee is not currently aware of any industry committees of SROs or market infrastructure entities that have the authority to veto their staff's proposals. However, there may be perceived conflicts where an entity has not made clear the role of its industry committees and demonstrated how it has considered the public interest in deliberations over regulatory matters.

Recommendation

SROs and market infrastructure entities should clarify and document, for both members/participants and the public, how they rely on their industry committees for input in the rule-making and policy development processes.

D. SROs' Enforcement Tools

1. Overview

The SROs made a joint submission to the Ontario Five Year Review Committee to request certain statutory enforcement powers to support their jurisdiction and enforcement processes. The Five Year Review Committee and the SCFEA both recommended that the OSC review whether SROs should be given additional powers.[40] One SRO renewed its request for statutory enforcement powers as part of this project and its request was consistent with that made by all SROs to the Five Year Review Committee. Some jurisdictions already grant certain of these powers, and this report should not be construed to mean such jurisdictions are reviewing existing grants of authority.

2. Request for Statutory Enforcement Powers

The following statutory powers and protection were requested:

(a) Authority to file disciplinary decisions with the courts so that they have the same force and effect as if they were orders of the courts;

(b) Power to compel third parties to produce documents during an investigation and at a disciplinary hearing;

(c) Power to compel third party witnesses' attendance during an investigation and at a disciplinary hearing;

(d) Same statutory immunity from civil liability as that of the securities commissions and their staff for the SRO and its directors, officers and employees arising from acts done in good faith in the conduct of their regulatory responsibilities;

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[39] See, for example, *Beyond Compliance: Building a Governance Culture*, Joint Committee on Corporate Governance, November 2001; *The Combined Code on Corporate Governance*, Financial Reporting Council, U.K., July 2003; *National Policy 58-201 Corporate Governance Guidelines*, CSA, June 30, 2005; *ICGN Statement on Global Corporate Governance Principles*, International Corporate Governance Network, July 8, 2005; and *Director Independence Policy*, New York Stock Exchange, February 2005.

[40] *Five Year Review Committee Final Report – Review the Securities Act (Ontario)*, Five Year Review Committee, March 21, 2003, pages 114 to 116; and *Report on the Five Year Review of the Securities Act*, Standing Committee on Finance and Economic Affairs, October 2004, pages 19 to 20.

(e) Jurisdiction over current and former non-registered employees and agents of members;

(f) Jurisdiction over former members and former approved persons;

(g) Jurisdiction over current members and current approved persons; and

(h) Authority to seek judicial appointment of a monitor where there is risk of imminent harm to investors, the SRO or the industry.

3. Current Status

This section describes the powers that SROs and exchanges generally, and the IDA specifically, have in various jurisdictions. Exchanges and self-regulatory organizations recognized by the Alberta Securities Commission under the *Securities Act* (Alberta) (ASA) already have the following powers in Alberta:

(a) Authority to file disciplinary decisions with the courts so that they have the same effect as if they were orders of the courts;[41]

(b) Power to compel third parties to produce documents at a disciplinary hearing;[42]

(c) Power to compel third party witnesses' attendance at a disciplinary hearing;[43]

(d) Jurisdiction over former members and former approved persons;[44] and

(e) Jurisdiction over current members and current approved persons.[45]

In Québec, due to the AMF's delegation of registration and inspection functions, the IDA has certain of the requested enforcement powers and protection with respect to the delegated functions and powers. These include the following:

(a) Authority to file disciplinary decisions with the court – the IDA can request the homologation (i.e. grant of approval by an authority) of a decision rendered by virtue of its delegated powers, such that the decision becomes executory under the authority of the court that has homologated it;[46] and

(b) Statutory immunity from civil liability – this immunity is limited to the persons exercising the registration and inspection functions and powers delegated to the IDA by the AMF, not the IDA and all its directors, officers and employees in general.[47]

In BC, the IDA and any of its officers, servants or agents who perform the registration functions authorized by the BCSC also have statutory immunity with respect to those functions.[48]

4. Evaluation of Request

(i) Authority to File Disciplinary Decisions with the Courts

The authority to file disciplinary decisions with the courts would ensure that the SROs' decisions have the same force and effect as a court decision, and it would increase the likelihood of the payment of penalties and, thus, the SROs' credibility. Since the Canadian regulatory system relies on self-regulation and, in certain jurisdictions, the legislation specifically supports the use of SROs' enforcement capabilities, enhancing their credibility would contribute to the credibility of the regulatory system. Despite these pros, concerns were raised as to whether it is appropriate to grant the SROs this authority, since they are not government

41 Subsection 69(2) of the ASA.
42 Subsection 69(1) of the ASA.
43 Subsection 69(1) of the ASA.
44 Subsections 63(3) and 64(5) of the ASA.
45 Subsections 63(3) and 64(5) of the ASA.
46 Section 320.1 of the *Securities Act* (Québec) provides that "Every decision of the Authority or a person exercising a delegated power may be homologated at the request of the Authority by the Superior Court or the Court of Québec, according to their respective jurisdictions, at the expiry of the time prescribed for applying for a review of the decision before the Bureau de décision et de révision en valeurs mobilières, and the decision becomes executory under the authority of the court that has homologated it."
47 Section 63 of the AMF Act provides that "No proceedings may be brought against an organization recognized by the Authority or any person exercising a function or power delegated by the Authority by reason of acts performed in good faith in the exercise of the function or power."
48 Subsection 170(1) of the *Securities Act* (BC) (1996) (BCSA) provides immunity to a "designated organization" and its officers, servants or agents who administer the BC Act. The IDA is considered a designated organization because it is authorized under section 184(2)(e) of the BCSA to perform a duty (registration functions) of the executive director.

bodies and they can impose higher penalties than the securities commissions. We note that each SRO's disciplinary process and the self-regulatory system has built-in protections for firms and individuals affected by their decisions, such as the ability of those affected to appeal to an SRO's board and to the securities commissions. In addition, the CSA's oversight process periodically examines the SROs' disciplinary process. As a result, the Project Committee supports the granting of this authority to the SROs in the jurisdictions where it is not already in place.

(ii) Power to Compel Third Parties to Produce Documents

Without the power to compel documents from third parties, an SRO is not always able to gather the relevant evidence to continue with its investigation or disciplinary proceedings. However, the SRO that had renewed its request for this power acknowledged that for some cases it solicited and received assistance from commission staff to gather these documents without significant difficulties. The ability to compel documents from third parties would confer broad powers to SROs, and there is a concern that this would not be appropriate since they are non-statutory regulators with no direct accountability to the government. As a result, the Project Committee does not support adding the power to compel third parties to produce documents during investigations and at disciplinary hearings, in the jurisdictions where it is not already in place. However, the Project Committee is of the view that the CSA should streamline the process for the SROs to seek assistance, and the SROs should monitor and report to the CSA their enforcement experience to determine if further improvements are necessary.

(iii) Power to Compel Third Party Witnesses

As complainants may lose interest in pursuing their complaints and become hesitant to assist with an SRO's investigations and disciplinary proceedings after receiving satisfactory compensation, the lack of witnesses has prevented certain actions from moving forward. While commission staff may assist SROs in interviewing witnesses in order to gather evidence, their involvement leads to time delays in investigations as they need time to understand the case before they can proceed with the interviews. Similar to the power to compel documents from third parties, this power is very broad and raises the issue of accountability. The Project Committee, therefore, does not support the SROs' request for powers to compel third party witnesses during investigations and at disciplinary hearings in the jurisdictions where these additional powers are not already in place. However, we believe that the CSA's process for providing assistance to the SROs should be streamlined. Again, the SROs should monitor and report to the CSA their enforcement experience to determine if further improvements are necessary.

(iv) Statutory Immunity from Civil Liability

In an increasingly litigious environment, there is a greater possibility that regulators, SROs and other market infrastructure entities that perform regulatory functions will need to defend their actions. In *Morgis v. Thomson Kernaghan & Co.*[49], however, the Ontario Court of Appeal held that the IDA did not owe a duty of care to any specific investor. Statutory immunity would avoid a chilling effect resulting from concerns of SRO staff that they could face liability for acts done in good faith. Since securities commissions rely on the SROs to regulate and discipline dealers, the SROs and their representatives should, arguably, have the same protection as the securities commissions and their staff. Members of the Project Committee, with the exception of BC,[50] support granting this immunity to the SROs. These Project Committee members are of the view that, to the extent other market infrastructure entities need this protection in performing their regulatory duties, their application should also be considered.

(v) Jurisdiction over Current and Former Non-registered Employees and Agents

SROs have no jurisdiction over non-registered individuals employed by their members, including those who work in certain key areas such as corporate finance and research. In addition, other non-registered individuals have pertinent information about a member's activities and could assist the SROs in their enforcement actions. Since SRO members are responsible for supervising their employees and agents, whether registered or not, we believe that a viable alternative to granting this power is for the SROs to impose requirements on members to require their employees and agents to submit to the SROs' jurisdiction or to co-operate with the SROs with respect to regulatory matters. As a result, we do not support the granting of this power at this time in the jurisdictions where it is not already in place.

(vi) Jurisdiction over Former Members and Approved Persons

The IDA and MFDA currently have jurisdiction over members and approved persons for a period of five years from the date they cease to be members and approved persons, according to their by-laws[51]. The IDA has acknowledged, in its submission to the Ontario Five Year Review Committee that, in a majority of cases, this contractual jurisdiction over its members is sufficient for it to fulfill its mandate.[52] However, this jurisdiction has been challenged. A recent decision of the Saskatchewan Financial

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49 *Morgis v. Thomson Kernaghan & Co.* (2003), 174 O.C.A. 104 (*Morgis*).

50 Although BC does not support granting of broad statutory immunity to SROs and their representatives, it is not reconsidering immunity that is currently available to the IDA and its representatives for the registration functions authorized by the BCSC.

51 IDA By-law 20.7 and MFDA By-law No. 1, section 24.1.4.

52 This submission is located at: http://www.osc.gov.on.ca/Regulation/FiveYearReview/fyr_20040324_list_comments.jsp

Services Commission ruled that the IDA does not have authority over former members or former approved persons.[53] Despite the uncertainty in this area, we feel that the granting of such statutory jurisdiction to the SROs is not necessary at this time, in the jurisdictions where it is not already in place. The Project Committee encourages the other SROs, to the extent that they also have the tools (such as amendments to their by-laws and rules) to achieve these objectives, to use them as the IDA and MFDA have done.

(vii) Jurisdiction over Current Members and Approved Persons

Although there is a concern that the SROs' jurisdiction over current members and approved persons may be challenged in an increasingly litigious environment, as noted above, the IDA has indicated that contractual jurisdiction is usually sufficient for it to fulfill its mandate. As a result, we do not support the granting of this power at this time, in the jurisdictions where it is not already in place.

(viii) Authority to Seek Judicial Appointment of a Monitor

Current IDA By-law 20 provides the IDA with the authority to impose a monitor.[54] We encourage other SROs, to the extent they have tools (such as amendments to their by-laws and rules) to achieve the same objective, to use them for this purpose.

5. Checks and Balances to Ensure Procedural Fairness and Protections

The Ontario Five Year Review Committee recommended that the securities commissions consider what checks and balances, if any, are necessary to ensure that procedural fairness and protections would be available to those who would be subject to the new statutory powers. For the authority to file decisions with the courts, the protections in the SRO and court processes and the CSA's oversight of the SROs may be argued to be sufficient safeguards against any potential abuses by SROs in enforcing their decisions. For statutory immunity, we note that the current self-regulatory system provides the right for individuals who are affected by a decision of an SRO to appeal to the securities commissions. In addition, the CSA's oversight provides checks and balances on the SROs' processes and decisions. We, therefore, do not recommend additional checks and balances.

6. Application of Powers

We have not considered whether the statutory enforcement powers and protection we have recommended should apply to the other market infrastructure entities in the performance of regulatory functions. We recommend that any future request for additional powers made by market infrastructure entities, e.g. an exchange, be considered separately.

Recommendations

(a) Subject to the legislative priorities of each commission and each provincial government, the Project Committee recommends that the securities commissions recommend to their governments to grant the following statutory authority and protection to the IDA, the MFDA and RS in jurisdictions where they are not already in place:

  (i) The authority to file disciplinary decisions with the courts as decisions of the court; and

  (ii) Except in BC, statutory immunity from civil liability for the self-regulatory organizations and their directors, officers and employees (this presumes that the legislative power to grant immunity to a non-statutory entity for functions/powers that have not been specifically delegated exists).

(b) The securities commissions should streamline the process used to provide assistance to SROs to compel third parties to be witnesses and to compel documents from third parties during investigations and at hearings. The SROs should monitor their enforcement experiences, and report back to the securities commissions to allow the commissions to determine whether further improvements should be considered.

III. GAPS, DUPLICATIONS AND INCONSISTENCIES AMONG SROs

In our regulatory system, multiple SROs and some market infrastructure entities have different jurisdiction over the same or different market participants. Inevitably there are some duplications, inconsistencies and gaps. This section covers the following: coordination among SROs and market infrastructure entities, duplications in regulation due to CIPF's oversight over the IDA, and the issue of SRO consolidation.

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53 *MacBain, Neufeld, Smith v. Investment Dealers Association of Canada*, Saskatchewan Financial Services Commission, February 6, 2006.

54 IDA By-law 20.46.

A. Coordination among SROs and Market Infrastructure Entities

1. Multiple SROs

In Canada, SROs have authority over their members or participants that is, for the most part, based on functions (such as member regulation) and products (such as mutual funds). As a result, the following overlapping environments exist:

- The IDA and RS both regulate investment dealers, but in different areas of activity. The IDA is responsible for member regulation generally and regulates the fixed income markets, while RS is responsible for equity market regulation. The distinction between member and market regulation may be unclear to those in the industry and to the public.

- The MFDA and the IDA perform similar types of member regulation, but for different entities and different products. The IDA regulates investment dealers and all types of trading, while the MFDA regulates mutual fund dealers and trading in mutual fund securities and/or exempt securities only.

- The Bourse, in its SRO capacity, and RS perform the same market regulation functions for different products, i.e., derivatives and equity securities respectively.

These overlaps and any resulting duplication or confusion may affect members' businesses and increase their compliance costs. In addition, inconsistencies in the approaches to regulation may exist, or each SRO may be separately dealing with issues where co-operation and coordination might lead to a less costly and more effective result.

The SROs and market infrastructure entities acknowledged the increasing regulatory burden faced by their members and some made specific suggestions or entered into agreements with one another aimed at reducing this burden. We think that, even though some SROs and market infrastructure entities have established MOUs to cover the allocation of duties related to certain regulatory functions, the coordination among them could be improved. During our discussions, some meeting participants also indicated that SROs and market infrastructure entities could make greater efforts to reduce duplication of regulatory activities and expressed their view that more cohesive and coordinated regulation by these entities would be beneficial.

In the past, some SROs and market infrastructure entities paid relatively little attention to processes to assess whether their rulebooks, as a whole, are streamlined and clear, and whether the rules are consistent and continue to be effective without creating any unnecessary burden on their members and participants. Recently, however, most entities have undertaken such analysis. We support this work.

2. Regulatory Gaps

The SROs and market infrastructure entities also noted that there are gaps and inconsistencies in regulation. For example, an SRO may experience increased difficulty in regulating its members as they expand into the distribution of alternative investment products that are either under the jurisdiction of another regulator (such as life insurance products), or distributed under a prospectus or registration exemption (such as hedge funds or guaranteed investment certificates).

Limitation of jurisdiction is also an issue for RS. As the regulation services provider to the equity markets only, and only for the marketplaces it regulates, RS may not obtain a complete and full understanding of the interrelationship of all the market activities (which may include derivatives trading) conducted by investment dealers. This raises concerns about the adequacy and effectiveness of cross-market and cross-product surveillance. The importance of coordinating with other regulators such as the Bourse is obvious.

Finally, inconsistencies may also occur in the regulation of the different participants in the mutual fund industry. For example, even though both mutual fund dealers and fund managers are involved in the distribution of mutual funds to the public, the former are subject to more rigorous oversight by the MFDA.

3. Public Transparency regarding Role of SROs and Market Infrastructure Entities

Another concern in a system with multiple SROs and market infrastructure entities relates to the lack of clarity and transparency regarding their roles.

4. U.S. Developments

The existence of multiple SROs is also of particular concern in the U.S., where the regulators have implemented rules to deal with the inefficiencies caused by multiple SROs[55] with overlapping jurisdiction.

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[55] We note that in the US, the definition of an "SRO" includes exchanges.

For example, where a member belongs to more than one SRO, the SEC must designate the responsibility to one SRO (designated SRO) for examining the member for compliance with applicable financial responsibility rules.[56] Similarly, the CFTC rules provide for cooperation among SROs and reserves for the CFTC a role in approving and monitoring this system of cooperation to ensure that it remains appropriate and that it works to strengthen customer protection in the futures markets.[57] Both the SEC and the CFTC rules require the SROs that were relieved of certain regulatory responsibilities by coordination agreements to notify their members of their limited responsibilities, once their coordination plans are approved by their regulators.

The SEC and the CFTC each recently acknowledged that their current system of reliance on a designated SRO needed even further improvement. In February 2004, the CFTC announced that it would begin a review of its designated SRO system, including its cooperative agreements and programs. Furthermore, in its concept release on self-regulation,[58] the SEC requested comments on alternate regulatory models that would help reduce the inefficiencies related to the large number of U.S. SROs. These alternatives, described in more detail in Appendix A of this paper, would entail a drastic restructuring of the U.S. regulatory system. The majority of respondents to the concept release thought that a more appropriate approach would be to continue with the current regulatory system, as long as measures are taken to improve it.[59]

Recommendations

(a) The SROs and, if applicable, the market infrastructure entities, should clarify their respective regulatory roles and describe the processes in place to address duplications, inconsistencies and gaps between them. As part of this process, they should establish, where appropriate, procedures for coordination and sharing of information in order to minimize the disruption and costs to the members, for example, for the purposes of intermarket surveillance, or for coordination of field reviews.

(b) SROs and market infrastructure entities should increase public transparency of their roles and responsibilities. This may include publication of any agreements and MOUs that set out their regulatory roles and the processes to address duplications, inconsistencies and gaps.

(c) SROs and market infrastructure entities should review their rules, by-laws and policies in order to ensure that they are clear and easy to understand, obsolete rules are deleted, and requirements are streamlined to facilitate compliance by members and participants.

(d) SROs and, as applicable, market infrastructure entities should co-operate more closely on substantive issues and regulatory approaches so they can minimize gaps, duplications and inconsistencies, address common operational issues (such as risk-based approaches to regulation or procedures to select firms for field reviews) and related best practices, and develop cost effective regulatory solutions to achieve common goals.

B. CIPF's Oversight Role over the IDA

1. Duplication between CIPF and IDA

Historically, there has been some duplication between the IDA's and CIPF's functions. Specifically, the IDA imposes prudential requirements on IDA members, and both the IDA and CIPF monitor their compliance with these requirements. In addition, both entities perform member examinations, review members' capital and capital calculations, as well as their monthly and annual financial reports.

Another area of duplication relates to the review of IDA proposals. CIPF reviews all of the IDA's prudential rule proposals in order to assess their impact on IDA members and on the risks to the fund, as well as to assess any implementation issues. However, the CSA also review the IDA's rule proposals in order to determine whether they are in the public interest by assessing, among other things, whether they might lead to unnecessary regulatory burden on firms or unduly restrict competition.

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[56] The *Securities Exchange Act of 1934* (Exchange Act) Section 17(d) and Rule 17d-1.

[57] Specifically, the Rule 1.52 of the *Commodity and Securities Exchange Act* states that the CFTC, after appropriate notice and opportunity for comment may, by written notice, approve such a coordination plan or any part of the plan if it finds that, among others, it: (1) is necessary or appropriate to serve the public interest; (2) is for the protection of customers; (3) reduces multiple monitoring and auditing for compliance with the minimum financial rules of the SROs submitting the plan; (4) reduces multiple reporting; and (5) fosters cooperation and coordination among the contract markets.

[58] Release no. 34-50700.

[59] In this regard, the NASD and NYSE Group announced on November 28, 2006 the signing of a letter of intent to consolidate their member regulation operations into a new SRO that will be the private sector regulator for all securities brokers and dealers doing business with the public in the United States. The plan is aimed at increasing the efficiency and consistency of securities industry oversight.

2. Proposed Industry Solution

To deal with these overlaps, the IDA and CIPF formed a joint board working committee, which met in January 2006 and reviewed and approved in principle a proposal to eliminate the duplications in regulation and oversight. The proposal addresses duplication in a number of areas, including field reviews of IDA members and rule proposal reviews. It aims to improve coordination on issues, such as risk-based approaches. It was approved by the boards of IDA and CIPF and reviewed by the Project Committee. The two entities are currently working on amending the appropriate documents to reflect this proposal and will make a formal submission to the CSA for review and approval by the securities commissions. It is the view of the Project Committee that this proposal will reduce duplications in the oversight of the IDA's financial compliance and policy functions.

Recommendation

The Project Committee supports the proposal of CIPF and the IDA boards. Once the two entities have finalized their proposal, they should submit to the relevant securities commissions for approval the proposal and consequential amendments to the Memorandum of Agreement between CIPF and the CSA, IDA Oversight MOU, CIPF approval orders and IDA recognition orders, as well as appropriate by-laws.[60]

C. SRO Consolidation

During the meetings with the SROs and market infrastructure entities held between February 2005 and December 2005, it was noted that one way to deal with the inefficiencies associated with multiple SROs would be a merger among the IDA, MFDA and RS. Some meeting participants shared their views regarding the benefits of a merger.[61] These views included:

(a) Consolidation would help streamline the regulatory regime and enhance the effectiveness of regulation;

(b) A merger between the IDA and RS would lead to more effective regulation because member and market regulation would be conducted by one SRO;

(c) Some issues of fragmentation of regulation would be addressed;

(d) Firms would have lower compliance costs as a result of dealing with fewer SROs;

(e) There would be more opportunities for development of professional staff in a larger, more diversified organization;

(f) here would be less confusion as firms and investors would be dealing with a single SRO; and

(g) There would be fewer CSA oversight activities.

However, meeting participants indicated that any benefits associated with a merger should be carefully weighed against the costs before a decision is made.

A number of issues associated with a merger were also discussed during the meetings, and they included:

(a) Difficulties in combining SROs that have different regulatory structures, approval processes, governance structures and cultures;

(b) Difficulties in agreeing on an adequate governance structure for a consolidated SRO that has directors with adequate proficiency and expertise in all areas of regulation, and that ensures proper industry representation;

(c) Potential disruptions in the businesses of SROs and potential negative impact on staff morale;

(d) Difficulties in prioritizing issues in an SRO that represents members with different businesses and different cultures (such as investment dealers and mutual fund dealers);

(e) Difficulties in maintaining focus on market integrity issues in an SRO that also regulates dealers and may tend to focus more on dealer-specific issues;

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[60] At the time of this report, the IDA had submitted for CSA review and approval proposed amendments to by-laws 21 and 41 and Form 1 to reflect changes to CIPF's oversight role.

[61] On April 26, 2006, subsequent to the meetings with the SROs and market infrastructure entities held as part of the CSA SRO Oversight Project, the boards of directors of the IDA and RS announced their approval in principle of a proposal to merge. The two SROs established a joint steering committee that will work closely with the CSA and capital markets stakeholders to develop a detailed merger implementation plan that will be subject to approval by IDA membership, RS shareholders and the CSA.

(f) A merged SRO may not be as close to the market, is unlikely to be much cheaper, and might discourage the development and retention of staff with adequate expertise; and

(g) A merger may not be appropriate because the markets are increasingly complex, which means that SRO specialization may be needed for effective and efficient regulation.

Another possible merger discussed during the meetings was a combination of the two main compensation funds that currently exist in Canada - CIPF (for the investment dealer industry) and MFDA IPC (for the mutual fund industry). A merger between these funds would be beneficial since it would reduce confusion regarding the protection available to different investors, there would be efficiencies in the merged entity, and MFDA and IDA members would have an opportunity to consolidate their back office functions and therefore increase business efficiencies.

Recommendation

The CSA should evaluate any merger proposal to determine whether it is consistent with the public interest. The merger should not result in a diminution of the performance of the regulatory functions of the merging entities.

The criteria for evaluation should include whether:

1. The merged entity is able to perform its regulatory functions at least as effectively as the individual entities and ensures the continuing adequacy of services in the various regions and for the various marketplaces;

2. The governance of the merged entity is adequate for effective management and oversight, maintaining independence and addressing conflicts of interest, while also representing the membership or participants;

3. The impact on the costs to the industry, including fees, has been weighed against the benefits;

4. The merged entity would have staff with adequate proficiency to deal with different issues in different areas;

5. The impact of a merger on current service agreements, such as those performed by an SRO for another regulated entity, and those where the SRO outsources regulatory functions to others has been addressed;

6. There is regional accountability; and

7. The merger does not have a negative impact on competition and market structure.

As part of any proposal, the entities should:

1. Assess the expected benefits of the merger against its anticipated costs; and

2. Explain how the merger is in the public interest by addressing the criteria for evaluation identified above and any others considered to be relevant.

IV. EFFECTIVE CSA OVERSIGHT

A. Improving the Current Oversight Approach

1. Current Oversight Approach

SROs and market infrastructure entities perform roles and functions that are important to the capital markets. Oversight of these entities is necessary to establish and monitor these entities' accountability and compliance with their public interest mandate.

The oversight of SROs and market infrastructure entities operating in multiple jurisdictions is a task that is shared among multiple regulators. To reduce inefficiencies caused by the involvement of multiple regulators, the CSA have established formal MOUs[62] and informal processes[63] in order to coordinate their oversight.

A CSA staff oversight committee is in place for SRO oversight generally, with sub-committees for the IDA, MFDA and RS. An additional committee, the Market Structure and Exchange Oversight Committee, was created to deal with exchange oversight and market structure issues. The IDA, MFDA and RS committees are made up of staff from each recognizing jurisdiction

[62] See footnote 22.

[63] Staff of recognizing jurisdictions generally coordinate their efforts in reviewing and making recommendations with respect to issues relating to entities for which there are no MOUs in place.

dedicated to the oversight of the specific SRO. The intention of each of these three committees is to provide a single point of contact for the SRO to raise issues or concerns. They hold quarterly conference calls and annual in-person meetings to discuss issues and share information about oversight, with an objective of identifying and/or resolving any inconsistent approaches or inefficiencies in dealing with oversight or related regulatory issues. In addition, staff of the recognizing regulators for the IDA, MFDA and RS coordinate their review of the respective SRO's rule proposals, oversight reviews, and review of the SRO's reporting (such as periodic reports). The Market Structure and Exchange Oversight Committee members have annual in-person meetings and ad-hoc calls to deal with any issues that require coordination (such as matters affecting both TSX and TSXV).

2. Oversight Review Coordination

Staff of the recognizing jurisdictions of the IDA, MFDA and RS coordinate their oversight reviews by:

- developing a common review program;
- evaluating each office of the SRO using this common program;
- resolving inconsistent recommendations for common deficiencies; and
- conducting the review at each SRO office separately, but aiming to issue reports at the same time.

Reviews of entities under the lead regulator model are carried out by the lead regulators. The Exchange Oversight MOU requires the lead regulators to copy the results to the exempting regulators.

3. Rule Review and Approval

In order to coordinate their review and approval of rule proposals, the recognizing regulators of the IDA, MFDA and RS established joint rule review protocols for each SRO. The oversight of these SROs is carried out under a principal regulator model, whereby the principal regulator coordinates all comments from the other recognizing regulators and communicates them to the SRO. This coordinated process requires the principal regulator to attempt to resolve any inconsistent comments and recommendations with respect to the proposal. The process also provides a mechanism for staff to escalate different views to the commission chairs for resolution. Under the principal regulator model, some recognizing regulators with limited staff resources rely completely on the principal regulator. These recognizing regulators do not comment on or approve SRO rule proposals.

For market infrastructure entities under the lead regulator model (i.e. the Bourse, CNQ, TSX and TSXV), all exempting regulators rely on the lead regulator to review and approve a rule proposal. The exempting regulators do not require that these entities seek their approval, but they have the ability to raise material comments with the lead regulator.

4. Issues and Options for Improvement of Oversight Processes

The SROs and market infrastructure entities acknowledged that the efforts aimed at coordination have led to improvements, but they noted that inefficiencies still exist, for example:

(1) the additional time needed to resolve issues raised by different regulators on rule proposals and reviews conducted;

(2) remaining duplication in the oversight process;

(3) overly detailed reviews in some cases; and

(4) different views or different approaches to regulation by the securities commissions.

Entities regulated under a lead regulator model expressed the view that the model has simplified the oversight process and reduced the inefficiencies resulting from the involvement of multiple regulators. In the meetings it was noted that, although some improvements can be made, the lead regulator model works well, as it allows regulators to build expertise in a specific SRO and shorten turnaround times for rule proposals. One SRO, currently overseen under a principal regulator model, also thought a lead regulator model would be beneficial. Another noted that a drawback of the principal regulator model is that, given the coordination among the participating regulators and their efforts to funnel comments through the principal regulators, it is difficult to properly address issues raised without knowing where they originate.

Most CSA jurisdictions involved in oversight do not believe that the implementation of a lead regulator model for IDA, MFDA and RS is appropriate. In their view, as a result of the delegation of certain regulatory functions by the recognizing regulators to these SROs and/or the importance generally of the roles played by these SROs in their jurisdictions (where the major categories of registrants such as investment or mutual fund dealers are required to join one of the SROs), regulators need to retain direct

oversight rather than relying entirely on another jurisdiction. Project Committee members agreed that, where the principal regulator model is used, further improvements should be made in order to address the legitimate concerns raised by the SROs.

One option we discussed was a mutual reliance system for oversight. Such a system would incorporate principles similar to those set out in National Policy 12-201 – *Mutual Reliance Review System for Exemptive Relief Applications.* It would not differ significantly from the current principal regulator model, but it would streamline oversight by requiring that the recognizing regulators raise only material comments on filings and applications that require their decisions (such as approval of rule proposals or amendments to the recognition orders) and by imposing strict timelines.

The underlying principles of the mutual reliance system for oversight are:

1. Non-principal regulators would raise only material issues within a specified period of time (for example, 10 business days) and would explain why these matters are material; material issues would be those issues which the non-principal regulators believe that, if unresolved, would be contrary to the recognition order or not in the public interest. Staff of the principal regulator would consider the material issues raised by the other recognizing regulators when recommending whether to approve the application.

2. SROs would deal only with the principal regulator regarding their applications and any material issues.

3. The principal regulator would communicate its decision regarding an SRO's application to the non-principal regulators. The non-principal regulators would have a specified period of time to agree with the decision or to ask for the decision to be escalated (to the Chairs or Vice Chairs) if they disagree with it.

4. Quarterly conference calls and annual in-person meetings of the various CSA oversight committees would continue to provide staff the opportunities to raise issues and share information about SROs and oversight.

In order to ensure that staff at each recognizing jurisdiction maintain their expertise on each SRO, the principal regulator role could be rotated among the recognizing jurisdictions. In determining how rotation could occur, we considered the following criteria:

- the rotation should minimize any loss of continuity of the relationship between SROs and the principal regulator;
- the process for rotation should be simple and clearly understood by SROs; and
- the timeframe should allow the different recognizing regulators to build expertise in overseeing SROs.

We also considered whether the principal regulator role could be rotated on an activity-by-activity basis (e.g. oversight reviews or rule reviews).

An appropriate rotation period for all activities might be five years, as this timeframe is long enough that it minimizes disruption while still allowing the recognizing regulator acting as principal to build expertise. Recognizing jurisdictions that have limited staff resources could opt to rely on other jurisdictions for oversight and not participate as a principal regulator. In addition, jurisdictions could opt for full reliance on the principal regulator, on a case-by-case basis.

The following sections of the paper describe the specific issues raised by the entities on the current oversight process. They include:

- oversight reviews;
- the process for conducting rule reviews;
- the approaches to regulation and policy interpretation taken by the securities commissions;
- issues related to the division of responsibilities between SROs or market infrastructure entities and regulators; and
- transparency of our oversight.

We also raise for discussion proposed options to address these issues. Where appropriate, we make specific recommendations.

B. Oversight Reviews

1. Nature of Oversight Reviews

Reviews are important tools for effective oversight, as they provide regulators with an opportunity to visit the places of business of the entities they oversee, meet with their personnel, ask questions, listen to their views and concerns, and examine files. The review findings are documented in reports, which constitute working documents for the use of the regulated entities' management, as they create a record of the findings brought to management's attention.

However, oversight reviews have limitations: in particular, they do not cover all areas or address all risks pertaining to the entities reviewed. Even though the reviewers try to get a thorough understanding of their operations, oversight reviews assess the performance of SROs and market infrastructure entities and how they meet their regulatory obligations mainly by reference to their terms and conditions of recognition.

The SROs and market infrastructure entities raised concerns about oversight reviews. They said that these reviews tend to focus more on detailed file reviews than on an entity's achievement of regulatory performance objectives. They suggested that the regulators should, instead, evaluate how the entities meet higher level performance standards. They also recommended that the criteria or benchmarks used to evaluate the SROs and market infrastructure entities be articulated and shared with them in order to clarify the regulators' expectations.

As self-regulation and regulatory oversight have matured, the nature of reviews should evolve accordingly. We agree that the CSA should establish clear, high level qualitative and quantitative performance benchmarks for evaluation. Such benchmarks must be objective and meaningful. This will be a difficult challenge, but we are of the view that adopting such performance measures would improve the oversight process. In fact, the IDA is currently working with a consultant to establish qualitative benchmarks for its performance. We expect that they will share the results of that work with us.

Another way to enhance oversight and address the limitations of reviews is by improving the other oversight tools already available and our use of such tools. For example, while some SROs prepare annual self-assessments and file them with their recognizing regulators, the usefulness of the information contained in these documents is limited. The focus is often on activities rather than outcomes and, while there is a limited assessment of the adequacy of an SRO's processes and procedures, there is no assessment, based on qualitative criteria, of the effectiveness of the SROs in meeting their regulatory mandates in general, and their recognition orders in particular. Furthermore, self-assessments do not report on how an SRO achieved its own strategic goals, nor do they show important year-to-year trends.

The Project Committee is of the view that, if enhanced, the information included in self-assessments would complement the oversight reviews and help regulators get a clear and complete picture of the efficiency and effectiveness of SROs and market infrastructure entities. Such self-assessments would also provide us with more meaningful information that would allow us to improve the nature of oversight reviews and ensure that they focus on the entities' high priority and high risk areas.

Recommendations

(a) The CSA, SROs and market infrastructure entities should establish a working group to review the high level standards described at the beginning of Part II of this paper and to develop qualitative and quantitative criteria or performance benchmarks to evaluate the SROs and market infrastructure entities against those standards, as well as to evaluate CSA oversight. A facilitator or consultant should be retained to help ensure that these benchmarks are both meaningful and objective and, to the extent that SROs and market infrastructure entities already have performance benchmarks in place, they should be considered in the process.

(b) These benchmarks will be used to evaluate SROs and market infrastructure entities in oversight reviews, and to help focus CSA resources on the high-risk areas of the entities they oversee. The criteria would be clearly communicated to them in advance.

(c) The continuing appropriateness of the high-level standards referred to above should be evaluated periodically, taking into consideration results of oversight reviews.

(d) The SROs and market infrastructure entities should more meaningfully self-assess and document their efficiency and effectiveness in meeting their strategic plan, their regulatory mandate, and any relevant high level standards and benchmarks.

(e) The information included in the enhanced self-assessment should be used by the CSA in conjunction with oversight reviews to evaluate the overall performance of the entities they oversee and to assess whether the degree of reliance and the extent and nature of oversight of the SROs and market infrastructure entities remain appropriate.

2. Process for Conducting Oversight Reviews

Even though oversight reviews are currently coordinated as discussed above, a number of entities believe that the recognizing regulators can improve their processes. The most significant concern raised was regarding the different approaches taken by regulators when conducting these reviews. The SROs and market infrastructure entities told us that the regulators should have consistent approaches, for example, on the scope of their reviews and, as discussed later in this report, on publication of reports. For related entities (such as TSX and TSXV), the nature and scope of the oversight reviews should be consistent when their policies, processes and structures are the same. Other entities noted that securities commissions have recommended different solutions to address the same deficiencies. One SRO thought that regulators could issue a single oversight review report, in order to avoid contradictory recommendations in different jurisdictions.

One way to accomplish more consistency is for staff from different recognizing regulators to work as a team in conducting oversight reviews. This "mixed team" approach would entail the following:

- Teams composed of staff from different recognizing regulators would conduct oversight reviews at each SRO or market infrastructure entity district office.
- Each team would evaluate each district office using the same review program, and using the same examination approach.
- Each of the mixed teams would agree on the recommendations for deficiencies noted.

The advantage of this mixed team approach is that individuals from different CSA jurisdictions working as a team would have the opportunity to better understand each other's concerns and objectives (which should be consistent with those of their respective commissions) and would coordinate to reach a consistent approach that addresses everyone's concerns. Further, the inconsistencies may be decreased.

The disadvantages include the following:

- The likelihood of inconsistencies would not be completely eliminated, since, in an environment with multiple regulators, there will be different views and priorities, which may sometimes be conflicting. As a result, there would still be delays in the process caused by dealing with issues raised by different regulators and there would be a need for a conflict resolution process.
- This approach would require staff from different jurisdictions to travel to other jurisdictions, increasing the cost and time of a review. Furthermore, some staff may not be able to travel for extended periods of time.
- Different recognizing regulators follow different approaches with respect to the publication of oversight review reports, which means that regulators that follow different approaches would not be in a position to issue a single oversight report. The mixed team approach, therefore, could complicate the process of issuing oversight review reports for different branches.

We are of the view that the CSA jurisdictions should continue their efforts to improve their coordination of oversight reviews to address issues raised by the entities they oversee. Although the above mixed-team approach has shortcomings, we believe it serves as a starting point for considering other alternatives for improving coordination.

C. Review of Rule Proposals

1. Timeliness and the Level of Review of Rule Proposals

As set out above, the review and approval of SROs' rule proposals is coordinated among the recognizing regulators for the IDA,[64] the MFDA[65] and RS.[66] The lead regulator for the exchanges reviews and approves their regulatory proposals.[67] Recently, the OSC also implemented a rule review protocol for CDS.[68]

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64 The joint rule protocol for the IDA (IDA Joint Rule Protocol) is set out in the *Coordination of Oversight of the IDA by the CSA Plan* adopted in June 2001.

65 The process for review and approval of the MFDA rules is set out in a draft protocol, implemented on a pilot basis. The draft protocol will be finalized upon completion of the SRO Oversight Project.

66 The joint rule protocol for RS is part of the *Memorandum of Understanding regarding Oversight of Market Regulation Services Inc.* between RS' recognizing regulators implemented in May 2002.

67 The process for OSC review of TSX rule proposals is set out in the *Protocol for Commission Oversight of Toronto Stock Exchange Rule Proposals* (TSX Rule Review Protocol) adopted in October 1997. For the Bourse, the rule review process is set out in provisions of the AMF Act.

68 In July 2005, the OSC amended the recognition and designation order of CDS and included a rule protocol for review of CDS rules.

Despite the efforts to coordinate, one of the concerns expressed by most of the entities that participated in the CSA SRO Oversight Project related to the delays and the high degree of scrutiny in the CSA's review and approval of their rule proposals. This was a matter of particular concern for the exchanges and for RS. They said that a lengthy rule review and approval process (for both exchange rules and the UMIR) has a negative impact on the integrity of their markets and thus put the public and the reputation of their markets at risk. Some meeting participants also indicated that processes should not interfere with the business decisions of the exchanges in a way that would restrict their international competitiveness. While other entities shared the concerns about delays, they acknowledged that complex rule proposals would require more detailed and lengthy reviews.

Furthermore, for certain market infrastructure entities for which rule amendments are needed to implement system changes, the rule review process needs to take into account the strict delivery dates associated with such changes. The rules of these entities may also be very technical, and specialized expertise and experience of commission staff involved in their review is needed. For these reasons, commission staff should be involved as early as possible in the process to develop required expertise and eliminate the need for a long review and approval process subsequent to the submission of the rule proposal. One entity underscored the importance of ongoing communication to ensure that commission staff's expertise remains current.

During the meetings, the desirability of a process to fast-track certain types of rules was discussed. One entity suggested that the CSA do not need to review and approve all regulatory proposals.

While some of the delays are due to the additional time needed to coordinate the rule review among recognizing regulators under a principal regulator model, the meeting participants have also attributed some of the delays to the high degree of scrutiny to which commission staff subjected their rule proposals. They believe that securities commissions should rely on the SROs' and market infrastructure entities' expertise and their policy development process. One entity recommended a process that would involve the CSA only on an exceptional basis, and only when the entity did not follow due process.

2. U.S. Approach

In the U.S., the rule review process by regulators is more streamlined. For example, the SEC process provides for different levels of review of SRO rule proposals, depending on their nature. With the exception explained in the next paragraph, all regulatory proposals submitted by SROs are published[69] and approved by the end of the comment period unless proceedings have been instituted by the SEC to determine whether they should be disapproved. The deadlines for these proceedings are strict.[70]

Certain regulatory proposals designated by SROs as being housekeeping in nature[71] need not be published, are approved by the SEC upon filing and may be implemented by the SROs immediately. The SEC may abrogate rules implemented in this fashion within a limited time period. Furthermore, proposed rule changes may be put into effect summarily if the SEC believes that such action is necessary for the protection of investors, the maintenance of fair and orderly markets, or the safeguarding of securities or funds.

In 1998, the SEC's Office of Inspector General conducted an audit of the SEC's process for review of SRO rules to assess their adequacy.[72] The findings show that, overall, the SEC's process was efficient and effective. The deficiencies identified related to: time delays in the rule review and approval by SEC staff;[73] inadequate documentation of review and approval of rules; lack of written justification for delays in rule review; and inadequate recordkeeping for rule filings. The report recommended that communication with SROs be enhanced in order to ensure that they are clear on the rule review procedures.

The CFTC process for review and approval of rules by designated contract markets and registered derivatives clearing organizations is even more streamlined.[74] The process, which applies to any of these entities' rules (including operational rules or terms and conditions of products listed for trading on the exchanges), with one exception,[75] allows them to adopt new rules or

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69 SEC rule 19(b)(1) of the Exchange Act requires the SROs to file all new rules and proposed rule changes with the SEC. Upon filing, the SEC must publish for comment notices of the new rule or proposed rule change describing its substance and a description of the issues involved. The comment period is 35 days from the date of publication of the notice of filing (and may be extended to a maximum of 90 days if appropriate).

70 Rule 19(b)(2) of the Exchange Act requires the SEC to either: approve a proposal by the end of the comment period, or institute and conclude a proceeding to determine whether the proposed rule change should be disapproved, within 180 days following publication.

71 Such rule changes: (i) constitute a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of an SRO; (ii) establish or change a due, fee, or other charge imposed by the SRO; or (iii) concern solely the administration of the SRO or other matters that the SEC, by rule, must specify.

72 *Commission Review of Self-Regulatory Organization Rules* Audit Report No. 272, July 14, 1998.

73 The report indicates, however, that the oldest filings related to complex and/or controversial proposals, which led to a longer review period.

74 The CFTC process is set out in CFTC regulations 38.4 and 40.6. The SROs' rule submissions must include: the text of the rule; the date of expected implementation; and a brief explanation of any substantive opposing views expressed to the SRO by its board or committees or members, if changes due to these comments were not incorporated in the rule.

75 The only rules and rule amendments of Designated Contract Markets that are not eligible for self-certification are those that materially change a term or condition of a contract for future delivery of an agricultural commodity enumerated in section 1a(4) of the Commodity Exchange Act, or an option on such a contract or commodity in a delivery month having open interest.

amend existing ones without prior CFTC approval,[76] as long as they certify that the rule complies with the *Commodity Exchange Act*. The SROs must file their self-certified submissions no later than the close of business on the business day preceding the implementation date of the rule proposal. The CFTC may stay the effectiveness of a rule implemented in this fashion if it decides that the SROs filed a false certification. The SROs may implement certain rules or rule amendments without filing them with the CFTC, as long as they notify the CFTC on a weekly basis, and may implement others without either self-certification or notice to the CFTC.

One concern regarding this approach relates to its lack of transparency. For example, one respondent to the CFTC request for comments on self-regulation and SROs noted that members do not have a chance to comment on SROs' rules, as they are implemented without a public comment period. This comment was reiterated at a recent hearing on self-regulation held by the CFTC on February 15th, 2006. However, one of the SROs present at the hearing indicated that, due to the need to keep up with the fast moving markets and to be able to implement rules quickly, adding a comment period after filing with the CFTC would be impractical. It added that members may comment through committees, in the rule development process.

3. Self-certification by Canadian SROs and Market Infrastructure Entities

Despite the differences in the protocols for rule reviews currently in place for Canadian entities, the Project Committee members noted that most SROs and market infrastructure entities are required to state in their submissions whether the proposals are material in terms of their impact on investors or market participants. For example, the IDA Joint Rule Protocol requires the IDA to assess whether the regulatory proposals it submits for CSA approval are either "public interest" (if the IDA's board believes that they affect the application of the securities legislation or could affect investors, issuers, members, registrants or the capital markets in any province or territory of Canada) or "housekeeping" (if they fall outside the definition of public interest rules). Similarly, the TSX Rule Review Protocol requires the TSX to classify its rule proposals as public interest or non-public interest. Public interest rules are those which, in the opinion of TSX, impinge upon the application of Ontario securities law or have a material impact, positive or negative, on public investors, listed or unlisted companies or non-member registrants.

In practice, in our view, the analysis provided by the SROs and market infrastructure entities to support their assessment of whether the proposals were of a public interest or housekeeping nature has often been insufficient. This may be due to a lack of understanding of the criteria for classification of rule proposals as "public interest". The entities that want the CSA to reduce their detailed review of rule proposals will need to focus more on this area in future.

In addition, in our view the CSA's rule review and approval process should be streamlined, but should remain transparent and allow for public review and comment. If the CSA adopts a mutual reliance system for oversight, the principles behind this model would be applied in the rule review process.

Recommendations

1. The CSA, SROs and market infrastructure entities should work together to agree on criteria for what is "material", as follows:

   (a) The CSA should set out their expectations on how the SROs and market infrastructure entities would assess and certify whether proposed changes to an existing rule or proposed new rules are material;

   (b) The criteria for assessing materiality should take into account whether the proposal impinges on the application of securities law or could have a significant impact (positive or negative) on investors, an SRO's members, or other market participants.

2. Once the criteria for materiality are agreed upon, the CSA should revise the rule review processes for the SROs and market infrastructure entities to ensure better coordination of substantive comments from the CSA jurisdictions and transparency of the rule review processes, as follows:

   (a) The entities would be required to assess and certify whether proposed changes to an existing rule or proposed new rules are "material" or not, based on the agreed-upon criteria;

   (b) They would be required to publish *for comment* all rule proposals, whether material or not (except for rules of a purely housekeeping nature, which would follow the process set out in (c) below), for at least 30 days, and to address any public comments received;

   (c) The entities would publish for information only, without prior public consultation, rules of a purely housekeeping nature, such as changes to correct spelling, punctuation, typographical or grammatical

[76] CFTC Rule 40.5 allows the SROs to voluntarily submit rules for CFTC's review and approval. The CFTC must deem the rules approved 45 days after their receipt, or later if an extension is needed.

mistakes or inaccurate cross-referencing or stylistic formatting (the frequency of publication would be determined by the SROs or market infrastructure entities and the notice to the public would state that the amendments are purely housekeeping and that no approval by the CSA is needed);

(d) Generally, the CSA would rely on the SROs' or market infrastructure entities' classification of rule proposals; however, the CSA could object to the classification of non-material rule proposals before the end of the comment period on the ground that it is material;

(e) Material rule proposals would follow the normal course of review and CSA staff would only raise substantive comments, as long as the submissions made by the SROs or market infrastructure entities to support approval are comprehensive and substantiated with adequate analysis, including analysis of the public interest impact;

(f) Non-material, non-housekeeping rule proposals would be deemed approved at the end of the comment period;

(g) Rules of a purely housekeeping nature would not need to be approved by the CSA;[77]

(h) The process and criteria for the SROs' and market infrastructure entities' rule development and their classification would be evaluated through the ongoing oversight process periodically; and

(i) The SROs and market infrastructure entities would include appropriate analysis in submissions on rule proposals.

D. Inconsistent Approaches to Regulation and Policy Interpretation

In the meetings, we discussed situations where the different securities commissions had inconsistent approaches to regulation due to different requirements. For example, with respect to distribution of exempt securities, the OSC and the Securities Commission of Newfoundland and Labrador require a Limited Market Dealer registration, the BCSC imposes a due diligence requirement, and the ASC issues orders depending on the products involved. Sometimes there are different interpretations of the same securities requirements. For example, some jurisdictions consider interests in land to be securities, while others do not, even though the definitions of "securities" under their respective legislation are similar. These differences lead to difficulties in compliance with regulatory requirements for dealers operating in multiple provinces. Increased dialogue and coordination among securities regulators is therefore necessary in order to manage such inconsistencies.

Recommendations

(a) There should be increased dialogue and coordination among the securities regulators in order to ensure that inconsistencies in interpretation and legislation are managed to the extent possible. This may include ongoing discussion of emerging issues or new products and the securities regulators' approaches to regulating them.

(b) The recognizing regulators should invite the SROs and market infrastructure entities to meet with their commissioners (or, in the case of the AMF, their equivalent) on an annual basis in order to discuss and exchange views on regulatory issues.

E. Lack of Clear Criteria for Division of Responsibilities

During the meetings, we asked the participants whether, in their view, there are any duplications in the regulatory activities carried out by them and the CSA. We received comments with respect to the enforcement functions. Some SROs expressed concerns that, in areas of concurrent jurisdiction, particularly in enforcement, there is confusion or differences of view regarding respective roles. There are no clear criteria for determining who has primary responsibility for enforcement matters where there is overlapping jurisdiction between an SRO and its recognizing regulators. We agree that further clarification of roles is needed for enforcement.

Recommendation

The CSA and the SROs should establish criteria for deciding which enforcement cases the commissions take on, and which cases the SROs will carry with assistance from the commissions as necessary. Such criteria would be used to allocate cases to be investigated by the respective entities and outline the process for referral between them.

[77] The AMF notes that legislative amendments would be necessary in order to implement this new process in Québec.

F. Transparency of Oversight Activities

In recent years, some of the recognizing jurisdictions started increasing the level of transparency regarding certain of their oversight activities by publishing the oversight reports of SROs and the SROs' responses in their entirety. This approach was a practical response to requests for SRO oversight reports made under the applicable *Freedom of Information and Protection of Privacy Act*.

The approach to publication remains, however, inconsistent across jurisdictions. For example, the BCSC and ASC publish oversight review reports on all the SROs they review in their entirety. The OSC, which historically kept oversight reviews in confidence, is re-considering publication. The AMF and NSSC do not publish oversight review reports at all, because they believe that oversight reviews should be conducted in confidence to avoid a potential chilling effect in the review process caused by publication.

One concern raised was that, if an entity is reviewed by jurisdictions that subsequently publish their oversight review reports, the public might mistakenly conclude that it had more deficiencies and needed to be subject to more rigorous regulation as compared to other entities, for which review reports were not published.

We reviewed the current approaches for publication and noted that there are advantages and disadvantages to each. For example, publishing oversight reports in their entirety gives the public a complete picture of the results of oversight reviews. However, in addition to those noted above, disadvantages include:

- issues disclosed in a published report may be taken out of context and misinterpreted by the public;
- confidential information contained in the reports may negatively affect their competitive position; and
- new entities would likely have more deficiencies in their early years of operations and it would not be fair to publish the first oversight review report.

Further, reviews constitute only one component of oversight and their publication may overshadow other components, such as reviews of rule proposals and other initiatives, and self-assessment reports.

Finally, publishing oversight review reports in their entirety may cause recognizing regulators to limit the scope of the reviews to areas that can be tested more objectively, such as operational and process-related matters. While this may reduce the possibility that review results are misinterpreted by the public, it may also make it difficult to include findings of a more qualitative or sensitive nature in a published report.

Publishing a report of all oversight activities would help inform the public of the full scope and nature of oversight, but might also lack findings of a more qualitative or sensitive nature. In addition, such a report may not include the level of detail regarding oversight activities that the public may want, for example, because it would only include important findings related to oversight reviews.

Keeping reports confidential may contribute to more openness of staff of entities subject to oversight in dealing with the CSA, especially through the oversight review process, as confidentiality prevents the publication chilling effect.

Since the CSA rely on the IDA, the MFDA and RS as the front-line regulators for dealers, we believe that the CSA must be accountable to the public for their oversight. Some members of the Project Committee feel that the best approach is to publish oversight review reports of these entities together with the entities' responses in their entirety. To address the concerns that published reports might be taken out of context and misinterpreted, the CSA should continue to prepare balanced reports that outline both positive and negative findings from reviews.

We also discussed whether oversight review reports of the market infrastructure entities should be published. Some Project Committee members believe that, for the entities' regulatory functions, the CSA have the same obligation to the public to account for their oversight. Other members noted that, although they have regulatory functions, they do not perform the same level of regulation as the SROs. In addition, those Project Committee members are sympathetic to the fact that some market infrastructure entities operate in a competitive environment and some of them, such as the TSX, are public companies.

Recommendation

The prevailing view is that the CSA should publish the oversight review reports of the IDA, MFDA and RS, together with the entities' responses, in their entirety.

V. IMPLEMENTATION

The Project Committee's recommendations should be implemented in two stages, informally, through letters of understanding or protocols, and formally by amending the recognition orders and joint rule protocols as necessary. The CSA should undertake a complete review of the various recognition orders and protocols to harmonize and reflect changes.

Recommendations

(a) Recognizing regulators should use informal mechanisms, such as letters of understanding or protocols, to document the following:

- The criteria and processes used by each SRO and each market infrastructure entity to demonstrate how its decisions meet (or do not prejudice) the public interest;
- If the CSA adopts an enhanced mutual reliance system for oversight, this mutual reliance system, including the revised processes for reviewing and approving SROs' rule proposals and any rotation of the principal regulator role; and
- The approach in conducting oversight reviews including whether mixed teams will be used and which recognizing regulator would take the lead in a particular review.

(b) Recognizing regulators should amend the joint rule protocols in due course to formally document the above and should amend the recognition orders to reflect any changes to the high level standards (or expected outcomes).

(c) While implementing (b), securities commissions should harmonize their recognition orders for each SRO, and harmonize the rule review process for all SROs and market infrastructure entities.

VI. CONCLUSION

In the last few decades, as markets have grown and become more complex and fast-moving, SROs and market infrastructure entities have expanded their regulatory programs and staff resources. At the same time, the securities commissions' oversight programs have increased. The increase in oversight activities and the higher level of scrutiny raise questions regarding duplication, the extent of the analysis of proposals submitted by SROs and market infrastructure entities, their processes for developing rules, policies and programs, and the level of oversight generally.

There will always be a need for oversight, but the CSA should adjust the extent of their reliance and the scope of their oversight to the extent that the SROs and market infrastructure entities demonstrate that they are meeting their responsibilities efficiently and effectively. To achieve this, we need to be clearer about our expectations of the entities we oversee. These entities must also improve their reporting to the CSA on how they are meeting or exceeding those expectations. The Project Committee made some recommendations to address this, and other recommendations aimed at making our oversight more efficient and effective.

APPENDIX A
CFTC's and SEC's Studies on Self-Regulation

(A) CFTC's SRO Study

The CFTC published two requests for comment regarding self-regulation, on June 9, 2004[78] and on November 21, 2005.[79] The areas of interest to CFTC include composition of SRO boards, impact on self-regulation of changing ownership structures and business models, structure of SRO disciplinary committees, and public transparency. Many of the questions that the CFTC raised in its requests for comment were also addressed in the SEC's concept release and proposed regulation.

(B) SEC's SRO Study

In November 2004, the SEC published for comment a concept release regarding self-regulation[80] and proposed regulation to deal with self-regulation and oversight.[81] The concept release discussed the fairness and efficiency of the current SRO structure and oversight approach, and identified the issues that needed to be addressed as including: the inherent conflicts of interest between an SRO's regulatory obligations and the interest of its members, its market operations, listed issuers or, for demutualized SROs, their shareholders; the adequacy of SROs' funding; and the inefficiencies arising in a system with multiple SROs. The SEC recommended enhancements to the current system of reliance on SROs, and raised for discussion alternate regulatory models.

The alternate regulatory models were: (1) an independent regulatory and market corporate subsidiary model, where all SROs would create independent subsidiaries for regulatory and market operations; (2) a hybrid model where the SEC would designate a market neutral single SRO to regulate all SRO members with respect to membership rules, while allowing each SRO that operates a market to remain responsible for its own market operations and market regulation; (3) a competing hybrid model that would permit the existence of multiple competing member SROs; (4) a universal industry self-regulator model where one industry SRO would be responsible for all market and member rules for all members and all markets; (5) an universal non-industry regulator model, where one non-industry entity would be responsible for the market and member regulation for all members and all markets; and (6) a model where the SEC would be solely responsible for the market and member regulation for all members and all markets.

The proposed regulation was intended to make improvements to the current system of reliance on SROs. The SEC key proposals that address the independence of an SRO are as follows:[82]

- A majority of the members of an SRO's board of directors should be independent, and an independent director[83] is a director who has no material relationship with the entity or its affiliate that could reasonably affect the independent judgment or decision-making of the director;[84]
- Each SRO should have the following board committees that are made up solely of independent directors: the nominating committee, the governance committee, the compensation committee, the audit committee and the regulatory oversight committee;[85]
- An SRO should separate its regulatory and commercial operations either structurally or functionally;
- Monies collected from regulatory fees, fines or penalties (regulatory funds) should be used exclusively to fund the regulatory operations of an SRO; and
- An SRO member who is a broker/dealer should be prohibited from owning and voting more than 20% of the ownership interest in the SRO or a facility of the SRO.

Other proposals included: additional disclosure by SROs of their governance, regulatory programs and ownership; and additional reporting from the SROs to the SEC in order to enable the latter to enhance its oversight of the SROs.

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78 Release No. 4936-04.
79 Release No. 5138-05.
80 Release no. 34-50700.
81 Release no. 34-50699.
82 Proposed SEC Rules regarding governance, administration, transparency and ownership of SROs that are national securities exchanges or registered securities association (release no. 34-50699), SEC, November 9, 2004.
83 Proposed SEC Rules 6(a)-5(b)(12) and 15Aa-3(b)(13) also contain specific circumstances in which a director would not be considered independent, for example, when the director or an immediate family members is being employed by the entity, its members or an issuer listed on the entity during the past three years.
84 In order to preserve the "self" in self-regulation, the SEC proposed to allow members of an SRO to select at least 20% of the directors.
85 Proposed SEC Rules 6a-5(f)(2), 6a-5(g)(2), 6a-5(h)(2), 6a-5(i)(2), 6a-5(j)(2), 15Aa-3(f)(2), 15Aa-3(g)(2), 15Aa-3(h)(2), 15Aa-3(i)(2) and 15Aa-3(j)(2) also require that the mandate of these committees should contain, at a minimum, certain specified responsibilities.

The public response to the SEC's concept release and proposed regulation has been overwhelming. Although there were differences in the responses, overall, the commenters appeared to support changes and improvements to the U.S. system of reliance on SROs and oversight, but thought that a less prescriptive approach should be taken.

APPENDIX B
Reports of the Five Year Review Committee and the Standing Committee on Finance and Economic Affairs of Ontario

(A) Five Year Review Committee

A review committee chaired by Purdy Crawford (Five Year Review Committee) released its Final Report[86] on March 21, 2003 (the Crawford report) recommending amendments to the *Securities Act* (Ontario) (Ontario Act) in several areas related to SROs.[87] The Crawford report considered whether any of the SROs regulated by the Commissions should be required to be recognized by the Commission,[88] as well as other issues relating to self-regulation.

Recognizing that flexibility in legislation is important and that a legislative requirement that SROs be recognized may be appropriate in some, but not all, situations, the Five Year Review Committee did not recommend that every SRO in Ontario be recognized. However, it recommended that the Ontario Act be amended to authorize the OSC to require a self-regulatory organization to apply for recognition where it is taking on activities which are properly discharged by, or subject to the oversight of, the Commission if it has not otherwise applied to be recognized. In addition, the Five Year Review Committee recommended that clearing agencies be required to obtain recognition and that the Commission re-examine the definition of "clearing agency" in the Ontario Act to ensure that it properly captures the activities which should trigger the requirement to be recognized.

The Crawford Report also discussed whether recognized self-regulatory organizations should have legislated enforcement powers with respect to their own rules. The Five Year Review Committee recommended that the Commission study whether the Ontario Act should be amended to give self-regulatory organizations the following statutory powers, and recommended that the OSC consider the checks and balances that would be necessary to ensure procedural fairness and protections available to those that are subject to these new statutory powers:

- Jurisdiction over current and former members or "regulated persons" and their current and former directors, officers, partners and employees;
- The ability to compel witnesses to attend and to produce documents at disciplinary hearings;
- The ability to file decisions of disciplinary panels as decisions of the court;
- Statutory immunity for SROs and their civil liability arising from acts done in good faith in the conduct of their regulatory responsibilities; and
- The power to seek a court-order "monitor" for firms that are in chronic and systemic non-compliance, close to insolvency or for other appropriate public interest criteria.

The Five Year Review Committee also considered whether recognized SROs should have the explicit authority and obligation to enforce Ontario securities law and concluded, in response to comments from the IDA and TSXV, that SROs should not be required to enforce Ontario securities law.[89] However, the Crawford Paper recommended that stock exchanges and recognized self-regulatory organizations be required to report to the Commission any breaches and possible breaches of securities law that they believe have occurred and may have occurred. Further, the Crawford Report included extensive discussion regarding the potential conflict of interest due to an SRO's dual role as a trade association and as a regulator.[90]

After consideration of comments including those made by the IDA and the Nova Scotia Securities Commission, the Five Year Review Committee reconsidered their recommendation and expressed the view that a division of the IDA's trade association and regulatory function would occasion major structural change to the IDA, with little evidence of either the necessity or the

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86 Ontario, Five-Year Review Committee (Purdy Crawford, Q.C., Chair), *Five Year Review Committee Final Report: Reviewing the Securities Act* (Toronto: Queen's Printer, 2003).

87 Amendments to the Ontario Act in 1994 (effective in 1995) require the Ontario Minister of Finance to appoint a committee to review the legislation every five years.

88 Under the Ontario Act, it is possible for an organization whose purpose is to regulate the operations and standards of practice of its members to establish itself as an SRO without being recognized. For example, the IDA acted for decades as an SRO until it was formally recognized by the OSC in 1995.

89 In their submissions, the IDA opposed requiring SROs to enforce securities law. It contended that this would result in confusion as to these roles and could further result in "double jeopardy" for registrants. TSX Venture Exchange echoed this view, stating: "it is not appropriate to delegate responsibility for enforcement of securities legislation to SROs… . SROs, not being government bodies, have different burdens of proof, different evidentiary standards and different procedures than do securities Commissions." TSX Venture Exchange stated that the roles of securities commissions and SROs should be kept distinct.

90 The only Canadian SRO that has been both a regulator and a trade association is the IDA. On December 14, 2005, following an unanimous vote by the IDA's board to formally divide the Association's regulatory and trade association functions, 88% of the IDA members voted to split the mandate.

benefits of such a change. However, the Five Year Review Committee encouraged the IDA to remain constantly mindful of the conflict inherent in self-regulation and that it organize and conduct itself in a way that is designed to give confidence to outsiders that, while the industry is policing itself, it does this in an adequate manner. The committee focused on the IDA's process in addressing investors' complaints, and noted the importance of investors receiving fair and unbiased treatment from the IDA. The Crawford Report recommended that the IDA consider whether improvements can be made to certain of its structures, such as the composition of its disciplinary panels and the membership of its board of directors, in order to lessen perceptions of conflict of interest in self-regulation.[91]

Finally, the Five Year Review Committee also considered whether changes to the Ontario Act were required to address the SRO oversight function and to provide the OSC with the tools necessary to perform its oversight function effectively. It saw no need for additional oversight powers at the time.

(B) Standing Committee on Finance and Economic Affairs (SCFEA)

On June 29, 2004, an Order of the House directed the SCFEA to fulfill the review, consultation and reporting obligations as set out in Section 143.12(5) of the Ontario Act and the priority recommendations of the Crawford Report, including the securities regulation in Canada. In October 2004, SCFEA issued a report that focused on priority recommendations of the Crawford Report that required further action.[92] With regards to SROs, the SCFEA report included a recommendation that the government establish a task force to review the role of SROs, including whether the trade association and regulatory functions of SROs should be separate.

[91] Some amendments were made to the IDA's by-law 20 and the IDA announced a move to a board structure with 50% public directors.

[92] Twenty of the 95 recommendations of the Crawford Report had either been implemented or required no further action.

1.2 Notices of Hearing

1.2.1 Crown Capital Partners Ltd. et al. - s. 127

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

AND

IN THE MATTER OF
CROWN CAPITAL PARTNERS LTD.,
RICHARD MELLON AND ALEX ELIN

NOTICE OF HEARING
(Section 127)

TAKE NOTICE that the Commission will hold a hearing pursuant to section 127 of the *Act* at its offices on the 17th Floor, 20 Queen Street West, Toronto, Ontario, in the Large Hearing Room, commencing on the 5th of December at 10:00 a.m. or as soon thereafter as the hearing can be held, to consider whether it is in the public interest to make the following orders against any or all of Crown Capital Partners Ltd., Richard Mellon and Alex Elin (the "Respondents"):

(a) pursuant to paragraph 2 of subsection 127(1), the Respondents cease trading permanently or for such time as the Commission may direct;

(b) pursuant to paragraph 7 of subsection 127(1), the individual Respondents resign any position they may hold as an officer or director of any issuer;

(c) pursuant to paragraph 8 of subsection 127(1), the individual Respondents be prohibited for 15 years from becoming or acting as a director or officer of any issuer;

(d) pursuant to paragraph 8.5 of subsection 127(1), the individual Respondents be prohibited for 15 years from becoming or acting as a registrant, as an investment fund manager or as a promoter;

(e) pursuant to clause 9 of subsection 127(1) , the Respondents pay an administrative penalty for failure to comply with Ontario securities law;

(f) pursuant to clause 10 of subsection 127(1), the Respondents disgorge to the Commission any amounts obtained for failure to comply with Ontario securities law;

(g) pursuant to section 127.1, the Respondents pay the costs of Staff's investigation and the costs of, or related to, this proceeding, incurred by or on behalf of the Commission;

(h) pursuant to section 37, the Respondents be prohibited from telephoning from within Ontario to any residence within or outside Ontario for the purpose of trading in any security or in any class of securities; and

(i) to make such other order as the Commission may deem appropriate.

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

AND TAKE FURTHER NOTICE that any party to the proceeding may be represented by counsel at the hearing;

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

DATED at Toronto this 29th day of November, 2006.

"John Stevenson"
Secretary to the Commission

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

AND

IN THE MATTER OF
CROWN CAPITAL PARTNERS LTD,
RICHARD MELLON AND ALEX ELIN

STATEMENT OF ALLEGATIONS
OF STAFF OF THE
ONTARIO SECURITIES COMMISSION

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

The Respondents

1. Crown Capital Partners Ltd. ("CCPL") is an Ontario company operating from offices belonging to a company, Cahara Corp. ("Cahara"). CCPL is the registered business name in Ontario of Merax Resource Management Ltd. ("Merax"), a federally incorporated entity.

2. Richard Mellon ("Mellon") is a resident of Toronto, Ontario, the sole director of Cahara and one of the two directors of Merax.

3. Alex Elin is also a resident of Toronto, Ontario and the other director of Merax.

4. The directing minds of CCPL are Mellon and Elin.

5. CCPL, Cahara and Merax are not registered in any capacity with the Ontario Securities Commission (the "Commission") nor are any of them reporting issuers in Ontario.

6. Neither Mellon nor Elin are registered in any capacity with the Commission.

Sale of Securities by CCPL in Karp Mineral Resources and Legacy Mining Corp.

7. From January 2003 to November 2004, it was represented to investors that CCPL was acting as an underwriter and agent for two Ontario mining companies: Karp Mineral Resources Inc. ("Karp") and Legacy Mining Corp. ("Legacy"). Karp is a subsidiary of Claim Lake Resources ("Claim"), a junior Ontario mining firm trading on the Canadian Unlisted Board ("CUB"). Securities on the CUB are unlisted and not quoted but can be bought and traded through brokers registered with the CUB. Legacy is a fictitious company.

(i) Karp

8. Late in 2002, CCPL purchased 2 million shares of Karp at 2.5 cents per share.

9. Some of these shares in Karp were sold by CCPL to investors, mostly from Europe. Employees of CCPL made prohibited representations to these investors including representations regarding the pending initial public offering of Karp and the potential share price of Karp shares upon such an offering.

10. Investors were also misled about the extent of the mining operations of Karp by employees of CCPL.

11. Shares in Karp were offered to the investors by employees of CCPL at prices ranging from $1.00 to $1.50 per share.

12. Investors were directed to send any correspondence to an address in Geneva, Switzerland that purported to be the offices of CCPL. This address was the premises of Regus Business Centre ("Regus") and was a virtual office for CCPL.

13. This virtual office sent all correspondence received from investors to a post office box in Toronto rented by Elin. Phone calls were also forwarded to numbers registered to Cahara. Similarly, employees of CCPL sent promotional materials to Regus in Switzerland for mailing to European investors.

14. Investors who purchased shares in Karp were provided wire instructions to forward the funds via the Bank of America to an account at TD Canada Trust in the name of CCPL.

15. In reality, Karp was not about to embark on an initial public offering and its exploration operations were very limited. Karp has never filed a preliminary prospectus or a prospectus with any securities regulator.

(ii) Legacy

16. Nonetheless, some of the investors who had purchased shares in Karp were contacted by CCPL some months after their purchase and were told that in order to realize any gains in their Karp shares, these shares had to be sent back to CCPL along with additional funds in exchange for shares in Legacy.

17. Some investors did send CCPL more money and their shares in Karp and received shares in Legacy.

18. Similar to the representations regarding the sale of shares in Karp, employees of CCPL made prohibited representations to these investors including representations regarding the pending initial public offering of Legacy. In addition, the investors were informed by parties from CCPL that Legacy was an ongoing and successful mining exploration firm.

19. Investors were also directed by parties from CCPL to a website (www.legacyminingcorp.com) for more information about Legacy. The text and content for this website was provided by Mellon.

20. The information posted on this website cannot be verified and portions of the website appeared to have been lifted directly from other mining companies' websites.

Funds Received from the Sale of Securities by CCPL in Karp and Legacy

21. Accounts under the name of Merax and CCPL were set up for receipt of these funds at TD Canada Trust by Elin and Mellon.

22. These accounts received over $500,000 from these sales of shares in Karp and Legacy. To date, none of the persons who sent CCPL funds for shares in Karp and/or Legacy have received anything of value in return.

Conduct Contrary to the Public Interest

23. By trading in securities without registration, making prohibited representations respecting securities and engaging in an illegal distribution of securities, the actions of the Respondents are contrary to sections 25, 38 and 53 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended and to the public interest.

24. Staff reserves the right to make such further and other allegations as Staff may submit and the Commission may permit.

DATED AT TORONTO this 21st day of November 2006

1.4 Notices from the Office of the Secretary

1.4.1 Bennett Environmental Inc. et al.

FOR IMMEDIATE RELEASE
November 29, 2006

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

AND

IN THE MATTER OF
BENNETT ENVIRONMENTAL INC., JOHN BENNETT,
RICHARD STERN, ROBERT GRIFFITHS AND
ALLAN BULCKAERT

TORONTO – Following a hearing held today, the Commission issued an Order approving the Settlement Agreement reached between Staff of the Commission and John Bennett.

A copy of the Order, Settlement Agreement and Schedule "A" are 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

Carolyn Shaw-Rimmington
Manager, Public Affairs
416-593-2361

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

1.4.2 Jose L. Castaneda

FOR IMMEDIATE RELEASE
November 30, 2006

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

AND

IN THE MATTER OF
JOSE L. CASTANEDA

TORONTO – The Commission issued an Order today in the above named matter which provides that the section 127 and 127.1 hearing currently set for December 5-7, 2006 at 10 a.m. is vacated and the matter is adjourned to be spoken to on May 28, 2007 or on an earlier date as directed by the Commission.

A copy of the Order 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

Carolyn Shaw-Rimmington
Manager, Public Affairs
416-593-2361

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

1.4.3 Bennett Environmental Inc. et al.

FOR IMMEDIATE RELEASE
November 30, 2006

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

AND

IN THE MATTER OF
JOHN BENNETT,
RICHARD STERN, ROBERT GRIFFITHS AND
ALLAN BULCKAERT

TORONTO – Following a hearing held today, the Commission issued an Order approving the Settlement Agreement reached between Staff of the Commission and Robert Griffiths.

A copy of the Order, Settlement Agreement and Schedule "A" are 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

Carolyn Shaw-Rimmington
Manager, Public Affairs
416-593-2361

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

1.4.4 Crown Capital Partners Ltd. et al.

FOR IMMEDIATE RELEASE
November 30, 2006

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

AND

IN THE MATTER OF
CROWN CAPITAL PARTNERS LTD.,
RICHARD MELLON AND ALEX ELIN

TORONTO – The Office of the Secretary issued a Notice of Hearing on November 29, 2006 scheduling a hearing on December 5, 2006 at 10:00 a.m. in the above named matter.

A copy of the Notice of Hearing and Statement of Allegations are 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

Carolyn Shaw-Rimmington
Manager, Public Affairs
416-593-2361

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

1.4.5 Mega-C Power Corporation et al.

FOR IMMEDIATE RELEASE
December 5, 2006

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

AND

IN THE MATTER OF
MEGA-C POWER CORPORATION, RENE PARDO,
GARY USLING, LEWIS TAYLOR SR.,
LEWIS TAYLOR JR., JARED TAYLOR,
COLIN TAYLOR and 1248136 ONTARIO LIMITED

TORONTO – The Commission issued an Order today scheduling the hearing on the merits to commence Monday, October 29, 2007 for a duration of approximately four to six weeks, or such other date as may be agreed to by the parties and fixed by the Secretary to the Commission, excluding the following dates: November 22, 23, 26 and 27, 2007.

A copy of the Order 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

Carolyn Shaw-Rimmington
Manager, Public Affairs
416-593-2361

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

1.4.6 Euston Capital Corp. and George Schwartz

FOR IMMEDIATE RELEASE
December 6, 2006

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

AND

IN THE MATTER OF
EUSTON CAPITAL CORP. AND
GEORGE SCHWARTZ

TORONTO – On December 4, 2006, the Commission issued an Order pursuant to section 127(7) of the *Securities Act* in the above noted matter, which provides that:

1. the hearing is adjourned pending the delivery of the decision of the Court of Appeal for Saskatchewan in an appeal by Euston and Schwartz of a decision of the Saskatchewan Financial Services Commission dated February 9, 2006, at which time Staff of the Commission and counsel for the respondents will attend at the earliest opportunity before the Commission to set a date for the continuation of the hearing; and

2. the Temporary Order is continued until the next attendance as contemplated in paragraph 1, or until further order of the Commission.

A copy of the Order 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

Carolyn Shaw-Rimmington
Manager, Public Affairs
416-593-2361

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

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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 CHUM Limited - s. 83

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – Applicant became an indirect wholly-owned subsidiary - Applicant deemed to cease to be a reporting issuer under applicable securities laws.

Applicable Ontario Statutory Provisions

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

Torys LLP
Suite 3000
79 Wellington Street West
Box 270, TD Centre
Toronto, Ontario
M5K 1N2

Attention: Victoria Blond

November 28, 2006

Dear Sirs/Mesdames:

Re: CHUM Limited (the Applicant) — Application to Cease to be a Reporting Issuer under the securities legislation of Ontario, Alberta, Saskatchewan, Manitoba, Quebec, New Brunswick, Nova Scotia and Newfoundland and Labrador (collectively, the Jurisdictions)

The Applicant has applied to the local securities 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:

(i) 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;

(ii) no securities of the Applicant are traded on a marketplace as defined in National Instrument 21-101 Marketplace Instrument;

(iii) 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

(iv) 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 Hillsdale Canadian Long/Short Equity Fund et al. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – Relief from certain mutual fund conflict of interest investment restrictions to permit a mutual fund to invest in securities of a related party.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 111(2)(a), 111(3), 113.

November 28, 2006

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

AND

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

AND

IN THE MATTER OF
HILLSDALE CANADIAN LONG/SHORT EQUITY FUND
HILLSDALE CANADIAN MARKET
NEUTRAL EQUITY FUND
HILLSDALE US LONG/SHORT EQUITY FUND
HILLSDALE US PERFORMANCE EQUITY FUND
HILLSDALE CANADIAN PERFORMANCE EQUITY FUND

MRRS DECISION DOCUMENT

Background

The local securities regulatory authority or regulator (the "**Decision Maker**") in the Jurisdictions has received an application from the Hillsdale Canadian Long/Short Equity Fund, Hillsdale Canadian Market Neutral Equity Fund, Hillsdale US Long/Short Equity Fund, Hillsdale US Performance Equity Fund, Hillsdale Canadian Performance Equity Fund and any other fund that may be created and managed by the Manager in the future (collectively, the "**Funds**") for a decision under the securities legislation of the Jurisdictions (the "**Legislation**") for an exemption from the restrictions contained in the Legislation:

1. which prohibit a mutual fund from knowingly making or holding an investment in: (i) a person or company in which the mutual fund, alone or together with one or more related mutual funds, is a substantial securityholder; and (ii) an issuer in which a significant interest is held by an officer or director of the mutual fund, its management company or distribution company (or an associate of any one of them) or any person or company who is a substantial security holder of the mutual fund, its management company or its distribution company;

(collectively, 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 Hillsdale Investment Management Inc. (the "Manager") on behalf of the Funds:

Manager

1. The Manager is a corporation incorporated under the *Business Corporations Act* (Ontario) with its head office in Toronto, Ontario.

2. The Manager is registered with the Ontario Securities Commission ("Commission") under the Ontario Act as an adviser in the categories of investment counsel and portfolio manager and as a dealer in the category of limited market dealer.

3. The Manager acts as trustee and portfolio manager of the Funds and is responsible for carrying on the business and affairs of the Funds under the terms of an amended and restated declaration of trust dated September 1, 2006 (for Hillsdale US Performance Equity Fund and Hillsdale Canadian Performance Equity Fund) and an amended and restated trust agreement dated September 1, 2006 (for Hillsdale Canadian Long/Short Equity Fund, Hillsdale Canadian Market Neutral Equity Fund and Hillsdale US Long/Short Equity Fund).

Funds

4. The Funds are open-end investment trusts established by the Manager under the laws of the Province of Ontario. The date of establishment of each Fund is as follows:

Hillsdale Canadian Long/Short Equity Fund	January 31, 2000
Hillsdale US Long/Short Equity Fund	July 31, 2000
Hillsdale Canadian Market Neutral Equity Fund	July 31, 2001
Hillsdale Canadian Performance Equity Fund	May 9, 2003
Hillsdale US Performance Equity Fund	November 2, 2005

The head office of the Funds is in Toronto, Ontario.

5. The Funds are distributed under the terms and provisions of an offering memorandum in Canada's private placement markets pursuant to available prospectus exemptions and otherwise in accordance with National Instrument 45-106 *Prospectus and Registration Exemptions* ("**NI 45-106**"). The Funds are not a reporting issuer in any Jurisdiction and they are not in default under relevant securities legislation of the Jurisdictions.

6. The investment objective of each Fund is as follows:

Hillsdale Canadian Long/Short Equity Fund – to provide investors with a rate of return on capital in excess of Canadian equities over a three-year period with a low correlation to, and volatility equal to or less than, the S&P/TSX Composite Index.

Hillsdale Canadian Market Neutral Equity Fund – to provide investors with a non-correlated rate of return on capital in excess of Canadian T-bills over a three-year period with volatility equal to or less than that of long-term bonds.

Hillsdale US Long/Short Equity Fund - to provide investors with a rate of return on capital in excess of U.S. equities over a three-year period with a low correlation to, and volatility equal to or less than, the S&P 500 Composite Index.

Hillsdale US Performance Equity Fund – to provide investors with a rate of return on capital in excess of, and with volatility equal to or less than, the Russell 2000 Total Return Index.

Hillsdale Canadian Performance Equity Fund – to provide investors with a rate of return on capital in excess of, and with volatility equal to or less than, the S&P/TSX SmallCap Index.

7. Each Fund uses a proprietary, dynamic, multi-factor ranking approach to stock selection and for the control of risk in the portfolio as part of their investment strategy. Inputs are largely fundamental, expectational and technical and are collected from many different source databases. Securities are reviewed weekly for their adherence to specific decision rules and for their contribution to increasing return and/or reducing risk. Stocks with a law marginal contribution to risk-adjusted return are sold and replaced with stocks with the highest contribution then available.

8. Each Fund (collectively referred to in this context as the "**Top Funds**"), would like the ability to invest in securities of any another Fund (collectively referred to in this context as the "**Underlying Funds**"), in accordance with the Top Fund's investment objective.

9. The Manager believes that a Top Fund's investment (the "**Fund-on-Fund Investments**") in securities of an Underlying Fund (which, in turn, has acquired or will acquire particular asset classes or pursue particular investment strategies that are in accordance with that Top Fund's investment objective) provides an efficient and cost-effective manner of pursuing portfolio diversification opportunities on behalf of the Top Fund rather than through the direct purchase of securities.

10. In connection with the Fund-on-Fund Investments, the Manager shall ensure that:

a) the arrangements between or in respect of the Top Funds and the Underlying Fund are such as to avoid the duplication of management fees or incentive fees;

b) the offering memorandum will describe the Top Fund's ability to invest a portion of its assets in securities of the Underlying Funds and that the Underlying Funds are managed by the Manager;

c) no sales or redemption fees are payable to the Top Funds in relation to its purchases or redemptions of securities of the Underlying Funds;

d) the Manager will not vote the securities of the Underlying Fund held by the Top Funds at any meeting of holders of such securities; and

e) the offering memorandum of the Top Fund will contain information about how the Top Fund investor may obtain a copy of the Underlying Fund offering memorandum or its annual or semi-annual financial statements.

11. In the absence of the Requested Relief, the Top Fund would be precluded from implementing the Fund-on-Fund Investments due to the investment restrictions contained in the Legislation.

12. The Fund-on-Fund Investments represents the business judgement of responsible persons uninfluenced by considerations other than the best interests of the Top Fund.

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) securities of each Fund are distributed only on a private placement basis pursuant to available prospectus exemptions;

b) the arrangements between or in respect of the Top Funds and the Underlying Fund are such as to avoid the duplication of management fees or incentive fees;

c) the offering memorandum will describe the Top Fund's ability to invest a portion of its assets in securities of the Underlying Funds and that the Underlying Funds are managed by the Manager;

d) no sales or redemption fees are payable to the Top Funds in relation to its purchases or redemptions of securities of the Underlying Funds;

e) the Manager will not vote the securities of the Underlying Fund held by the Top Funds at any meeting of holders of such securities; and

f) the offering memorandum of the Top Fund will contain information about how the Top Fund investor may, on request, obtain a copy of the Underlying Fund offering memorandum or its annual or semi-annual financial statements, which will be sent to them free of charge.

"Paul M. Moore"
Commissioner
Ontario Securities Commission

"David L. Knight"
Commissioner
Ontario Securities Commission

2.1.3 CIBC World Markets Inc. and Canadian Imperial Bank Of Commerce - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – Registered investment dealer exempted from section 228 of the Regulation for recommendations in respect of securities of its parent bank, subject to conditions – Decision permits the registrant to make recommendations in the circumstances contemplated by subsection 228(2) of the Regulation, but without having to comply with the requirement for (comparative) information, similar to that set forth in respect of the bank, for a substantial number of other persons or companies that are in the industry or business of the bank, to the extent that such comparative information is not known, or ascertainable, by the registrant – In incorporating other requirements from subsection 228(2), the decision also provides that the space and prominence restrictions in clause 228(2)(d) relate to the information for which there is such comparative information.

Applicable Ontario Statutory Provision

Ontario Regulation 1015, R.R.O. 1990, as am., ss. 228, 233.

November 28, 2006

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO, NOVA SCOTIA, AND
NEWFOUNDLAND AND LABRADOR

AND

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

AND

IN THE MATTER OF
CIBC WORLD MARKETS INC. AND
CANADIAN IMPERIAL BANK OF COMMERCE

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the **Decision Maker**) in each of Ontario, Nova Scotia, and Newfoundland and Labrador (the **Jurisdictions**) has received an application (the **Application**) for a decision under the securities legislation (the **Legislation**) of the Jurisdictions, that the provisions (the **Recommendation Prohibition**) in the Legislation which provide that no registrant shall, in any medium of communication, recommend, or cooperate with any person [or company] in the making of any recommendation, that the securities of the registrant, or a related issuer of the registrant, or, in the course of a distribution, the securities of a connected issuer of the registrant, be purchased, sold or held, shall not, in certain circumstances, apply to CIBC

World Markets Inc. (the **Registrant**), in respect of securities of its parent bank, Canadian Imperial Bank of Commerce (the **Bank**);

AND WHEREAS under the Mutual Reliance Review System for Exemptive Relief Applications (the **System**), the Ontario Securities Commission is the principal regulator for the Application;

AND WHEREAS, unless otherwise defined, terms used herein have the meaning set out in National Instrument 14-101 *Definitions*;

AND WHEREAS the Registrant has represented to the Decision Makers that:

1. The Registrant, a corporation incorporated under the laws of Ontario, has its head office in Ontario.

2. The Bank is a Canadian chartered bank named in Schedule I of the Bank Act (Canada).

3. The Registrant is a wholly-owned subsidiary of the Bank and, as such, is a "related issuer" of the Registrant for the purposes of the Recommendation Prohibition.

4. The Registrant is registered under the Legislation of each of the Jurisdictions as a dealer in the category of "broker" and "investment dealer".

5. The Registrant acts as a full-service investment dealer.

6. The Registrant provides equity research report coverage on in excess of 300 issuers, including the Bank and all of the other banks currently named in Schedule I of the Bank Act (Canada).

7. As a member of the Investment Dealers Association of Canada (the **IDA**), the Registrant is obliged to comply with the IDA Policy 11 – Research Restrictions and Disclosure Requirements (**IDA Policy 11**).

8. Guideline No. 3 of IDA Policy 11 states:

   Members should adopt standards of research coverage that include, at a minimum, the obligation to maintain and publish current financial estimates and recommendations on securities followed, and to revisit such estimates and recommendations within a reasonable time following the release of material information by an issuer or the occurrence of other relevant events.

9. In each of the Jurisdictions, the Legislation provides an exemption (the **Statutory Exemption**) from the Recommendation Prohibition for a recommendation (a **Recommendation**) to purchase, sell or hold securities of an issuer, that is contained in a circular, pamphlet or similar publication (a **Report**) that is published, issued or sent by a registrant and is of a type distributed with reasonable regularity in the ordinary course of its business, provided that the Report:

   (a) includes in a conspicuous position, in type not less legible than that used in the body of the Report

      (i) a full and complete statement (a **Relationship Statement**) of the relationship or connection between the registrant and the issuer of the securities; and

      (ii) a full and complete statement of the obligations of the registrant under the Recommendation Prohibition and the Statutory Exemption;

   (b) includes information (**Comparative Information**) similar to that set forth in respect of the issuer for a substantial number of other persons or companies (**Competitors**) that are in the industry or business of the issuer; and

   (c) does not give materially greater space or prominence to the information set forth in respect of the issuer than to the information set forth in respect of any other person or company described therein.

10. So long as the Registrant remains a related issuer of the Bank, the Registrant cannot rely on the Statutory Exemption from the Recommendation Prohibition, to publish in a Report any Recommendation with respect to securities of the Bank, including a revision to a previous Recommendation, in response to:

    (a) the release of interim financial statements of the Bank or information concerning such financial statements, or

    (b) the release of information, or the occurrence of an event, that might reasonably be interpreted to have, or possibly have, a significant effect on the value of any securities issued by the Bank, or the continued validity of previously published financial estimates or recommendation issued by the Registrant in respect of any securities issued by the Bank,

    unless, at the relevant time, the Registrant has been able to ascertain, and is able to include in the Report, Comparative Information for a substantial number of Competitors of the Bank, and also satisfy the requirements of the Statutory

Exemption relating to space and prominence of information, referred to in paragraph 9(c), above.

11. The Registrant will be precluded from including in any Report Comparative Information for a substantial number of Competitors of the Bank if, at the relevant time:

(a) there is no Comparative Information for any Competitors that is known, or ascertainable, by the Registrant, or

(b) there is not Comparative Information for a substantial number of Competitors of the Bank that is known, or ascertainable, by the Registrant.

AND WHEREAS under the System, this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the **Decision**);

AND WHEREAS 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 Recommendation Prohibition shall not apply to Recommendations of the Registrant in respect of securities of the Bank that are made by the Registrant in a Report, in response to:

(i) the release of interim financial statements of the Bank or information concerning such financial statements, or

(ii) the release of information, or the occurrence of an event, that might reasonably be interpreted to have, or possibly have, a significant effect on the value of any securities issued by the Bank, or the continued validity of previously published financial estimates or recommendation issued by the Registrant in respect of any securities issued by the Bank,

if, at the relevant time, Comparative Information for a substantial number of Competitors of the Bank is not known, or ascertainable, by the Registrant, provided that:

(A) the Report includes in a conspicuous position in a type not less legible than that used in the body of the Report:

(i) a Relationship Statement concerning the relationship or connection between the Registrant and the Bank; and

(ii) a full and complete statement of the obligations of the Registrant under the Recommendation Prohibition and this Decision;

(B) for any information in respect of the Bank that is included in the Report, for which there is Comparative Information for any Competitors that is known, or ascertainable, by the Registrant, the Report includes such Comparative Information;

(C) for the information referred to in paragraph (B) above, the Report does not give greater prominence to the information in respect of the Bank than to the Comparative Information for any of the Competitors of the Bank that is included in the Report; and

(D) this Decision shall terminate on the day that is two years after the date of this Decision.

"Susan Wolburgh Jenah"
Commissioner
Ontario Securities Commission

"Robert L. Shirriff"
Commissioner
Ontario Securities Commission

2.1.4 Sunrise Senior Living Real Estate Investment Trust - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - National Instrument 51-102, s. 13.1 – Continuous Disclosure Obligations – BAR – An issuer requires relief from the requirement to include certain financial statements in a business acquisition report. Under s. 8.4 (3)(b)(ii), the issuer is required to include a pro forma income statement for the most recently completed interim period that ended after the issuer's most recently completed financial year for which financial statements are required to have been filed. Pro forma earnings per share for the same period are also required to be filed. The issuer is instead including a pro forma income statement for the interim period that ended immediately before the date of the Acquisition and pro forma earnings per share for the same period. This is consistent with the Proposed Amendments to NI 51-102 to become effective December 29, 2006.

Applicable Legislative Provisions

National Instrument 51-102, Part 8 and s. 13.1.

December 4, 2006

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ALBERTA, SASKATCHEWAN, MANITOBA,
ONTARIO, QUEBEC, NOVA SCOTIA,
NEWFOUNDLAND AND LABRADOR AND
NEW BRUNSWICK

AND

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

AND

IN THE MATTER OF
SUNRISE SENIOR LIVING REAL ESTATE
INVESTMENT TRUST (the "Filer")

MRRS DECISION DOCUMENT

Background

The local securities regulatory authority or regulator (the "Decision Maker", and collectively the "Decision Makers") in each of Alberta, Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia, Newfoundland and Labrador and New Brunswick (the "Jurisdictions") has received an application from Sunrise Senior Living Real Estate Investment Trust for a decision under the securities legislation of the Jurisdictions (the "Legislation") exempting the Filer from the requirement in the Legislation to include certain pro forma financial statements in the business acquisition report ("BAR"), to be filed by the Filer in connection with an acquisition which was completed on September 13, 2006, on condition that the Filer includes: (a) a pro forma income statement for the interim period that ended immediately before the date of the Acquisition (as defined below) and pro forma earnings per share for such period and (b) the historical and pro forma financial statements otherwise required pursuant to National Instrument 51-102 ("N151-102") in the BAR (the "Requested Relief").

Under the Mutual Reliance Review System for Exemptive Relief Applications:

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

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

Interpretation

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

Representations

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

The Filer

1. The Filer is an unincorporated open-ended real estate investment trust established under the laws of the Province of Ontario pursuant to a declaration of trust dated August 13, 2004, as amended and restated by a declaration of trust made as of December 21, 2004.

2. The Filer is a reporting issuer, or the equivalent, in each of the Jurisdictions and, to the best of its knowledge, is currently not in default of any applicable requirements under the securities legislation thereunder, except that if this decision is not granted by November 27, 2006 the date the BAR is filed, the Filer will be in default with respect to the BAR as it will not comply with the current requirements of Section 8.43(a) and 8.43(b)(ii) of NI 51-102.

3. The Filer's units are listed on the Toronto Stock Exchange (the "TSX"). The Filer also has Series 2006-1 6.4% Convertible Unsecured Subordinated Debentures and Series 2 7.0% Convertible Unsecured Subordinated Debentures outstanding, each of which series is listed on the TSX.

4. The financial year end of the Filer is December 31.

The Acquisition

5. On September 13, 2006, the Filer acquired an 80% controlling interest in 24 assisted living

communities (the "Portfolio") from an institutional investor for approximately $472 million by way of the acquisition of an 80% controlling interest of each of Sunrise First Assisted Living Holdings, LLC and Sunrise Second Assisted Living Holdings, LLC (the "Acquisition"). The Filer filed a material change report in respect of the Acquisition which is available on SEDAR.

6. Using the significance tests set forth in section 8.3 of NI51-102, the Acquisition was determined by the Filer to be significant at the greater than 40% level.

7. The Portfolio acquired by the Filer and the subsequent operation thereof by the Filer does not constitute a material departure from the business or operations of the Filer immediately before the Acquisition.

The BAR Financial Statement Requirements

8. Pursuant to the requirements of Part 8 of NI51-102, the Filer is required to file a BAR relating to the Acquisition on or before November 27, 2006.

9. The Filer's most recently completed financial year for which financial statements are required to have been filed pursuant to NI51-102 is December 31, 2005.

10. As of November 13, 2006, the Filer's most recently completed interim period for which financial statements are required to have been filed pursuant to NI51-102 is June 30, 2006.

11. As of November 14, 2006, the Filer's most recently completed interim period for which financial statements are required to have been filed pursuant to NI51-102 is September 30, 2006.

12. Section 8.4(3)(a) of NI51-102 requires the BAR in respect of the Acquisition to include a pro forma balance sheet of the Filer that gives effect to significant acquisitions completed after the date of the Filer's most recent interim or annual balance sheet, as if they had taken place as at the date of the pro forma balance sheet, but are not reflected in the reporting issuer's most recent annual or interim balance sheet.

13. Section 8.4(3)(b)(ii) of NI51-102 requires the BAR in respect of the Acquisition to include a pro forma income statement of the Filer that gives effect to significant acquisitions completed after the ending date of the Filer's most recently completed financial year for which financial statements are required to have been filed, as if they had taken place at the beginning of the financial year, for the Filer's most recently completed interim period that ended after the Filer's most recently completed financial year for which financial statements are required to have been filed and earnings per share for the same interim period.

14. If the BAR were filed prior to November 14, 2006, the Filer's most recently completed interim period for which financial statements are required to have been filed that ended after the Filer's most recently completed financial year for which financial statements are required to have been filed is the six month period ended June 30, 2006. However, as the BAR will be filed after November 14, 2006, the Filer's most recently completed interim period for which financial statements are required to have been filed that ended after the Filer's most recently completed financial year for which financial statements are required to have been filed is the nine month period ended September 30, 2006.

15. As the BAR will be filed subsequent to November 14, 2006 (being after the deadline for the filing of the Filer's interim financial statements for the nine month period ended September 30, 2006), pursuant to Section 8.4(3)(a) of NI51-102 the Filer will not be required to include a pro forma interim period balance sheet of the Filer in the BAR as the Acquisition will be reflected in the Filer's September 30, 2006 interim balance sheet.

Historical Financial Statements

16. The vendor of the Portfolio did not maintain either audited annual or unaudited interim financial statements for either Sunrise First Assisted Living Holdings, LLC or Sunrise Second Assisted Living Holdings, LLC. The manager of the Portfolio therefore had to prepare historical financial statements in connection with the Acquisition, and those financial statements (in the case of the annual historical financial statements) had to be audited.

17. The Filer intended to file the BAR in connection with the Acquisition prior to November 14, 2006, thereby including a pro forma income statement for the six month period ended June 30, 2006 and earnings per share for the same interim period and a pro forma balance sheet as at June 30, 2006.

18. As a result of the review undertaken by the Filer and its auditors of the historical financial statements of Sunrise First Assisted Living Holdings, LLC and Sunrise Second Assisted Living Holdings, LLC, a number of issues were being reconsidered and, as a result, these financial statements had to be reissued. The Filer was therefore unable to file the BAR in respect of the Acquisition prior to November 14, 2006, being the date on which it is required pursuant to NI51-102 to file its interim financial statements for the nine month period ended September 30, 2006.

19. As a result of the BAR in respect of the Acquisition being filed after the filing by the Filer of its interim financial statements for the nine month period ended September 30, 2006, the BAR is required to include a pro forma income statement and earnings per share for the nine month period ended September 30, 2006 (as opposed to for the six month period ended June 30, 2006); however, the BAR is not required to include a pro forma balance sheet as the Acquisition will be reflected in the Filer's September 30, 2006 interim balance sheet.

20. On October 13, 2006, the Canadian Securities Administrators published proposed amendments to: (i) NI51-102, its related forms and companion policy (the "Proposed Amendments to NI51-102"), (ii) National Instrument 52-107 – *Acceptable Accounting Principles, Auditing Standards and Reporting Currency*, and (iii) National Instrument 71-102 – *Continuous Disclosure and Other Exemptions relating to Foreign Issuers* and its related companion policy. Provided all necessary ministerial approvals are obtained, the amendments will come into force on December 29, 2006.

21. Section 8.4(5)(b)(i)(B) of the Proposed Amendments to NI51-102 will modify the filing requirements of a pro forma interim income statement in a business acquisition report; namely, to comply with these modified filing requirements, a reporting issuer must include a pro forma income statement for the interim period for which it has filed financial statements that started after the most recently completed financial year that ended immediately before the date of acquisition or, in the reporting issuer's discretion, after the date of acquisition.

22. For the BAR, Section 8.4(5)(c) of the Proposed Amendments to NI51-102 would require pro forma earnings per share for the six-month period ended June 30, 2006.

23. The Requested Relief would satisfy the requirements of sections 8.4(5)(b)(i)(B) and 8.4(5)(c) of the Proposed Amendments to NI51-102.

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 BAR filed by the Filer in respect of the Acquisition includes a pro forma income statement for the interim period that ended immediately before the date of the Acquisition (being June 30, 2006) and pro forma earnings per share for the same interim period; and

(b) the BAR filed by the Filer in respect of the Acquisition includes the historical and pro forma financial statements otherwise required under NI51-102.

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

2.1.5 Big Rock Brewery Income Trust - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications C Exemption granted from the requirement to include certain financial statements in respect of a newly-incorporated, wholly-owned subsidiary of an income trust in an information circular - The information circular will be sent to the trust's unitholders in connection with a proposed internal reorganization that will replace the trust's operating partnership with a new operating limited partnership - Shares of a subsidiary will be issued to the trust's unitholders for an instant in time in order to allow the reorganization to be effected in a tax-efficient manner - The rights of unitholders in respect of the Filer and their relative indirect interests in and to the revenues of the trust's business will not be affected by the reorganization.

Applicable Alberta Statutory Provisions

National Instrument 51-102 C Continuous Disclosure Obligations, Form 51-102F5 C Information Circular, item 14.2

Citation: Big Rock Brewery Income Trust, 2006 ABASC 1742

October 30, 2006

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN, MANITOBA, ONTARIO, QUEBEC, 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
BIG ROCK BREWERY INCOME TRUST (THE FILER)

MRRS DECISION DOCUMENT

Background

1. The local securities regulatory authority or regulator (the Decision Maker) in each of the Jurisdictions has received an application of the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) that the Filer be exempt from the requirements of item 14.2 of Form 51-102F5 *Information Circular* of National Instrument 51-102 C *Continuous Disclosure Obligations* to include the following financial statements (the Financial Statement Requirement) in the Filer's management information circular (the Circular) prepared in connection with the special meeting of the Filer's unitholders (Unitholders) to consider and approve, among other things, the Reorganization (as defined below):

   1.1 audited financial statements of GPCo (as defined below);

   1.2 audited financial statements of MFC (as defined below);

   1.3 audited financial statements of MFC Amalco (as defined below); and

   1.4 audited financial statements of the Limited Partnership (as defined below).

   (the Requested Relief).

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

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

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

Interpretation

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

Representations

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

   4.1 The Filer is an open-ended trust established under the laws of Alberta pursuant to a trust indenture (as supplemented and amended) dated November 18, 2002 (the Trust Indenture). The Filer is authorized to issue an unlimited number of units (Trust Units). The Trust Units are listed for trading on the Toronto Stock Exchange under the symbol "BR.UN". As of October 16, 2006, 6,034,174 Trust Units were issued and outstanding.

   4.2 The Filer indirectly holds all of the interest in Big Rock Brewery Partnership (the Partnership), an Alberta partnership, which carries on the Big Rock Brewery business (the Business).

   4.3 The Filer is a reporting issuer in Alberta, British Columbia, Saskatchewan,

Manitoba and Ontario and is not in default of any of its obligations as a reporting issuer.

4.4 It is proposed that the Filer's present organizational structure undergo an internal reorganization (the Reorganization) to replace a partnership structure with a new operating limited partnership (the Limited Partnership) to carry on the Business and to remove the corporate entities from the structure. The Limited Partnership will be owned by the Filer.

4.5 The Reorganization will occur on a tax-deferred basis for the Filer and its Unitholders resident in Canada.

4.6 After giving effect to the Reorganization, the direct and indirect interests of the Filer in the property of the Limited Partnership and its general partner and in the Business will be materially the same as the interests that the Filer held in the Partnership and the Business immediately prior to the Reorganization.

4.7 As part of the Reorganization:

4.7.1 A new corporation (GPCo) will be incorporated to ultimately act as general partner of the Limited Partnership. The Filer will be the sole shareholder of GPCo.

4.7.2 Big Rock Brewery Ltd. (Big Rock) will transfer all business assets it holds to the Partnership in exchange for additional Partnership Units.

4.7.3 The Limited Partnership will be created and initially organized so that the Partnership is the limited partner and GPCo is the general partner.

4.7.4 The Partnership will transfer all of its assets (the Assets) to the Limited Partnership in exchange for units of the Limited Partnership (LP Units). All of the employees of the Partnership will become employees of the Limited Partnership.

4.7.5 The Partnership will be dissolved as it will no longer be required within the structure and all of the Assets will be the Asset of the Limited Partnership. As Big Rock and Pine Creek are the only partners of the Partnership, they will receive the interest in the Limited Partnership previously held by the Partnership.

4.7.6 A new corporation (MFC) will be incorporated under the provisions of the ABCA as a restricted purpose entity. MFC's share capital will include the Common Shares, Class A Shares and Class B Shares. The Filer will initially be the sole shareholder of MFC.

4.7.7 Subject to receiving approval from the Toronto Stock Exchange (TSX), the Class A Shares of MFC will be temporarily listed on the TSX and, upon listing, Class A Shares of MFC will be issued to the Filer for nominal cash consideration.

4.7.8 The Filer will distribute to the Unitholders the Class A Shares of MFC as a return of capital. Each Unitholder will receive a number of Class A Shares of MFC equal to the number of Trust Units owned by such holder at the Record Date. No certificates will be issued to Unitholders for Class A Shares of MFC as they are to be redeemed pursuant to the Reorganization. Following this distribution, MFC will qualify as a mutual fund corporation for tax purposes.

4.7.9 The Filer will enter into a purchase and sale agreement with MFC whereby the Filer will sell to MFC the Big Rock securities held by the Filer for fair market value on a tax-deferred basis in exchange for Class B Shares of MFC.

4.7.10 The Amalgamation of Big Rock, Pine Creek and MFC will occur such that all of the property and liabilities of Big Rock, Pine Creek Brewing Company Ltd. (Pine Creek) and MFC will be held by MFC Amalco, Big Rock, Pine Creek and MFC will cease to exist as separate entities and a new corporate entity (MFC Amalco) will be created. All of the Big Rock securities and Pine

Creek securities will be cancelled by operation of the Amalgamation. The securities of MFC held by the Filer will be exchanged for identical securities of MFC Amalco. Upon completion of the Amalgamation, MFC Amalco will be the sole limited partner of the Limited Partnership.

4.7.11 The Trust Indenture will be amended to provide for, among other things: (i) the automatic consolidation of Trust Units which is to occur as part of the Reorganization; (ii) a change regarding in specie redemption of Trust Units; (iii) a right of renunciation will be added with respect to special trust units held by a subsidiary of the Filer; and (iv) the special trust units (Special Units) will be created as a new class of units created solely for the purpose of the Reorganization.

4.7.12 The Filer will enter into a combination agreement with MFC Amalco whereby MFC Amalco will transfer its LP Units to the Filer in exchange for the Filer issuing Trust Units and Special Units to MFC Amalco. Upon issuance of the Special Units, the entitlement of other Unitholders of the Filer to receive distributions from the Filer will be temporarily subordinated such that they will not receive any distributions from the Filer until holders of the Special Units of the Filer have been paid the redemption price for such Special Units or until no Special Units remain outstanding. The Special Units will only be temporarily outstanding and will be cancelled as part of the Reorganization such that no distributions to Unitholders will be affected.

4.7.13 The Filer will transfer its Class B Shares of MFC Amalco to the Limited Partnership as an additional capital contribution to the Limited Partnership. Concurrently, the Filer will subscribe for additional shares of GPCo and GPCo will use the subscription funds to increase its interest in the Limited Partnership to maintain the 99.99% and 0.01% ownership ratio of the Limited Partnership.

4.7.14 MFC Amalco will then redeem all of the Class A Shares held by Unitholders and Class B Shares of MFC Amalco held by the Limited Partnership. The redemption price of these securities will be satisfied by the transfer of Special Units of the Filer to the Limited Partnership and the transfer of Trust Units to the Unitholders. The redemptions will be done on a tax neutral basis.

4.7.15 The Limited Partnership will then exercise the right of renunciation on the Special Units of the Filer by delivering a written notice of renunciation immediately renouncing, releasing and surrendering all of its interest in the Special Units of the Filer.

4.7.16 The Special Units of the Filer held by the Limited Partnership will be cancelled and any subordination by the Unitholders to receive distributions will terminate as no Special Units will remain outstanding.

4.7.17 The Trust Units held by the Unitholders will be consolidated on a basis such that the number of Trust Units following the consolidation will be equal to the number of Trust Units outstanding immediately before the Reorganization. This consolidation will be capital and tax neutral.

4.7.18 Finally, the appropriate tax elections will be filed and once all of the elections have occurred the Filer will act to dissolve MFC Amalco under the ABCA.

4.8 Big Rock, Pine Creek, MFC, MFC Amalco and the Partnership will all cease to exist by operation of the Reorganization.

4.9 GPCo's sole purpose following the Reorganization will be to act as the

general partner of the Limited Partnership and its sole asset will be a 0.01% interest in the Limited Partnership. GPCo will be wholly owned by the Filer.

4.10 The Limited Partnership will own all of the Assets following the Reorganization and will be owned by the Filer (99.99%) and GPCo (0.01%). The Limited Partnership will be managed by GPCo.

4.11 The Circular will include or incorporate by reference prospectus level disclosure of the Filer, including the Filer's audited annual consolidated financial statements for the year ended December 31, 2005 which will include financial results for the Business for the same period.

4.12 The Circular will include or incorporate by reference prospectus level disclosure of GPCo, MFC Amalco, MFC and the Limited Partnership other than the financial statement disclosure required pursuant to the Financial Statement Requirement.

4.13 Neither the number of issued and outstanding Trust Units nor the relative holdings of Trust Units by any Unitholder will be altered as a result of the completion of the Reorganization and the Filer will continue to indirectly own the same assets is it does currently. The rights of the Unitholders with respect to the Filer and their indirect interest in and to the revenues of the Filer's business will not be affected by the Reorganization.

4.14 The Class A Shares of MFC Amalco and additional Trust Units distributed to Unitholders will be outstanding for an instant in time on the date of the Reorganization prior to their automatic redemption and consolidation, respectively.

4.15 The Reorganization is being undertaken in order to structure the flow of revenues created by the Business and distributed to the Filer by its operating subsidiaries on an efficient basis. The rights of Unitholders in respect of the Filer and their relative indirect interests in and to the revenues of the Business will not be affected by the Reorganization. Accordingly, while changes to the financial statements of the Filer will likely be required to reflect the changes to the Filer's organizational structure, the financial position of the Filer will be substantially the same as reflected in the Filer's audited annual consolidated financial statements for the year ended December 31, 2005.

4.16 The distribution of the Class A Shares of MFC Amalco and additional Trust Units are, in each case, done solely to allow the Reorganization to be effected in such a manner as to ensure that Unitholders, the Filer and the Filer's subsidiaries will be able to make use of available rollovers under applicable tax legislation, thus preserving the tax-deferred status of the Reorganization.

Decision

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

6. The decision of the Decision Makers under the Legislation is that the Requested Relief is granted provided that the Filer complies with all other requirements of the Legislation applicable to the Circular, including but not limited to the requirement that the Circular include the audited annual consolidated financial statements of the Filer for the year ended December 31, 2005.

"Patricia Leeson"
Associate Director, Corporate Finance
Alberta Securities Commission

2.1.6 Mackenzie Financial Corporation et al. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – NI 81-102 Mutual Funds – approval of fund mergers – approval is required because merger does not meet the criteria for pre-approval outlined in s.5.6 of NI 81-102 – approval is granted because the merger will benefit shareholders- as continuing fund is new, no simplified prospectus available to send to terminating fund shareholders- terminating fund shareholders provided with prospectus level disclosure with respect to continuing fund's investment objectives in information circular and the simplified prospectuses of the terminating funds received when the initial investment in any of the terminating funds was made.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, ss. 5.5(1)(b), 5.6(1)(f)(ii), 5.7(1)(b).
National Instrument 51-102 F5 Ongoing Requirements for Issuers and Insiders, item 14.2.

November 29, 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,
YUKON TERRITORY, NORTHWEST TERRITORY
AND NUNAVUT TERRITORY
(THE "JURISDICTIONS")

AND

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

AND

IN THE MATTER OF
MACKENZIE FINANCIAL CORPORATION
("MACKENZIE")

AND

IN THE MATTER OF
SYMMETRY CANADIAN STOCK CAPITAL CLASS,
SYMMETRY US STOCK CAPITAL CLASS,
SYMMETRY EAFE STOCK CAPITAL CLASS AND
SYMMETRY SPECIALTY STOCK CAPITAL CLASS
(THE "TERMINATING FUNDS")

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 Mackenzie and the Terminating Funds (the "Filers") for a decision under the securities legislation of the Jurisdictions (the "Legislation") granting approval for the proposed merger (the "Proposed Merger") of each of the Terminating Funds into Symmetry Equity Class (the "Continuing Fund") under s. 5.5(1)(b) of National Instrument 81-102 Mutual Funds (the "Requested Relief").

The Terminating Funds and the Continuing Fund are collectively referred to as the "Funds" and individually as a "Fund".

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

1. Mackenzie is a corporation governed by the laws of Ontario and is registered as an advisor in the categories of investment counsel and portfolio manager in Ontario and certain other provinces of Canada and is registered as a limited market dealer in Ontario.

2. Mackenzie is the manager and portfolio adviser of each of the Funds.

3. Each of the Funds is a class of shares of Mackenzie Financial Capital Corporation ("Capitalcorp"), a mutual fund corporation incorporated under the laws of Ontario.

4. Series A, F, I, O and W shares of each of the Terminating Funds are offered for sale in all provinces and territories of Canada under a simplified prospectus and annual information form dated February 10, 2006.

5. Series A, F, I, O and W Shares of the Continuing Fund will be offered for sale in all provinces and territories of Canada, once a final receipt for the simplified prospectus and annual information form of the Continuing Fund has been obtained. A preliminary and pro forma simplified prospectus and annual information form for the Continuing

Fund and other Symmetry funds has been filed via SEDAR in all provinces and territories of Canada.

6. The Terminating Funds are reporting issuers under the applicable securities legislation of each province and territory of Canada and are not on the list of defaulting reporting issuers maintained under the applicable securities legislation of the Authorities.

7. Each of the Funds follows or, in the case of the Continuing Fund, will follow the standard investment restrictions and practices established by the Authorities.

8. The net asset value for each series of shares of the Funds is calculated on a daily basis on each day that the Toronto Stock Exchange is open for trading.

9. The Terminating Funds are only offered to investors in the Symmetry Portfolio Service, an asset allocation program offered by Mackenzie. Investors in this service may either select one of eight model portfolios or may choose to customize their Symmetry portfolio by, among other things, including other Mackenzie-sponsored funds in their portfolio.

10. The equity component of the Symmetry Portfolio Service has consisted of the Terminating Funds, which cover various geographic regions and market capitalization. To streamline and simplify the service, Mackenzie has decided that the equity portion of a Symmetry portfolio should be invested in only one equity fund, which fund will be diversified by geographic region, market capitalization and investment style. Mackenzie has determined that it is more administratively efficient to merge the four Terminating Funds into the Continuing Fund and that an investment in the Continuing Fund will be a more efficient way for investors to hold the equity portion of their Symmetry portfolio.

11. Based upon testing completed with an external consultant, Mackenzie believes that the proposed equity blend of the Continuing Fund is consistent with the current risk profiles of the eight model portfolios in the Symmetry Portfolio Service. Investors who have chosen to customize their Symmetry portfolio may choose to participate in the Proposed Merger, may switch their investments in the Terminating Funds to other classes of Capitalcorp on a tax-deferred basis without realizing any immediate capital gains or capital losses on these switches or may move to Mackenzie's new portfolio rebalancing service.

12. Mackenzie believes the Proposed Merger will be beneficial to shareholders of the Terminating Funds for the following reasons:

    (a) reduction in volatility and potential increase in returns;

    (b) greater future flexibility;

    (c) reduction in trading costs;

    (d) clearer investor reporting;

    (e) administrative simplicity; and

    (f) economies of scale.

13. Mackenzie cannot provide the current simplified prospectus and the most recent annual and interim financial statements for the Continuing Fund, nor can it provide a statement describing how shareholders may obtain the annual information form for the Continuing Fund in the information circular sent to shareholders of the Terminating Funds, as the Continuing Fund will be new and does not yet have a simplified prospectus and annual information form or financial statements. Instead of delivering these documents, Mackenzie has included the proposed investment objectives and strategies of the Continuing Fund in the management information circular that was sent to shareholders of the Terminating Funds in respect of the Proposed Merger. Mackenzie believes that with the information provided in the information circular, together with the information contained in the simplified prospectus of the Terminating Funds that each shareholder in the Terminating Funds received when their initial investment was made, shareholders in the Terminating Funds have access to prospectus level disclosure with respect to the Continuing Fund.

14. The Proposed Merger will be a tax-deferred transaction under subsection 86(1) of the Tax Act.

15. Shareholders of the Terminating Funds will continue to have the right to redeem shares of the Terminating Funds for cash at any time up to the close of business on the business day immediately preceding the effective date of the Proposed Merger.

16. Shareholders of the Terminating Funds will be asked to approve the Proposed Merger at a special meeting scheduled to be held on December 6, 2006. Implicit in the approval by shareholders of the Proposed Merger is the adoption of the investment objectives of the Continuing Fund.

17. The Proposed Merger will be structured as follows:

    (a) The articles of Capitalcorp will be amended to exchange all outstanding shares of each of the Terminating Funds

for shares of the same series of the Continuing Fund as are held in each of the Terminating Funds, having the same value as the shares of the Continuing Fund so exchanged; and

(b) Following the completion of the Proposed Merger, there will be no outstanding shares of each of the Terminating Funds and they will be effectively terminated.

18. The portfolios and other assets of the Terminating Funds are, or prior to the Proposed Merger will be, acceptable to the portfolio sub-advisors of the Continuing Fund and are consistent with the investment objective of the Continuing Fund. These portfolios will be allocated to the Continuing Fund upon the Proposed Merger. No sales charges will be payable in respect of this allocation.

19. Mackenzie will pay for the costs of the Proposed Merger. These costs consist mainly of any brokerage charges associated with any merger-related trades that occur both before and after the date of the Proposed Merger and legal, proxy solicitation, printing, mailing and regulatory fees.

20. A material change report in respect of, among other things, the Proposed Merger was filed via SEDAR on October 12, 2006 and an amendment to the simplified prospectus and annual information form of the Terminating Funds dated October 12, 2006 was filed via SEDAR.

21. A management information circular in connection with the Proposed Merger was filed on SEDAR and was mailed to shareholders of the Terminating Funds on or about November 8, 2006.

22. Subject to the required approval of the Authorities and shareholders, the Proposed Merger will be implemented on or about December 8, 2006.

23. Mackenzie believes that the Proposed Merger would not satisfy all of the criteria for pre-approved reorganisations and transfers set forth in section 5.6 of NI 81-102 since a reasonable person would conclude that the Funds do not have substantially similar investment objectives and Mackenzie cannot provide the current simplified prospectus and the most recent annual and interim financial statements for the Continuing Fund, nor can it provide a statement describing how shareholders may obtain the annual information form for the Continuing Fund in the information circular sent to shareholders of the Terminating Funds.

Decision

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. The decision of the Decision Makers under the Legislation is that the Requested Relief is hereby granted provided that the shareholders of the Terminating Funds receive prospectus level disclosure with respect to the details of the Proposed Merger.

Leslie Byberg”
Manager, Investment Funds Branch
Ontario Securities Commission

2.1.7 H& R Block Canada, Inc. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – Issuer's commercial paper granted exemption from section 2.35 of National Instrument 45-106 Prospectus and Registration Exemptions - Issuer received one credit rating that was not an "approved credit rating from an approved credit rating organization" - sufficient for the Issuer to have one credit rating at or above revised rating categories, subject to conditions.

Applicable Ontario Statutory Provisions

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

Citation: H & R Block Canada, Inc., 2006 ABASC 1830

December 1, 2006

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ALBERTA, BRITISH COLUMBIA, MANITOBA,
ONTARIO AND QUÉBEC
(the Jurisdictions)

AND

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

AND

IN THE MATTER OF
H& R BLOCK CANADA, 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) for:

   1.1 an exemption from the dealer registration requirement in respect of a trade in negotiable promissory notes or commercial paper of the Filer maturing not more than one year from the date of issue (the Notes); and

   1.2 an exemption from the prospectus requirements in respect of the distribution of the Notes

   (the Requested Relief).

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

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

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

Interpretation

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

Representations

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

   4.1 The Filer is incorporated under the laws of Canada and is extra-provincially registered in the Province of Alberta.

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

   4.3 The Filer is not a reporting issuer in any of the Jurisdictions.

   4.4 The Notes will mature not more than one year from the date of issue and will not be convertible or exchangeable into or accompanied by a right to purchase another security.

   4.5 The Notes will be offered for purchase and sale pursuant to exemptions from the dealer registration requirements and prospectus requirements contained in the Legislation. One such exemption is the Short Term Debt Exemption (as defined below).

   4.6 Subsection 2.35(1)(b) of National Instrument 45-106 *Prospectus and Registration Exemptions* (NI 45-106) provides that exemptions from the registration and prospectus requirements of the Legislation for short term debt (the Short Term Debt Exemption) are available only where such short term debt "has an approved credit rating from an approved credit rating organization". NI 45-106 incorporates by reference the definitions for "approved credit rating" and "approved credit rating organization" that are used in National Instrument 81-102 *Mutual Funds* (NI 81-102).

   4.7 The definition of an "approved credit rating" in NI 81-102 requires, among other things, that (a) the rating assigned to short term debt must be "at or above"

certain prescribed short term ratings, and (b) such debt must not have been assigned a rating by any "approved credit rating organization" that is not an "approved credit rating".

4.8 The Filer commissioned the Dominion Bond Rating Service (DBRS) to provide it with a credit rating. The Filer received an "R-1 (low)" rating from DBRS on January 27, 2006 that meets the prescribed threshold in NI 81-102.

4.9 The Filer also received a credit rating of P-2 from Moody's Investor Service (Moody's) on December 14, 1999, which is a lower rating than required by the Short Term Debt Exemption. Accordingly, the Short Term Debt Exemption is not available to the Filer.

Decision

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

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

6.1 mature not more than one year from the date of issue;

6.2 are not convertible or exchangeable into or accompanied by a right to purchase another security other than Notes; and

6.3 have a rating issued by one of the following rating organizations, or any of their successors, at or above one of the following rating categories or a rating category that replaces a category listed below:

Rating Organization	**Rating**
Dominion Bond Rating Service Limited	R-1 (low)
Fitch Ratings	F2
Moody's Investors Service	P-2
Standard & Poor's	A-2

7. For each Jurisdiction, this decision will terminate on the earlier of:

7.1 90 days after the coming into force of any rule, other regulation or blanket order or ruling under the Legislation of the Jurisdiction that amends section 2.35 of NI 45-106 or provides an alternate exemption; and

7.2 three years from the date of this decision.

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

Stephen R. Murison
Vice-Chair
Alberta Securities Commission

2.1.8 Burgundy Asset Management Ltd.

Headnote

Relief granted to the extent that the "Ontario percentage" for each financial year should be calculated as the percentage of the total revenues attributable to capital markets activities in Ontario and not as the percentage of its income allocated to Ontario in the registrant's corporate income tax filings. The registrant's income includes "capital market activities" not attributable to Ontario.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990 c. S.5, as am., Rule 13-502 Fees.

December 1, 2006

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

AND

IN THE MATTER OF
ONTARIO SECURITIES COMMISSION RULE 13-502
FEES (THE "RULE")

AND

IN THE MATTER OF
BURGUNDY ASSET MANAGEMENT LTD.

DECISION

WHEREAS the Director ("Director") has received an application from Burgundy Asset Management Ltd. ("Burgundy") for a decision, pursuant to section 6.1 of the Rule, that exempts Burgundy, in part, from the requirement to pay participation fees calculated in the matter prescribed by Part 3 of the Rule;

AND WHEREAS the Rule requires that certain registrants under the Act which have a permanent establishment in Ontario, determine their participation fees by taking into account income allocated to Ontario in the corporate income tax filings for the registrant under the *Income Tax Act* (Canada);

AND WHEREAS Burgundy's corporate income tax filings include income from certain non-Ontario sources where the registrant does not have a permanent establishment in that jurisdiction;

AND WHEREAS unless otherwise defined, the terms herein have meanings set out in Ontario Securities Commission Rule 14-501 – Definitions;

AND WHEREAS Burgundy has represented to the Director that:

1. Burgundy was incorporated under the laws of the Province of Ontario with its head office in Toronto. Other than its main office in Toronto and its satellite office in Montreal, Burgundy has no other permanent establishment in Canada.

2. Burgundy is a registered adviser in the categories of investment counsel and portfolio manager under the Ontario Act, and as a dealer in the category of limited market dealer under the Ontario Act. Burgundy is also registered as an adviser (or the equivalent) in each province in Canada but not in the territories.

3. Burgundy is not in default of any of the requirements of the securities legislation of Ontario.

4. Burgundy is in the business of providing discretionary management services to clients in each province in Canada.

5. As a registrant firm in Ontario, Burgundy must pay, for each of its financial years, the participation fee shown in Appendix B of the Rule that applies to it according to Burgundy's "specified Ontario revenues" earned from its capital market activities.

6. In accordance with section 3.4 of the Rule, Burgundy's "specified Ontario revenue" for a financial year is calculated by multiplying the gross revenues earned by it as disclosed in its annual financial statements for the financial year less specified deductions, by its "Ontario percentage".

7. Registrants that have a permanent establishment in Ontario must calculate their "Ontario percentage" by referring to the amount allocated to Ontario in their corporate income tax filings made under the *Income Tax Act* (Canada). Registrants who do not have a permanent establishment in Ontario must calculate their Ontario percentage by determining the percentage of their total revenues which are attributable to their capital markets activities in Ontario.

8. Burgundy does not have a permanent establishment in any other jurisdiction in Canada other than Ontario and Quebec. Accordingly, Burgundy reports all of its Ontario income and all of its non-Ontario income, excluding its income earned in Quebec, in its Ontario corporate income tax returns. Burgundy does not file corporate income tax returns in any other jurisdiction in Canada, except Quebec. Burgundy's corporate tax filings do not distinguish between income attributable to its capital markets activities in Ontario and income attributable to its capital markets activities in jurisdictions outside of Ontario and Quebec.

9. Based on the calculation method disclosed above, there is a material difference between an "Ontario percentage" that is calculated for Burgundy using the amount allocated to Ontario in Burgundy's corporate tax filings and the percentage of Burgundy's total revenues which are attributable to its capital markets activities in Ontario.

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

IT IS THE DECISION of the Director pursuant to section 6.1 of the Rule, that for purposes of calculating capital markets participation fees pursuant to Part 3 of the Rule, Burgundy is granted relief to the extent that the "Ontario percentage" for each financial year of Burgundy is calculated as the percentage of the total revenues of Burgundy attributable to capital markets activities in Ontario and not as the percentage of its income allocated to Ontario in its corporate income tax filings.

"David M. Gilkes"

2.1.9 Skye Resources Inc. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – National Instrument 43-101 Standards of Disclosure for Mineral Projects, s. 9.1 – An issuer wants to file a technical report that discloses results of a study containing an economic analysis using inferred mineral resources. The issuer also wants relief from the timing requirements for filing a technical report. – The economic analysis using inferred resources is based on reasonable assumptions. The issuer will include appropriate cautionary language in all disclosure supported by the technical report. Any disclosure of the economic analysis using inferred resources will be accompanied by disclosure of an economic analysis that does not include inferred resources. The issuer has issued a news release that triggers the requirement to file the technical report within 45 days of the news release. The issuer will file the technical report by a stipulated date. The issuer will file a new technical report that complies with NI 43-201 within two years.

Applicable Statutory Provisions

National Instrument 43-101 Standards of Disclosure for Mineral Projects, ss. 2.3(1)(b), 4.2(5)(a) and 9.1; Form 43-101F1 Technical Report.

November 20, 2006

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

AND

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

AND

IN THE MATTER OF
SKYE RESOURCES 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 accordance with section 9.1 of National

Instrument 43-101 Standards of Disclosure for Mineral Projects (NI 43-101):

(a) the requirement in Item 19 of Form 43-101F1 Technical Report that only indicated mineral resources, measured mineral resources, probable mineral reserves and proven mineral reserves be used when referring to mineral resources or mineral reserves in an economic analysis of a mineral project;

(b) the prohibition in section 2.3(1)(b) of NI 43-101 against making any disclosure of results of an economic analysis that uses inferred mineral resources;

do not apply to the Filer's disclosure of an economic analysis concerning the Fenix Project that is based on the Assumption (all as defined below), and the requirement in section 4.2(5)(a) of NI 43-101 to file the Technical Report (as defined below) within 45 days of the news release it supports does not apply to fhe Filer:

(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 represented by the Filer:

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

2. the Filer is engaged principally in the business of developing mineral properties;

3. the Filer is a reporting issuer in the provinces of British Columbia. Alberta and Ontario, and it securities trade on the Toronto Stock Exchange;

4. the Filer will be revising its annual information form for the financial year ended December 31, 2005 (the Revised AIF) and may consider filing a preliminary prospectus and to obtain a receipt for a (final) prospectus (the Prospectus) in each of the Jurisdictions;

5. before filing its Revised AIF, the Filer will be filing a technical report under NI 43-101 (the Technical Report) supporting the disclosure concerning its Feasibility Study (as described below) and in connection with the proposed development of its Fenix nickel project located in Guatemala (the Fenix Project);

6. Hatch Ltd., (Hatch), the Filer's independent technical consultant, has prepared a report concerning using a ferro-nickel smelting process for the development of the Fenix Project (the Feasibility Study); and, as an alternative scenario in the Feasibility Study, a separate report which has examined an additional development strategy using a hydro-metallurgical process for an expansion of the Fenix Project (the Scoping Study);

7. the Filer proposes to include in the Technical Report an alternative metal-lurgical process relating to the Scoping Study;

8. the Fenix Project involves the development of a nickel laterite deposit, with the top layer of limonite that can be treated by the hydro-metallurgical process in the Scoping Study but is waste in the ferro-nickel process in the Feasibility Study, and a bottom layer of saprolite that is ore in the ferro-nickel process but not practicably treatable by the hydro-metallurgical process. The hydro-metallurgical expansion would allow the Filer to turn the stockpiled waste accumulated in the ferro-nickel process into feed for the hydro-metallurgical expansion, thus using all of the resource. There is also a thin transition zone between the limonite and the saprolite (the Transition Zone);

9. the Feasibility Study considers the saprolite and transition zones which, together, make a suitable smelter feed;

10. the Scoping Study assumes (the Assumption) that

(a) the mine feed for each process is optimized by re-assigning the

Transition Zone to the hydro-metallurgical process and smelting just the saprolite with the ferro-nickel process;

(b) the loss in tonnes of ore to the ferro-nickel process by using the Transition Zone in the hydro-metallurgical process would be made up by mining other indicated and inferred saprolite resources from within the Fenix exploitation license area; and

(c) the hydro-metallurgical expansion project described in the Scoping Study would not proceed until and unless exploration of such indicated and inferred resources confirmed that these areas can be classified in the measured or indicated resource categories;

11. the Filer submits that it is reasonable to provide to investors an analysis that includes the Assumption, for the following reasons

(a) other resource areas presently contain indicated and inferred saprolite resources, but due to lack of access, these resources could not be included in the Feasibility Study as the Filer has not yet secured the necessary surface rights to upgrade historical information on these resources to the measured or indicated categories;

(b) based on discussions with surface owners, and the fact that the Filer has the legal right, under Guatemalan law (Mining Law, arts. 72-80), to obtain the surface rights through judicial process, the Filer believes that surface rights to these other resource areas will be granted in the next six to twelve months, and in any event, the Filer believe that these rights will be acquired long before such resources are needed in the mine plan;

(c) the indicated and inferred resources identified in other resource areas (which will replace the reserves from the Transition Zone) are not required for the mine plan in the Feasibility Study until the last ten years of the 30 year mine plan.

(d) the inferred resources will be used in the last five years of the mine plan and represent 16% of the total tonnes required for the Feasibility Study and the inferred resources represent 12% of the total inferred resources available in other resource areas;

(e) to the Filer's knowledge, there is no geological, metallurgical, or other technical reason why the other resources cannot be upgraded, once the necessary surface rights have been obtained;

(f) the submission in this Section 11 is supported by the independent qualified persons responsible for the relevant sections of the Scoping Study; and

12. the Scoping Study, which includes the Assumption, is a material fact in the affairs of the Filer.

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) the Filer files the Technical Report by November 17, 2006.

(b) the Scoping Study, the Technical Report, the Revised AIF and any other disclosure (including a Prospectus, if applicable) supported by the Technical Report include cautionary statements that:

(i) the Scoping Study includes an assumption concerning the upgrading of inferred resources, but such inferred mineral resources are considered too speculative geologi-

cally to have the economic considerations applied to them that would enable them to be categorized as mineral reserves, and there is no certainty that the projections for these inferred mineral resources will be realized;

(ii) the Scoping Study is preliminary in nature and assumes that some inferred mineral resources can be used in the ferro-nickel process to replace the measured and indicated resources reassigned to the hydro-metallurgical process;

(iii) the Filer estimates that it will take a minimum of two to three years to construct and evaluate a pilot plant and complete a pre-feasibility study and a feasibility study, within the meaning of those terms in NI-43-101, before the Filer can make any decision to implement the hydro-metallurgical process outlined in the Scoping Study, and the Scoping Study assumes that the hydro-metallurgical process will not commence until year four of the operations of the ferro-nickel process; and

(iv) the hydro-metallurgical process outlined in the Scoping Study and the ferro-nickel process outlined in the Feasibility Study are at this stage separate, stand-alone mineral processing scenarios , and the mine plan and schedule in the Feasibility Study would have to be revised if a decision were made to combine the two processes; therefore the results of the economic analyses on the two processes are not additive;

(c) the Filer files a new technical report for the Fenix Project that complies with NI 43-101, within two years of the date of this Decision;

(d) any disclosure of an economic analysis concerning the Fenix Project that includes inferred resources is accompanied by disclosure of an economic analysis that does not include inferred resources; and

(e) this Decision shall terminate upon the filing of a new technical report for the Fenix Project that complies with NI 43-101

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

2.2 Orders

2.2.1 Orion Capital Incorporated and Tengtu International Corp. - s. 144

Headnote

Partial revocation of cease trade order pursuant to section 144 of the Act granted to permit trades solely for the purpose of establishing a tax loss for income tax purposes, in accordance with OSC Policy 57-602.

Applicable Ontario Statutory Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 6(3), 127, 144.

Policies Cited

OSC Policy 57-602 Cease Trading Orders – Applications of Partial Revocation to Permit a Securityholder to Establish a Tax Loss.

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

AND

IN THE MATTER OF
ORION CAPITAL INCORPORATED
AND
TENGTU INTERNATIONAL CORP.

ORDER
(Section 144)

Background

1. The securities of Tengtu International Corporation ("Tengtu") are currently subject to a cease trade order of the Ontario Securities Commission (the "Commission") effective October 2, 2006 and extended effective October 13, 2006 pursuant section 127 of the Act (the "Cease Trade Order"), ordering that trading in and acquisitions of any securities of Tengtu cease.

2. Orion Capital Corporation ("Orion") has made an application to the Commission pursuant to section 144 of the Act (the "Application") for an order (the "Order") varying the Cease Trade Order to permit the sale by Orion of 16,708,475 common shares of Tengtu (the "Orion Shares") solely for the purpose of establishing a tax loss.

3. Ontario Securities Commission Policy 57-602 – *Cease Trading Orders – Applications of Partial Revocation to Permit a Securityholder to Establish a Tax Loss* provides that the Commission is prepared to vary an outstanding cease trade order to permit the disposition of securities subject to the cease trade order for the purposes of establishing a tax loss where the Commission is satisfied that the disposition is being made, so far as the securityholder is concerned, solely for the purpose of that securityholder establishing a tax loss and provided that the securityholder provides the purchaser with a copy of the cease trade order and the variation order.

Representations

4. Tengtu is a Delaware corporation formed on May 6, 1988.

5. Tengtu is a reporting issuer in Ontario only.

6. The authorized share capital of Tengtu consists of 150,000,000 common shares and 108,978,793 common shares were issued and outstanding on May 23, 2005.

7. The Cease Trade Order was made by the Commission for Tengtu's failure to file:

   a) audited financial statements for the years ending June 30, 2005 and June 30, 2006;

   b) management's discussion and analysis relating to the audited financial statements for the years ended June 30, 2005 and June 30, 2006;

   c) interim financial statements for the three-month period ended September 30, 2005;

   d) interim financial statements for the six-month period ended December 31, 2005; and

   e) interim financial statements for the nine-month period ended March 31, 2006 (collectively, the "Financial Statements")

8. Orion is a private investment holding company incorporated in the province of Ontario by Articles of Amalgamation dated October 21, 1998.

9. Orion acquired the Orion Shares prior to the effective date of the Cease Trade Order.

10. There is a quoted market for the Orion Shares on the U.S. Pink Sheets but as a result of the Cease Trade Order and other factors, Orion has determined that there is no market for the Orion Shares and that they have no value.

11. Orion will effect the proposed trades of the Orion Shares (the "Disposition") solely for the purpose of enabling it to establish a tax loss in respect of such Disposition.

12. The purchasers of the Orion Shares are sophisticated purchasers and understand that the Orion Shares have no market value, the nature of the Cease Trade Order and the purpose of the proposed trade.

13. The purchasers have agreed to purchase the Orion Shares for a nominal combined purchase price of $4.00 (representing $1.00 per purchaser).

14. The purchasers will purchase and hold the Orion Shares as principal.

15. The purchasers have been provided with a copy of the Cease Trade Order and, prior to the completion of the Disposition, will be provided with a copy of this Order.

Order

16. The Commission is satisfied that granting this Order would not be prejudicial to the public interest.

17. It is ordered pursuant to section 144 of the Act that the Cease Trade Order is varied solely to permit the Disposition.

DATED November 7, 2006

"John Hughes"
Manager, Corporate Finance Branch
Ontario Securities Commission

2.2.2 Bennett Environmental Inc. et al. - s. 127

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

AND

IN THE MATTER OF
BENNETT ENVIRONMENTAL INC., JOHN BENNETT, RICHARD STERN, ROBERT GRIFFITHS, AND ALLAN BULCKAERT

SETTLEMENT BETWEEN STAFF OF THE ONTARIO SECURITIES COMMISSION and JOHN BENNETT

ORDER
(Section 127)

WHEREAS on June 2, 2006 the Ontario Securities Commission (the "Commission') issued a Notice of Hearing (the "Notice of Hearing") pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c.S.5, as amended (the "Act") in respect of John Bennett ("Bennett");

AND WHEREAS Bennett entered into a settlement agreement with Staff of the Commission, dated November 21, 2006 (the "Settlement Agreement"), in which the parties have proposed a settlement of the proceeding commenced by the Notice of Hearing, subject to the approval of the Commission;

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

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

IT IS HEREBY ORDERED THAT:

1. The Settlement Agreement is hereby approved;

2. Bennett shall be prohibited from acting as a director or officer of any issuer for a period of 10 years from the date of this Order;

3. Bennett shall be reprimanded by the Commission;

4. Bennett shall immediately pay to the Commission the sum of $250,000 as an administrative penalty designated for allocation to or for the benefit of third parties in accordance with subsection 3.4(2) of the Act; and

5. Bennett shall immediately pay to the Commission the sum of $50,000 toward the costs of its investigation.

DATED at Toronto this 29th day of November, 2006.

"Paul M. Moore"

"Robert L. Shirriff"

"David L. Knight"

2.2.3 Jose L. Castaneda - s. 127

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

AND

IN THE MATTER OF
JOSE L. CASTANEDA

ORDER
(Section 127)

WHEREAS a temporary cease trade order was issued against the Respondent on June 7, 2005 and extended on June 20, 2005 until the hearing is concluded and a decision of the Commission is rendered or until the Commission considers appropriate;

AND WHEREAS on June 20, 2005, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing (the "Notice of Hearing") accompanied by a Statement of Allegations issued by Staff of the Commission pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990 c. S. 5, as amended (the "Act") in respect of Jose L. Castaneda (the "Respondent");

AND WHEREAS the pre-hearing conference for this matter scheduled for January 11, 2006, was adjourned with the consent of both parties to February 27, 2006, at 10:00 a.m.;

AND WHEREAS the matter was spoken to on February 27, 2006, at 10:00 a.m., at which time the Respondent requested and Staff consented to the adjournment of this matter until April 13, 2006 at 10:00 a.m., to allow counsel for the Respondent an opportunity to review the disclosure previously provided by Staff;

AND WHEREAS the matter was spoken to on April 13, 2006, at which time a hearing was scheduled for May 30, 2006, in order for the Respondent to bring an application to adjourn the section 127 and 127.1 hearing until the conclusion of the section 122 proceedings;

AND WHEREAS the matter was spoken to on May 30, 2006, at which time the matter was adjourned to July 25, 2006 in order for the Respondent to bring an application to adjourn the section 127 and 127.1 hearing until the conclusion of the section 122 proceedings;

AND WHEREAS on July 25, 2006 the matter was rescheduled to July 26, 2006;

AND WHEREAS on July 26, 2006, the matter was adjourned to December 5-7, 2006 at 10 a.m. to proceed with the section 127 and 127.1 hearing;

AND WHEREAS the Respondent has since been charged with two counts of fraud over $5,000 and two counts of theft over $5,000 under the Criminal Code of

Canada that involve some of the same complainants as the sections 122, 127 and 127.1 proceedings under the Act;

AND WHEREAS the Criminal Code of Canada charges are still before the Ontario Court of Justice with a next appearance date of December 21, 2006;

AND WHEREAS on October 30, 2006, the Ontario Court of Justice set a trial date of May 22-24, 2007 for the Respondent is relation to the section 122 proceedings;

AND WHEREAS the Respondent wishes to adjourn the section 127 and 127.1 hearing until the conclusion of the section 122 proceedings

AND WHEREAS Staff consent to the adjournment request;

AND WHEREAS the Commission considers it to be in the public interest to make this order;

IT IS HEREBY ORDERED that:

1. The section 127 and 127.1 hearing currently set for December 5-7, 2006 at 10 a.m. is vacated and this matter is adjourned to be spoken to on May 28, 2007 or on an earlier date as directed by the Commission.

DATED at Toronto this 30th day of November, 2006.

"Wendell S. Wigle"
"David L. Knight"

2.2.4 Bennett Environmental Inc. et al. - s. 127

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

AND

IN THE MATTER OF
BENNETT ENVIRONMENTAL INC., JOHN BENNETT, RICHARD STERN, ROBERT GRIFFITHS, AND ALLAN BULCKAERT

SETTLEMENT BETWEEN STAFF OF THE ONTARIO SECURITIES COMMISSION AND ROBERT GRIFFITHS

ORDER
(Section 127)

WHEREAS on June 2, 2006 the Ontario Securities Commission (the "Commission") issued a Notice of Hearing (the "Notice of Hearing") pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c.S.5, as amended (the "Act"), in respect of Robert Griffiths ("Griffiths");

AND WHEREAS Griffiths entered into a settlement agreement with Staff of the Commission, dated November 21, 2006 (the "Settlement Agreement"), in which the parties have proposed a settlement of the proceeding commenced by the Notice of Hearing, subject to the approval of the Commission;

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

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

IT IS HEREBY ORDERED THAT:

1. the Settlement Agreement is hereby approved;

2. Griffiths shall be prohibited from trading in securities for a period of 15 years, with the exception that after 2 years from the date of this Order, Griffiths may trade for the account of his personal registered retirement savings plan (as defined in the *Income Tax Act* (Canada);

3. Griffiths shall be prohibited from acting as an director or officer of any issuer for a period of 15 years from the date of this Order; and

4. Griffiths shall immediately pay to the Commission the sum of $150,000 as an administrative penalty designated for allocation to or for the benefit of third parties in accordance with subsection 3.4(2) of the Act.

DATED at Toronto this 30th day of November, 2006.

"Paul M. Moore"

"Robert L. Shirriff"

"David L. Knight"

2.2.5 Mega-C Power Corporation et al.

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

AND

**IN THE MATTER OF
MEGA-C POWER CORPORATION, RENE PARDO,
GARY USLING, LEWIS TAYLOR SR.,
LEWIS TAYLOR JR., JARED TAYLOR,
COLIN TAYLOR and 1248136 ONTARIO LIMITED**

ORDER

WHEREAS on November 16, 2005, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing accompanied by a Statement of Allegations issued by Staff of the Commission pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990 c. S.5, as amended (the "Act") in respect of Mega-C Power Corporation, Rene Pardo, Gary Usling, Lewis Taylor Sr., Lewis Taylor Jr., Jared Taylor, Colin Taylor and 1248136 Ontario Ltd.;

AND WHEREAS on August 15, 2006, the Commission held a pre-hearing conference in the above matter and determined at that time that holding a subsequent pre-hearing was necessary;

AND WHEREAS on December 4, 2006, the Commission held a pre-hearing conference to consider preliminary matters and set a date for the hearing on the merits;

AND WHEREAS Staff of the Commission and counsel for the respondents consented to an order scheduling the hearing on the merits to commence on Monday, October 29, 2007 for a duration of approximately four to six weeks excluding the following dates: November 22, 23, 26, and 27, 2007;

IT IS HEREBY ORDERED THAT:

The hearing on the merits is scheduled to commence Monday, October 29, 2007 for a duration of approximately four to six weeks, or such other date as may be agreed to by the parties and fixed by the Secretary to the Commission, excluding the following dates: November 22, 23, 26 and 27, 2007.

DATED at Toronto this 5th day of December, 2006.

"Paul K. Bates"

2.2.6 Research In Motion Limited - s. 144

Headnote

Section 144 – Variation of management and insider cease trade order to permit the exercise of certain options prior to their expiry – options could have been exercised prior to the issuance of the management and insider cease trade order – significant loss to option holders if variation is not granted – no material information concerning the affairs of the issuer that has not been generally disclosed – securities to be acquired upon exercise of options will be subject to the management and insider cease trade order.

Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 127, 144.

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

AND

IN THE MATTER OF
CERTAIN DIRECTORS, OFFICERS AND INSIDERS OF
RESEARCH IN MOTION LIMITED
(BEING THE PERSONS AND COMPANIES LISTED
IN SCHEDULE "A" HERETO)

ORDER
(Section 144)

WHEREAS on November 7, 2006, the Ontario Securities Commission (the "Commission") made an Order under paragraphs 2 and 2.1 of subsection 127(1) of the Securities Act, R.S.O. 1990, c. S.5, as amended (the "Act"), (the "MCTO"), that all trading in and acquisition of securities, whether direct or indirect, by the persons and companies listed in Schedule "A" (individually, a "Respondent" and collectively, the "Respondents") in the securities of Research In Motion Limited ("RIM") cease until two full business days following the receipt by the Commission of all filings RIM is required to make pursuant to Ontario securities law;

AND WHEREAS James Balsillie, Michael Lazaridis, Wade Brown and Perry Jarmuszewski, each a Respondent, together with RIM (collectively, the "Applicants"), have made an application (the "Application") pursuant to section 144 of the Act to vary the MCTO as set out herein;

AND UPON the Applicants having represented to the Commission that:

1. RIM is a corporation governed by the Business Corporations Act (Ontario) and is a reporting issuer in the Province of Ontario.

2. The authorized capital of RIM consists of an unlimited number of common shares (the "Common Shares"), class A shares (the "Class A Shares") and an unlimited number of preference shares (the "Preference Shares"). As at November 21, 2006, 184,708,520 Common Shares and no Class A Shares or Preference Shares were issued and outstanding. The Common Shares of RIM are listed on the Toronto Stock Exchange and quoted for trading on the Nasdaq National Market.

3. RIM has failed to file its interim financial statements (and interim Management's Discussion & Analysis related thereto) for the six-month period ended September 2, 2006 as required to be filed under Ontario securities laws on or before October 17, 2006.

4. As of the date of this Order, RIM has not rectified the filing deficiency described in paragraph 3 of this Order.

5. Each of James Balsillie, Michael Lazaridis, Wade Brown and Perry Jarmuszewski are Respondents named in the MCTO (collectively, the "Affected Respondents") and are holders of certain stock options of RIM which were issued on December 4, 1996 contemporaneously with RIM becoming a reporting issuer in the province of Ontario and which expire on December 4, 2006. The Affected Respondents hold the number of options (collectively, the "Expiring Options") set forth opposite their names below, in each case exercisable to acquire an equal number of Common Shares at any time on or prior to December 4, 2006 at an exercise price of $1.70 per Common Share:

James Balsillie-	-	245,000
Michael Lazaridis	-	500,000
Wade Brown	-	14,000
Perry Jarmuszewski	-	78,600

6. Pursuant to the terms of the MCTO, the Affected Respondents are not permitted to acquire securities of RIM until two full business days after RIM's required filings with the OSC are brought up to date in compliance with Ontario securities laws.

7. Any exercise by the Affected Respondents of the Expiring Options would constitute an acquisition of securities of RIM and would be prohibited by the current terms of the MCTO.

8. RIM has determined that it is not practical to extend the expiry of the Expiring Options.

9. If the Affected Respondents are not permitted to exercise the Expiring Options they will each suffer a significant loss of value that is primarily attributable to the increase in the value of the Common Shares of RIM prior to the date of the MCTO.

10. If the Affected Respondents are permitted to exercise the Expiring Options, the Common Shares that would be acquired upon such exercise will be subject to the MCTO and the Affected Respondents will be prohibited from disposing of any such Common Shares until the MCTO expires or is revoked.

11. The Common Shares issuable to James Balsillie and Michael Lazaridis upon the exercise of their Expiring Options will be subject to an escrow agreement with the Audit Committee of RIM to be held pending completion of the Audit Committee's internal review of RIM's historical option granting practices and any steps taken by the Audit Committee arising from that review.

12. There is no material information concerning the affairs of RIM that has not been generally disclosed.

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

AND WHEREAS the Commission is of the opinion that it would not be prejudicial to the public interest to make this Order;

IT IS ORDERED, pursuant to section 144 of the Act, that the MCTO be and is hereby varied solely to permit the Affected Respondents to exercise the Expiring Options on or prior to their expiry on December 4, 2006.

DATED at Toronto, this 30th day of November, 2006.

"Carol S. Perry"
Commissioner
Ontario Securities Commission

"Paul Moore"
Vice-Chair
Ontario Securities Commission

Schedule "A"

Asthana, Atul
Balsillie, James Laurence
Bawa, Frenny
Bawa, Karima
Bidulka, Brian
Bose, Robert
Boudreau, Jesse Joseph
Broughall, Peter
Brown, Wade
Caci, Joe
Castell, William David
Conlee, Larry
Cork, Edwin Kendall
Cort, Gary
Costanzo, Rito Natale
Crow, Robert Eric
Davies, William Aubrey
Devenyi, Peter John
Dikun, Raymond Michael
Donald, Paul David
Ebbs, Edel Bridget Anne
Efstathiou Jr., Chris
Eggberry, Charmaine
Estill, James
Fregin, Douglas Edgar
Gagne, Alain
Gould, Peter James
Guibert, Mark
Hind, Hugh Robert Faulkner
Hoddle, Ian James
Jarmuszewski, Perry
Kavelman, Dennis
Kempf, Paul Hans
Labrador, Christopher
Landry, Richard
Lazaridis, Michael
LeBlanc, Anthony Dale
Lewis, Allan
Lo, Norm Wai Keung
Loberto, Angelo
Maybee, Bradley Warren
McAndrews, Mike Patrick
McDowell, Jeffrey Wayne
McLennan, Craig Arthur
Miller, Deborah Glee
Morrison, Donald
Morrissey, Michael Paul
Neumann, Ronald Scott
Pacey, Dean Leslie
Panezic, Alan Tom
Payne, Susan
Pecen, Mark Edward
Periyalwar, Suresh
Pillar, Catherine Jean
Richardson, John
Rivers, Brian Thomas
Robinson, Clint
Roe Pfeifer, Mary Elizabeth Anne
Rooks, Michael
Sanchez, Tom Carl
Spence, Patrick Alexander

Tendler, Benson
Werezak, David
Witteveen, Roger
Wright, Dr. Douglas
Yach, David
1258700 Ontario Limited
1258701 Ontario Limited
1258702 Ontario Limited

2.2.7 Authorization Order - s. 3.5(3)

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

AND

IN THE MATTER OF
AN AUTHORIZATION PURSUANT
TO SUBSECTION 3.5(3) OF THE ACT

AUTHORIZATION ORDER
(Subsection 3.5(3))

WHEREAS a quorum of the Ontario Securities Commission (the "Commission") may, pursuant to subsection 3.5(3) of the Act, in writing authorize any member of the Commission to exercise any of the powers and perform any of the duties of the Commission, except the power to conduct contested hearings on the merits.

AND WHEREAS, by an authorization order made on September 14, 2006, pursuant to subsection 3.5(3) of the Act (the "Authorization") the Commission authorized each of W. David Wilson, Susan Wolburgh Jenah and Paul M. Moore, Robert W. Davis, Harold P. Hands and Paul K. Bates acting alone, to exercise, subject to subsection 3.5(4) of the Act, the powers of the Commission to grant adjournments and set dates for hearings, to hear and determine procedural matters, and to make and give any orders, directions, appointments, applications and consents under sections 5, 11, 12, 17, 19, 20, 122, 126, 127, 128, 129, 144, 146 and 152 of the Act that the Commission is authorized to make and give, except the power to conduct contested hearings on the merits.

NOW, THEREFORE, IT IS ORDERED that the Authorization is hereby revoked as of midnight on December 6, 2006; and

THE COMMISSION HEREBY AUTHORIZES, pursuant to subsection 3.5(3) of the Act, each of W. David Wilson, Susan Wolburgh Jenah, Paul M. Moore, Robert L. Shirriff, Harold P. Hands and Paul K. Bates, acting alone, to exercise, subject to subsection 3.5(4) of the Act, the powers of the Commission to grant adjournments and set dates for hearings, to hear and determine procedural matters, and to make and give any orders, directions, appointments, applications and consents under sections 5, 11, 12, 17, 19, 20, 122, 126, 127, 128, 129, 144, 146 and 152 of the Act that the Commission is authorized to make and give, except the power to conduct contested hearings on the merits; and

THE COMMISSION FURTHER ORDERS that this Authorization Order shall have full force and effect as of December 7, 2006 until revoked or such further amendment may be made.

DATED at Toronto, this sixth day of December, 2006.

"W. David Wilson"
Chair

"Paul M. Moore"
Vice-Chair

2.2.8 Euston Capital Corp. and George Schwartz - s. 127(7)

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

AND

**IN THE MATTER OF
EUSTON CAPITAL CORP. and
GEORGE SCHWARTZ**

**ORDER
(Section 127(7))**

WHEREAS on May 1, 2006, the Ontario Securities Commission ordered pursuant to sections 127(1) and (5) of the *Securities Act*, R.S.O. 1990, c.S.5., as amended, that all trading in securities of Euston Capital Corp. ("Euston") cease, trading in securities by Euston and George Schwartz ("Schwartz") cease, and any exemptions contained in Ontario securities law do not apply to Euston and Schwartz (the "Temporary Order");

AND WHEREAS on May 2, 2006, the Commission issued a Notice of Hearing and Statement of Allegations in this matter;

AND WHEREAS on May 11, 2006, on consent of Euston and Schwartz, the Commission adjourned the hearing to consider whether to extend the Temporary Order to June 9, 2006 at 10:00 a.m., peremptory to the respondents;

AND WHEREAS on May 11, 2006, the Commission continued the Temporary Order until the June 9, 2006 hearing or until further order of the Commission;

AND WHEREAS on May 11, 2006, the Commission ordered that any materials upon which Euston and Schwartz intended to rely would be served and filed no later than May 24, 2006;

AND WHEREAS on June 9, 2006, on consent of Euston and Schwartz, the Commission adjourned the hearing to consider whether to extend the Temporary Order to October 19, 2006 at 10:00 a.m., peremptory to the respondents;

AND WHEREAS on June 9, 2006, on consent of Euston and Schwartz, the Commission continued the Temporary Order until the October 19, 2006 hearing or until further order of the Commission;

AND WHEREAS on June 9, 2006, the Commission ordered that any materials upon which Euston and Schwartz intended to rely would be served and filed no later than October 11, 2006;

AND WHEREAS on October 17, 2006, on consent of Euston and Schwartz, the Commission adjourned the hearing to consider whether to extend the Temporary Order

to December 4, 2006 at 2:00 p.m., peremptory to the respondents;

AND WHEREAS on October 17, 2006, on consent of Euston and Schwartz, the Commission continued the Temporary Order until the December 4, 2006 hearing or until further order of the Commission;

AND WHEREAS Euston and Schwartz undertook to keep investors advised of the status of this proceeding through notices, updates, news releases and a link to the Commission website to be displayed prominently on the home page of Euston's website at www.eustoncapital.com by June 19, 2006 and displayed continually until further order of the Commission;

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

IT IS ORDERED THAT:

1. the hearing is adjourned pending the delivery of the decision of the Court of Appeal for Saskatchewan in an appeal by Euston and Schwartz of a decision of the Saskatchewan Financial Services Commission dated February 9, 2006, at which time Staff of the Commission and counsel for the respondents will attend at the earliest opportunity before the Commission to set a date for the continuation of the hearing; and

2. the Temporary Order is continued until the next attendance as contemplated in paragraph 1, or until further order of the Commission.

DATED at Toronto this 4th day of December, 2006

"Wendell S. Wigle"

"Suresh Thakrar"

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Chapter 3

Reasons: Decisions, Orders and Rulings

3.1.1 Bennett Environmental Inc. et al.

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

AND

IN THE MATTER OF
BENNETT ENVIRONMENTAL INC., JOHN BENNETT,
RICHARD STERN, ROBERT GRIFFITHS, and
ALLAN BULCKAERT

SETTLEMENT AGREEMENT BETWEEN
STAFF OF THE ONTARIO SECURITIES COMMISSION
AND
JOHN BENNETT

I. INTRODUCTION

1. By Notice of Hearing dated June 2, 2006, the Ontario Securities Commission (the "Commission") proposed to hold a hearing pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") to consider, among other things, whether it is in the public interest to make certain orders against the Respondent, John Bennett ("Bennett"), by reason of the allegations set out in the Statement of Allegations dated May 31, 2006.

II. JOINT SETTLEMENT RECOMMENDATION

2. Staff agree to recommend settlement of the proceeding against Bennett in accordance with the terms and conditions set out below. Bennett consents to the making of an order against him in the form attached as Schedule "A" based on the facts set out in Part III and the terms set out in Part VI of this Settlement Agreement.

III. STATEMENT OF FACTS

A. Acknowledgement

3. For the purposes of this settlement agreement only, Bennett agrees with the facts set out in this Part III.

4. Bennett expressly denies that this settlement agreement is or is intended to be an admission of civil liability by Bennett to any person or company and Bennett expressly denies any such admission of civil liability.

B. The Respondents in this Proceeding

5. Bennett Environmental Inc. ("BEI") is a Canadian company with its head office in Oakville, Ontario. BEI is a reporting issuer in Ontario, Quebec and British Columbia. Shares of BEI trade on the TSX and the American Stock Exchange in the United States. BEI provides thermal treatment services for the remediation of contaminated soil.

6. At all relevant times, Bennett was Chairman of the Board of BEI and was the Chief Executive Officer ("CEO") of BEI until February 18, 2004. John Bennett is 71 years of age. He was the founder of BEI and one of two members of its Disclosure Committee, which was responsible for ensuring that BEI complied with its disclosure obligations under the Ontario *Securities Act*.

7. At all relevant times, Richard Stern was the Chief Financial Officer ("CFO") of BEI. Stern was the other member of BEI's Disclosure Committee.

8. At all relevant times, Robert Griffiths ("Griffiths") headed BEI's U.S. Sales division, first as Director of Sales, U.S.A. and then, as of approximately June, 2003, as Vice-President, U.S. Sales.

9. Allan Bulckaert became the President and CEO of BEI on February 18, 2004.

C. The Phase III Contract is Announced

10. On June 2, 2003, BEI announced that it had been awarded a contract to treat contaminated soil from Phase III of the Federal Creosote Superfund Site in New Jersey (the "Phase III Contract"). The Phase III Contract was with Sevenson Environmental Services Inc. ("Sevenson") acting as sub-contractor for the United States Army Corps of Engineers ("the Corps").

11. In its news release, BEI described the Phase III Contract as being for an "estimated 300,000 tons of soil" and "valued at $200 million Cdn., the largest in the Company's history".

12. In the June 2, 2003 news release, BEI emphasized the significance of the Phase III Contract, stating that "[s]hipments from three different locations on the site should start within the next few days, and continue until the completion of Phase III which is anticipated by the end of 2005". In the news release, John Bennett is quoted as stating that:

> [t]his, together with previously announced contracts, ensures that we will have a very successful year in 2003 and beyond in terms of meeting our financial and operational goals….[w]inning this contract…provides a good base load of materials for our proposed new soil treatment facility in Belledune, New Brunswick which is scheduled to be completed by the end of this year."

13. The Phase III Contract was an "Indefinite Delivery/Indefinite Quantity" ("ID/IQ") contract. In an ID/IQ contract, the actual amount of soil to be treated under the contract is uncertain, as is the timing of any shipment of soil. The Purchase Order which implemented the Phase III Contract also contained a line item that read: "Variation i[n] Estimated Quantities Clause 15% +/- Applies to [Federal Acquisition Regulations ("FAR")] 52.211.18." The FAR 52.211.18 states that an "equitable adjustment in the contract price shall be made upon demand of either party" where "the actual quantity of the unit-priced item varies more or less than the estimated quantity."

D. BEI is advised that there has been a protest of the Phase III Contract

14. Just a few days after issuing its news release of June 2, 2003, BEI was advised that a competitor of BEI had protested the awarding of the Phase III Contract to BEI. At the request of Sevenson, BEI agreed to a 30 day extension of the previous Phase II Contract to treat material that would have been treated under the Phase III Contract. At this point, BEI was sufficiently concerned about the protest commenced by its competitor that it retained legal counsel initially to investigate the complaint through a freedom of information request.

15. BEI did not disclose the fact that a competitor had protested the awarding of the Phase III Contract or the fact that Sevenson had requested an extension to the previous Phase II Contract.

16. BEI released its Q2 2003 results by news release dated July 24, 2003 and held a conference call for investors on July 25, 2003. In that news release and during that conference call, BEI continued to report the full 300,000 tons of soil to be treated under the Phase III Contract as part of its contract "backlog", which represents contracts that have been signed but have not yet been fully performed.

E. BEI is advised by Sevenson that ACE has withdrawn its consent to the Phase III Contract

17. On August 5, 2003, Sevenson advised BEI that the Request for Proposal ("RFP") that had given rise to the Phase III Contract was going to be amended such that multiple ID/IQ contracts were being awarded with a maximum shared quantity of 100,000 tons of soil and a minimum quantity of 1000 tons.

18. Griffiths, on behalf of BEI, sent a letter to Sevenson protesting the amendment to the RFP, noting that Sevenson was essentially re-bidding the work that had been awarded to BEI under the Phase III Contract. In response, Sevenson wrote to BEI on August 6, 2003 and advised that,

> [t]he amended RFP was issued as a result of the **government's withdrawal of its consent to the Bennett contract** with direction to Sevenson to obtain clarifications concerning, and to perform a re-evaluation of, the proposals received in response to the original RFP. Those clarifications and the re-evaluation resulted in the government's direction to Sevenson to proceed with the amended RFP. (emphasis added)

19. Moreover, Sevenson advised in its letter that BEI's characterization of the Phase III Contract (as set out in the June 2, 2003 news release) was incorrect, stating that,

> [a]s you well know, the contract guarantees a minimum quantity of 500 tons. A prudent person could not value such contract as having the value you ascribe to it using the maximum quantity. That contract also contains a termination for convenience clause.

20. On August 14, 2003, Sevenson advised Griffiths by email that instead of amending the original RFP, it would proceed by way of an Invitation for Bids ("IFB") which would be delivered on or about August 27, 2003.

21. Throughout this time, BEI did not disclose that the Corps had withdrawn its consent to the Phase III Contract. It did not disclose that Sevenson had told BEI that the Phase III Contract was going to be re-bid and that the maximum shared quantity of soil to be treated was going to be reduced to 100,000 tons.

22. In addition, BEI continued to include the full 300,000 tons of soil under the Phase III Contract (minus any nominal amounts that had been shipped) as part of its disclosed contract backlog, including in a news release dated August 8, 2003.

F. <u>The Corps confirms to BEI that it has withdrawn its consent to the Phase III Contract</u>

23. Although it had not yet received the new IFB, BEI was concerned that it appeared to be replacing the Phase III Contract. BEI's legal counsel wrote to the Corps on August 25, 2003 and objected on the grounds that the IFB was "essentially a re-solicitation to submit bids for a contract that Bennett has already been awarded".

24. By letter dated September 4, 2003, the Corps advised BEI, through its legal counsel, of the following facts:

- It had withdrawn its consent to the Phase III Contract;
- The Phase III Contract only guaranteed a minimum of 500 tons of soil;
- The Corps had issued a limited consent for up to 10,000 tons of soil, which would exceed the minimum guarantee under the Phase III Contract;
- As a result of design revisions to the site in New Jersey, the maximum amount of soil to be treated had been reduced from 300,000 tons of soil to 100,000 tons of soil. The new IFB would be awarding up to three sub-contracts to treat a minimum of 1000 tons of soil and a total maximum of 100,000 tons of soil.

25. BEI, through its legal counsel, and the Corps exchanged correspondence throughout the month of September 2003, in which the Corps reiterated the above facts.

26. Throughout this time, BEI still did not disclose that the Corps had withdrawn its consent to the Phase III Contract. It did not disclose that the Phase III Contract was going to be re-bid and that the maximum shared quantity of soil to be treated had been reduced to 100,000 tons.

27. In addition, BEI continued to include the full 300,000 tons of soil under the Phase III Contract (minus any nominal amounts that had been shipped) as part of its disclosed contract backlog, including in a conference call for investors on October 23, 2003.

G. <u>BEI is notified that it is the low bidder on the 100,000 ton contract</u>

28. Although there were several delays, on or about October 23, 2003, Sevenson sent BEI an IFB for the treatment of a minimum of 1000 and maximum of 100,000 tons of soil.

29. After some minor amendments to the IFB, BEI submitted a bid in response to it and on December 11, 2003, Sevenson advised BEI that it was the low bidder in response to the IFB (the "Second Contract").

30. BEI did not disclose that it was the low bidder for the Second Contract.

31. Moreover, BEI continued to include the full 300,000 tons of soil that was originally going to be treated under the Phase III Contract as part of its disclosed contract backlog, including in a news release dated November 6, 2003.

H. <u>BEI is Awarded the Second Contract</u>

32. On March 30, 2004, Sevenson advised BEI that it had been awarded the Second Contract and Sevenson would be sending a purchase order to BEI pursuant to that Second Contract.

33. By May 2004, Bulckaert had not been completely informed about the dispute regarding the Phase III Contract and had not been provided with copies of any of the above-noted correspondence. Prior to executing the purchase order under the Second Contract, Bulckaert wrote to Sevenson on May 13, 2004 requesting clarification of the status of the Phase III Contract and its relationship to the Second Contract.

34. BEI did not receive a response to its enquiries, but on June 3, 2004 BEI signed the purchase order pursuant to the Second Contract, although BEI maintained it was not waiving its rights under the Phase III Contract.

35. BEI did not disclose that it had been awarded the Second Contract or that it had executed the purchase order under it.

36. Bulckaert first received a copy of the September correspondence from the Corps on June 9, 2004.

37. On that same day BEI, through its legal counsel, wrote directly to the Corps once again requesting clarification of the status of the Phase III Contract and its relationship to the Second Contract.

38. By letter to BEI dated July 15, 2004, the Corps reiterated its position which it had previously detailed in its letter of September 4, 2003.

39. Throughout this time, BEI continued to include the full 300,000 tons of soil to be treated under the Phase III Contract (minus any nominal amounts that had been shipped) as part of its disclosed contract backlog, including in news releases dated March 29, 2004 and April 29, 2004, its Management Discussion and Analysis as at April 28, 2004, its Annual Report dated May 13, 2004 and its Annual Information Form filed in May, 2004.

I. BEI discloses the Phase III Contract dispute

40. By news release dated July 22, 2004, BEI announced the existence of the Phase III Contract dispute. BEI revealed that a competitor had protested the awarding of the Phase III Contract to BEI and that the Corps had withdrawn its consent to the Phase III Contract. BEI stated that it had been attempting to ascertain the status of the Phase III Contract since August, 2003. BEI disclosed that it had only treated 7,000 tons of soil under the Phase III Contract and that any future shipments under it were "highly unlikely".

41. In that news release, BEI also disclosed the Second Contract to treat some of the soil that was originally going to be treated under the Phase III Contract. BEI acknowledged that the Second Contract only guaranteed a minimum shipment of 1000 tons.

42. After the news release of July 22, 2004, the price of BEI shares fell dramatically – falling almost 50% within the next 10 days.

J. The above information about the Phase III Contract was material and should have been disclosed forthwith

43. The existence of the dispute over the Phase III Contract, including whether there would be any further shipments under it and whether it was being replaced by the much smaller Second Contract, was a material change in the affairs of BEI within the meaning of the *Securities Act*. BEI failed to disclose that material change forthwith, contrary to s. 75 of the *Securities Act* and contrary to the public interest.

K. BEI's inclusion of the Phase III Contract in its disclosed contract backlog was misleading or untrue

44. BEI's inclusion of the volume to be treated under the Phase III Contract in its public disclosure, including in its press releases of July 24, 2003, August 8, 2003, November 6, 2003, March 29, 2004 and April 29, 2004 and in its Management Discussion and Analysis as at April 28, 2004, its Annual Report dated May 13, 2004 and its Annual Information Form filed in May, 2004 was misleading or untrue contrary to s. 122(1)(b) of the *Securities Act* and/or contrary to the public interest.

45. BEI's inclusion of the volume to be treated under the Phase III Contract as part of its disclosed contract backlog was also misleading or untrue and contrary to the public interest.

L. Conduct of Bennett

46. Bennett, as the Chairman of the Board and the CEO of BEI, was generally aware of the position taken by Sevenson on August 6, 2003, and of the issues raised in the September 4, 2003 letter at the time.

47. By failing to act on the information available to him, Bennett authorized, permitted or acquiesced in BEI's failure to disclose this material change in the affairs of BEI forthwith and thereby committed an offence pursuant to s. 122(3) of the *Securities Act* and acted contrary to the public interest.

48. By failing to act on the information available to him, Bennett authorized, permitted or acquiesced in the misleading or untrue disclosure as described in paragraphs 44 and 45 above and thereby committed an offence pursuant to s. 122(3) of the *Securities Act* and acted contrary to the public interest.

IV. MITIGATING FACTS

49. Bennett has agreed, at the request of Staff, to appear as a witness for Staff in the proceedings commenced before the Commission.

50. When the issues raised in this proceeding were brought to Bennett's attention by Staff, he agreed to travel to Toronto from his home in Vancouver at his own expense in order to answer Staff's questions.

51. At a Board meeting held on Wednesday July 21, 2004, the Board, including Bennett, then the Chairman, mandated disclosure (which was released on July 22, 2004) and appointed a Special Committee of Independent Directors to investigate the issues arising out of the Phase III Contract. The Special Committee was given the mandate to conduct a comprehensive inquiry into the Phase III Contract.

V. POSITION OF BENNETT

52. In late 2002, Bennett was preparing to resign from management of BEI. However, due to unforeseen circumstances, Bennett was asked to stay on as CEO for a further two years in order to give BEI sufficient opportunity to find a suitable replacement. At this time Bennett was 67 years of age.

53. Bennett agreed to remain as the company's CEO, but he elected not to move to Oakville, where the company had moved most of its personnel. During the period of 2001 to 2004, Bennett continued to work out of BEI's Vancouver office. As a result of this physical separation, the day to day management of BEI was performed by other members of senior management.

54. Bennett spent much of his working time during the summer and fall of 2003 managing the permit approval process for the company's proposed plant in Belledune, New Brunswick, spending long periods of time in New Brunswick. Bennett first received a copy of the September correspondence from the Corps in June 2004.

55. None of the events that occurred during the summer and fall of 2003 shook Bennett's confidence in the validity of the Phase III Contract. Based on his interpretation of the Phase III Contract, his past history with the Federal Creosote site and the Corps, his knowledge of the Federal Creosote site, BEI's position in the marketplace and assurances by senior staff of Sevenson, Bennett honestly but mistakenly believed that the Phase III Contract continued to be an enforceable contract for 300,000 tons of soil and that BEI would end up performing the work that was called for at the contract price.

56. In October 2003, Mr. Bennett agreed to receive his upcoming annual bonus in the form of stock options instead of cash. He also refused to monetize portions of his BEI stockholdings during this period against the advice of his financial advisors.

VI. TERMS OF SETTLEMENT

57. Bennett agrees to the following terms of settlement:

(a) Bennett shall be prohibited from acting as a director or officer of any issuer for a period of 10 years from the date of an order of the Commission approving this Settlement Agreement;

(b) Bennett shall be reprimanded by the Commission;

(c) immediately upon this Settlement Agreement being approved, Bennett shall pay to the Commission the sum of $250,000 as an administrative penalty;

(d) immediately upon this Settlement Agreement being approved, Bennett shall pay to the Commission the sum of $50,000 toward the costs of the investigation of the matters set out herein; and

(e) Bennett shall continue to cooperate with Staff in this matter, including acting as a witness for Staff in the proceeding it has brought before the Commission.

VII. POSITION OF STAFF

58. It is Staff's position, and the Respondent concurs, that the 10 year term of the prohibition against Bennett acting as a director or officer of any issuer is only appropriate in the context of the serious circumstances of the facts as set out in Part III on the basis of Bennett's age and the unlikelihood of Bennett returning to the capital markets in the capacity of a director or officer beyond the 10 year term.

VIII. STAFF COMMITMENT

59. If this Settlement Agreement is approved by the Commission, Staff will not initiate any other proceeding under the Act against Bennett in relation to the allegations in the Statement of Allegations and the facts set out in Part III of this Settlement Agreement.

60. However, if this Settlement Agreement is approved by the Commission and at any subsequent time Bennett fails to honour the terms of settlement contained in Part VI of this Settlement Agreement, Staff reserve the right to bring proceedings against Bennett based on, but not limited to, the facts set out in Part III of this Settlement Agreement, and based on the breach of this Settlement Agreement.

IX. APPROVAL OF SETTLEMENT

61. Approval of this Settlement Agreement shall be sought at the public hearing of the Commission to be scheduled on a date as agreed to by Staff and Bennett (the "Settlement Hearing"). Bennett will attend at the Settlement Hearing.

62. Counsel for Staff or Bennett may refer to any part, or all, of this Settlement Agreement at the Settlement Hearing. Staff and Bennett agree that this Settlement Agreement will constitute the entirety of the evidence to be submitted at the Settlement Hearing.

63. If this Settlement Agreement is approved by the Commission, Staff and Bennett agree that Bennett agrees to waive his rights to a full hearing, judicial review or appeal of the matter under the Act.

64. If this Settlement Agreement is approved by the Commission, Staff and Bennett agree that they will not make any public statement inconsistent with this Settlement Agreement.

65. If, for any reason whatsoever, this Settlement Agreement is not approved by the Commission or an order in the form attached as Schedule "A" is not made by the Commission:

    (a) This Settlement Agreement and its terms, including all discussions and negotiations between Staff and Bennett leading up to its presentation at the Settlement Hearing, shall be without prejudice to Staff and Bennett;

    (b) Staff and Bennett shall be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing of the allegations in the Notice of Hearing and Statement of Allegations of Staff, unaffected by this Settlement Agreement or the settlement discussions/negotiations;

    (c) The terms of this Settlement Agreement will not be referred to in any subsequent proceeding, or disclosed to any person, except with the written consent of Staff and Bennett or as may be required by law; and

    (d) Bennett agrees that he will not, in any proceeding, refer to or rely upon this Settlement Agreement, the settlement discussions/negotiations or the process of approval of this Settlement Agreement as the basis for any attack on the Commission's jurisdiction, alleged bias or appearance of bias, alleged unfairness or any other remedies or challenges that may otherwise be available.

X. DISCLOSURE OF SETTLEMENT AGREEMENT

66. This Settlement Agreement and its terms will be treated as confidential by Staff and Bennett until approved by the Commission, and forever if for any reason whatsoever this Settlement Agreement is not approved by the Commission, except with the written consent of Staff and Bennett, or as may be required by law.

67. Any obligations of confidentiality shall terminate upon approval of this Settlement Agreement by the Commission.

XI. EXECUTION OF SETTLEMENT AGREEMENT

68. This Settlement Agreement may be signed in one or more counterparts that together shall constitute a binding agreement.

69. A facsimile copy of any signature shall be as effective as an original signature.

DATED this day of October, 2006

John Bennett

Name: John Bennett

DATED this 21st day of November, 2006

STAFF OF THE ONTARIO SECURITIES COMMISSION

By:
Michael Watson

Name: Michael Watson
Title: Director of Enforcement

Schedule "A"

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

AND

IN THE MATTER OF
BENNETT ENVIRONMENTAL INC., JOHN BENNETT,
RICHARD STERN, ROBERT GRIFFITHS, AND
ALLAN BULCKAERT

SETTLEMENT BETWEEN
STAFF OF THE
ONTARIO SECURITIES COMMISSION
AND
JOHN BENNETT

ORDER
(Section 127)

WHEREAS on June 2, 2006 the Ontario Securities Commission (the "Commission') issued a Notice of Hearing (the "Notice of Hearing") pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c.S.5, as amended (the "Act") in respect of John Bennett ("Bennett");

AND WHEREAS Bennett entered into a settlement agreement with Staff of the Commission, dated November 21, 2006 (the "Settlement Agreement"), in which the parties have proposed a settlement of the proceeding commenced by the Notice of Hearing, subject to the approval of the Commission;

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

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

IT IS HEREBY ORDERED THAT:

1. The Settlement Agreement is hereby approved;

2. Bennett shall be prohibited from acting as a director or officer of any issuer for a period of 10 years from the date of this Order;

3. Bennett shall be reprimanded by the Commission;

4. Bennett shall immediately pay to the Commission the sum of $250,000 as an administrative penalty designated for allocation to or for the benefit of third parties in accordance with subsection 3.4(2) of the Act; and

5. Bennett shall immediately pay to the Commission the sum of $50,000 toward the costs of its investigation.

DATED at Toronto this day of November, 2006.

3.1.2 Bennett Environmental Inc. et al.

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

AND

**IN THE MATTER OF
BENNETT ENVIRONMENTAL INC., JOHN BENNETT,
RICHARD STERN, ROBERT GRIFFITHS, AND
ALLAN BULCKAERT**

**SETTLEMENT AGREEMENT BETWEEN
STAFF OF THE ONTARIO SECURITIES COMMISSION
AND
ROBERT GRIFFITHS**

I. INTRODUCTION

1. By Notice of Hearing dated June 2, 2006, the Ontario Securities Commission (the "Commission") proposed to hold a hearing pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") to consider, among other things, whether it is in the public interest to make certain orders against the Respondent, Robert Griffiths, by reason of the allegations set out in the Statement of Allegations dated May 31, 2006.

II. JOINT SETTLEMENT RECOMMENDATION

2. Staff agree to recommend settlement of the proceeding against Griffiths in accordance with the terms and conditions set out below. Griffiths consents to the making of an order against him in the form attached as Schedule "A" based on the facts set out in Part III of this Settlement Agreement.

III. STATEMENT OF FACTS

A. The Respondents in this proceeding

3. Bennett Environmental Inc. (“BEI”) is a Canadian company with its head office in Oakville, Ontario. BEI is a reporting issuer in Ontario, Quebec and British Columbia. Shares of BEI trade on the TSX and the American Stock Exchange in the United States. BEI provides thermal treatment services for the remediation of contaminated soil.

4. At all relevant times, John Bennett was Chairman of the Board of BEI and was the Chief Executive Officer (“CEO”) of BEI until February 18, 2004. John Bennett was the founder of BEI and one of two members of its Disclosure Committee, which was responsible for ensuring that BEI complied with its disclosure obligations under the Ontario *Securities Act*.

5. At all relevant times, Richard Stern (“Stern”) was the Chief Financial Officer (“CFO”) of BEI. Stern was the other member of BEI’s Disclosure Committee.

6. At all relevant times, Griffiths headed BEI’s U.S. Sales division, first as Director of Sales, U.S.A. and then, as of approximately June, 2003, as Vice-President, U.S. Sales.

7. Allan Bulckaert became the President and CEO of BEI on February 18, 2004.

B. The Phase III Contract is announced

8. On June 2, 2003, BEI announced that it had been awarded a contract to treat contaminated soil from Phase III of the Federal Creosote Superfund Site in New Jersey (the “Phase III Contract”). The Phase III Contract was with Sevenson Environmental Services Inc. (“Sevenson”) acting as sub-contractor for the United States Army Corps of Engineers (“the Corps”). In its news release, BEI described the Phase III Contract as being for an “estimated 300,000 tons of soil” and “valued at $200 million Cdn., the largest in the Company’s history”.

9. In the June 2, 2003 news release, BEI emphasized the significance of the Phase III Contract, stating that “[s]hipments from three different locations on the site should start within the next few days, and continue until the completion of Phase III which is anticipated by the end of 2005”. In the news release, John Bennett is quoted as stating that:

> [t]his, together with previously announced contracts, ensures that we will have a very successful year in 2003 and beyond in terms of meeting our financial and operational goals….[w]inning this contract…provides a good base load of materials for our proposed new soil treatment facility in Belledune, New Brunswick which is scheduled to be completed by the end of this year."

10. The Phase III Contract was an "Indefinite Delivery/Indefinite Quantity" ("ID/IQ") contract. In an ID/IQ contract, the actual amount of soil to be treated under the contract is uncertain, as is the timing of any shipment of soil. The Purchase Order which implemented the Phase III Contract also contained a line item that read: "Variation i[n] Estimated Quantities Clause 15% +/- Applies to [Federal Acquisition Regulations ("FAR")] 52.211.18." The FAR 52.211.18 states that an "equitable adjustment in the contract price shall be made upon demand of either party" where "the actual quantity of the unit-priced item varies more or less than the estimated quantity. "

C. BEI is advised that there has been a protest of the Phase III Contract

11. Just a few days after issuing its news release of June 2, 2003, BEI was advised that a competitor of BEI had protested the awarding of the Phase III Contract to BEI. At the request of Sevenson, BEI agreed to a 30 day extension of the previous Phase II Contract to treat material that would have been treated under the Phase III Contract. At this point, BEI was sufficiently concerned about the status of the Phase III Contract that it had legal counsel review the matter.

12. BEI did not disclose the fact that a competitor had protested the awarding of the Phase III Contract or the fact that Sevenson had requested an extension to the previous Phase II Contract.

13. BEI released its Q2 2003 results by news release dated July 24, 2003 and held a conference call for investors on July 25, 2003. In that news release and during that conference call, BEI continued to report the full 300,000 tons of soil to be treated under the Phase III Contract as part of its contract "backlog", which represents contracts that have been signed but have not yet been fully performed.

D. BEI is advised by Sevenson that ACE has withdrawn its consent to the Phase III Contract

14. On August 5, 2003, Sevenson advised BEI that the Request for Proposal ("RFP") that had given rise to the Phase III Contract was going to be amended such that multiple ID/IQ contracts were being awarded with a maximum shared quantity of 100,000 tons of soil and a minimum quantity of 1000 tons.

15. BEI sent a letter to Sevenson protesting the amendment to the RFP, noting that Sevenson was essentially re-bidding the work that had been awarded to BEI under the Phase III Contract. In response, Sevenson wrote to BEI on August 6, 2003 and advised that,

> [t]he amended RFP was issued as a result of the **government's withdrawal of its consent to the Bennett contract** with direction to Sevenson to obtain clarifications concerning, and to perform a re-evaluation of, the proposals received in response to the original RFP. Those clarifications and the re-evaluation resulted in the government's direction to Sevenson to proceed with the amended RFP. (emphasis added)

16. Moreover, Sevenson advised BEI that BEI's characterization of the Phase III Contract (as set out in the June 2, 2003 news release) was incorrect, stating that,

> [a]s you well know, the contract guarantees a minimum quantity of 500 tons. A prudent person could not value such contract as having the value you ascribe to it using the maximum quantity. That contract also contains a termination for convenience clause.

17. On August 14, 2003, Sevenson advised BEI that instead of amending the original RFP, it would proceed by way of an Invitation for Bids ("IFB") which would be delivered on or about August 27, 2003.

18. Throughout this time, BEI did not disclose that the Corps had withdrawn its consent to the Phase III Contract. It did not disclose that Sevenson had told BEI that the Phase III Contract was going to be re-bid and that the maximum shared quantity of soil to be treated was going to be reduced to 100,000 tons.

19. In addition, BEI continued to include the full 300,000 tons of soil under the Phase III Contract (minus any nominal amounts that had been shipped) as part of its disclosed contract backlog, including in a news release dated August 8, 2003.

E. The Corps confirms to BEI that it has withdrawn its consent to the Phase III Contract

20. Although it had not yet received the new IFB, BEI was concerned that it appeared to be replacing the Phase III Contract. BEI's legal counsel wrote to the Corps on August 25, 2003 and objected on the grounds that the IFB was "essentially a re-solicitation to submit bids for a contract that Bennett has already been awarded".

21. By letter dated September 4, 2003, the Corps advised BEI of the following facts:

- It had withdrawn its consent to the Phase III Contract;
- The Phase III Contract only guaranteed a minimum of 500 tons of soil;
- The Corps had issued a limited consent for up to 10,000 tons of soil, which would exceed the minimum guarantee under the Phase III Contract;
- As a result of design revisions to the site in New Jersey, the maximum amount of soil to be treated had been reduced from 300,000 tons of soil to 100,000 tons of soil. The new IFB would be awarding up to three sub-contracts to treat a minimum of 1000 tons of soil and a total maximum of 100,000 tons of soil.

22. BEI and the Corps exchanged correspondence throughout the month of September, 2003, in which the Corps reiterated the above facts to BEI.

23. Throughout this time, BEI still did not disclose that the Corps had withdrawn its consent to the Phase III Contract. It did not disclose that the Phase III Contract was going to be re-bid and that the maximum shared quantity of soil to be treated had been reduced to 100,000 tons.

24. In addition, BEI continued to include the full 300,000 tons of soil under the Phase III Contract (minus any nominal amounts that had been shipped) as part of its disclosed contract backlog, including in a conference call for investors on October 23, 2003.

F. BEI is notified that it is the low bidder on the 100,000 ton contract

25. Although there were several delays, on or about October 23, 2003, Sevenson sent BEI an IFB for the treatment of a minimum of 1000 and maximum of 100,000 tons of soil.

26. After some minor amendments to the IFB, BEI submitted a bid in response to it and on December 11, 2003, Sevenson advised BEI that it was the low bidder in response to the IFB (the "Second Contract").

27. BEI did not disclose that it was the low bidder for the Second Contract.

28. Moreover, BEI continued to include the full 300,000 tons of soil that was originally going to be treated under the Phase III Contract as part of its disclosed contract backlog, including in a news release dated November 6, 2003.

G. BEI is awarded the Second Contract

29. On March 30, 2004, Sevenson advised BEI that it had been awarded the Second Contract and Sevenson would be sending a purchase order to BEI pursuant to that Second Contract.

30. By May 2004, Bulckaert had not been informed about the dispute regarding the Phase III Contract and had not been provided with copies of BEI's 2003 correspondence with the Army Corps. Prior to executing the purchase order under the Second Contract, Bulckaert wrote to Sevenson on May 13, 2004 requesting clarification of the status of the Phase III Contract and its relationship to the Second Contract.

31. BEI did not receive a response to its enquiries, but on June 3, 2004 BEI signed the purchase order pursuant to the Second Contract, although BEI maintained it was not waiving its rights under the Phase III Contract.

32. BEI did not disclose that it had been awarded the Second Contract or that it had executed the purchase order under it.

33. Bulckaert first received a copy of the September correspondence from the Corps on June 9, 2004.

34. On that same day BEI, through its legal counsel, wrote directly to the Corps once again requesting clarification of the status of the Phase III Contract and its relationship to the Second Contract.

35. By letter to BEI dated July 15, 2004, the Corps reiterated its position which it had previously detailed in its letter of September 4, 2003.

36. Throughout this time, BEI continued to include the full 300,000 tons of soil to be treated under the Phase III Contract (minus any nominal amounts that had been shipped) as part of its disclosed contract backlog, including in news releases dated March 29, 2004 and April 29, 2004, its Management Discussion and Analysis as at April 28, 2004, its Annual Report dated May 13, 2004 and its Annual Information Form filed in May, 2004.

H. BEI discloses the Phase III Contract dispute

37. By news release dated July 22, 2004, BEI finally announced the existence of the Phase III Contract dispute. BEI revealed that a competitor had protested the awarding of the Phase III Contract to BEI and that the Corps had withdrawn its consent to the Phase III Contract. BEI stated that it had been attempting to ascertain the status of the Phase III Contract since August, 2003. BEI disclosed that it had only treated 7,000 tons of soil under the Phase III Contract and that any future shipments under it were "highly unlikely".

38. In that news release, BEI also disclosed the Second Contract to treat some of the soil that was originally going to be treated under the Phase III Contract. BEI acknowledged that the Second Contract only guaranteed a minimum shipment of 1000 tons.

39. After the news release of July 22, 2004, the price of BEI shares fell dramatically – falling almost 50% within the next 10 days.

I. The above information about the Phase III Contract was material and should have been disclosed forthwith

40. The existence of the dispute over the Phase III Contract, including whether there would be any further shipments under it and whether it was being replaced by the much smaller Second Contract, was a material change in the affairs of BEI within the meaning of the *Securities Act*. BEI failed to disclose that material change forthwith, contrary to s. 75 of the *Securities Act* and contrary to the public interest.

41. The existence of the dispute over the Phase III Contract, including whether there would be any further shipments under it and whether it was being replaced by the much smaller Second Contract, was also a material fact within the meaning of the *Securities Act* that had not been generally disclosed.

J. BEI's inclusion of the Phase III Contract in its disclosed contract backlog was misleading or untrue

42. BEI's confirmation of the volume to be treated under the Phase III Contract in its public disclosure, including in its press releases of July 24, 2003, August 8, 2003, November 6, 2003, March 29, 2004 and April 29, 2004 and in its Management Discussion and Analysis as at April 28, 2004, its Annual Report dated May 13, 2004 and its Annual Information Form filed in May, 2004 was misleading or untrue contrary to s. 122(1)(b) of the Securities Act and/or contrary to the public interest.

43. BEI's inclusion of the volume to be treated under the Phase III Contract as part of its disclosed contract backlog was also misleading or untrue and contrary to the public interest.

K. Conduct of Griffiths

44. Griffiths had primary responsibility for the Phase III Contract. He was aware of the position taken by Sevenson on August 6, 2003, and the position taken by the Corps on September 4, 2003 and as a result, was aware of the existence of the dispute over the Phase III Contract, including whether there would be any further shipments under it and whether it was being replaced by the much smaller Second Contract.

45. Griffiths authorized, permitted or acquiesced in BEI's failure to disclose this material change in the affairs of BEI forthwith and thereby committed an offence pursuant to s. 122(3) of the *Securities Act* and acted contrary to the public interest.

46. At the material time, Griffiths was a person in a special relationship with BEI. Between September 9, 2003 and December 12, 2003, Griffiths exercised options to acquire and then sold a total of 45,600 shares of BEI while in possession of some or all of the above material facts and material changes that had not been generally disclosed, contrary to s. 76 of the *Securities Act*.

IV. COOPERATION OF GRIFFITHS

47. When the issues raised in this proceeding were brought to Griffiths' attention by Staff, he agreed to travel to Toronto from his home in Vancouver at his own expense in order to attend for a voluntary interview by Staff.

48. Prior to attending to be interviewed, Griffiths acknowledged his conduct and expressed his willingness to settle the issues raised by Staff.

49. Griffiths has agreed that he will continue to cooperate with Staff in this matter, including acting as a witness for Staff in the proceedings it has brought before the Ontario Securities Commission.

50. Griffiths has also cooperated with the United States Securities and Exchange Commission's ("SEC") parallel investigation of BEI. Contemporaneously with this settlement agreement, Griffiths is entering into an agreement with the SEC, pursuant to which he will pay the SEC $50,000 in full and final settlement of the SEC's potential claims against Griffiths arising out of BEI's disclosure of the Phase III Contract.

V. MITIGATING FACTS

51. Griffiths was never a member of BEI's Disclosure Committee or board of directors, and was not responsible for BEI's investor relations or regulatory compliance.

52. Griffiths was not responsible for drafting Bennett's press releases and was only occasionally consulted by BEI's Disclosure Committee regarding press releases in connection with the Phase III Contract.

53. Griffiths has no background or training in law or securities. Griffiths was hired by BEI as an intern in March 1999, following completion of his university studies in environmental science. Prior to his involvement with BEI, Griffiths had never been an employee, officer or director of a public company.

54. Griffiths was required to seek the approval of BEI's CFO, Stern, prior to the exercise of the options described above. Griffiths did so, and Stern raised no issue with respect to Griffiths' proposed sales of BEI shares.

55. Griffiths' options were provided to him as part of his remuneration package. It was Griffiths' practice to exercise the options and sell the shares at the earliest available opportunity, in part in order to have funds available to pay the applicable income taxes.

56. Griffiths' loss avoided on the sale of his BEI shares was approximately $728,685. However, his actual after tax profit on the sale of those shares was substantially less, approximately $377,825.

57. Griffiths supports three dependents and his current personal financial circumstances are such that he cannot reasonably afford to pay more than the $150,000 he has agreed to pay to the Ontario Securities Commission as a term of this Settlement Agreement, and the $50,000 he has agreed to pay the SEC to resolve the SEC's investigation. Griffiths has provided Staff with written particulars of those financial circumstances and Staff is satisfied that the payment of $150,000 is appropriate. Staff and Griffiths agree that, if required, the written particulars of his financial circumstances will be made available to the panel considering this Settlement Agreement, with the request that those particulars remain confidential, even if this Settlement Agreement is approved.

VI. POSITION OF GRIFFITHS

58. Griffiths' experience prior to the award of the Phase III Contract suggested that BEI would treat the full 300,000 tons of contaminated soil referred to in the June 2, 2003 BEI news release. In the two previous phases of work at the Federal Creosote Superfund Site, BEI had treated 101,000 tons, which was well over the maximum quantities specified in the subcontracts BEI had entered into for that work. Based on Griffiths' experience, he held an honest but mistaken belief that the Phase III Contract issues were not serious because they would be resolved in favour of BEI.

59. As noted above, BEI's CFO was aware of Griffiths' sale of the shares in issue, and Griffiths understood that the exercise of options and the sale of his shares were in accordance with BEI policies.

VII. TERMS OF SETTLEMENT

60. Griffiths agrees to the following terms of settlement:

    (a) Griffiths will continue to cooperate with Staff in this matter, including acting as a witness for Staff in the proceeding it has brought before the Ontario Securities Commission;

(b) Griffiths shall be prohibited from trading in securities for a period of 15 years from the date of an order of the Commission approving this Settlement Agreement, with the exception that Griffiths may trade for the account of his personal registered retirement savings plan (as defined in the *Income Tax Act* (Canada) commencing 2 years from the date of an order of the Commission approving this Settlement Agreement;

(c) Griffiths shall be prohibited from acting as a director or officer of any issuer for a period of 15 years from the date of an order of the Commission approving this Settlement Agreement;

(d) immediately upon this Settlement Agreement being approved, Griffiths will pay to the Ontario Securities Commission the sum of $150,000 as an administrative penalty.

VIII. STAFF COMMITMENT

61. If this settlement is approved by the Commission, Staff will not initiate any other proceeding under the Act against Griffiths in relation to the facts set out in Part III of this Settlement Agreement.

62. If this settlement is approved by the Commission and at any subsequent time, Griffiths fails to honour the terms of settlement contained in Part VII of this Settlement Agreement, Staff reserve the right to bring proceedings against Griffiths based on the facts set out in Part III of this Settlement Agreement, and based on the breach of this Settlement Agreement.

IX. APPROVAL OF SETTLEMENT

63. Approval of the settlement set out in this Settlement Agreement shall be sought at the public hearing of the Commission to be scheduled on a date as agreed to by Staff and Griffiths (the "Settlement Hearing"). Griffiths will attend at the Settlement Hearing.

64. Counsel for Staff or Griffiths may refer to any part, or all, of this Agreement at the Settlement Hearing. Staff and Griffiths agree that, subject to paragraph 57, above, this Settlement Agreement will constitute the entirety of the evidence to be submitted at the Settlement Hearing.

65. If this Settlement is approved by the Commission, Griffiths agrees to waive his rights to a full hearing, judicial review or appeal of the matter under the Act.

66. Staff and Griffiths agree that if this settlement is approved by the Commission, he will not make any public statement inconsistent with this Settlement Agreement.

67. If, for any reason whatsoever, this settlement is not approved by the Commission, or any order in the form attached as Schedule "A" is not made by the Commission:

(a) This settlement Agreement and its terms, including all discussions and negotiations between Staff and Griffiths leading up to its presentation at the Settlement Hearing, shall be without prejudice to Staff and Griffiths;

(b) Staff and Griffiths shall be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing of the allegations in the Notice of Hearing and Statement of Allegations of Staff, unaffected by this Settlement Agreement or the settlement discussions/negotiations;

(c) The terms of this Settlement Agreement will not be referred to in any subsequent proceeding, or disclosed to any person, except with the written consent of Staff and Griffiths or as may be required by law; and

(d) Griffiths agrees that it will not, in any proceeding, refer to or rely upon this Settlement Agreement, the settlement discussions/negotiations or the process of approval of this Settlement Agreement as the basis for any attack on the Commission's jurisdiction, alleged bias or appearance of bias, alleged unfairness or any other remedies or challenges that may otherwise be available.

X. DISCLOSURE OF AGREEMENT

68. Except as permitted under paragraph 68(c) above, this Settlement Agreement and its terms will be treated as confidential by Staff and Griffiths until approved by the Commission, and forever, if for any reason whatsoever this settlement is not approved by the Commission, except with the consent of Staff and Griffiths, or as may be required by law.

69. Any obligations of confidentiality shall terminate upon approval of this settlement by the Commission, with the exception that any details with respect to Griffiths' financial circumstances shall not be disclosed and shall be sealed.

XI. EXECUTION OF SETTLEMENT AGREEMENT

70. This Settlement Agreement may be signed in one or more counterparts that together shall constitute a binding agreement.

71. A facsimile copy of any signature shall be as effective as an original signature.

DATED this 12th day of October, 2006

Robert Griffiths

_____

Name: Robert Griffiths

DATED this 21st day of November, 2006

STAFF OF THE ONTARIO SECURITIES COMMISSION

By:
Michael Watson

_____

Name: Michael Watson
Title: Director of Enforcement

Schedule "A"

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

AND

IN THE MATTER OF
BENNETT ENVIRONMENTAL INC., JOHN BENNETT,
RICHARD STERN, ROBERT GRIFFITHS, AND
ALLAN BULCKAERT

SETTLEMENT BETWEEN STAFF OF THE
ONTARIO SECURITIES COMMISSION
AND
ROBERT GRIFFITHS

ORDER
(Section 127)

WHEREAS on June 2, 2006 the Ontario Securities Commission (the "Commission") issued a Notice of Hearing (the "Notice of Hearing") pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c.S.5, as amended (the "Act"), in respect of Robert Griffiths ("Griffiths");

AND WHEREAS Griffiths entered into a settlement agreement with Staff of the Commission, dated November 21, 2006 (the "Settlement Agreement"), in which the parties have proposed a settlement of the proceeding commenced by the Notice of Hearing, subject to the approval of the Commission;

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

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

IT IS HEREBY ORDERED THAT:

1. the Settlement Agreement is hereby approved;

2. Griffiths shall be prohibited from trading in securities for a period of 15 years, with the exception that after 2 years from the date of this Order, Griffiths may trade for the account of his personal registered retirement savings plan (as defined in the *Income Tax Act* (Canada);

3. Griffiths shall be prohibited from acting as an director or officer of any issuer for a period of 15 years from the date of this Order; and

4. Griffiths shall immediately pay to the Commission the sum of $150,000 as an administrative penalty designated for allocation to or for the benefit of third parties in accordance with subsection 3.4(2) of the Act.

DATED at Toronto this day of November, 2006.

3.1.3 Bennett Environmental Inc. et al.

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

AND

IN THE MATTER OF
BENNETT ENVIRONMENTAL INC., JOHN BENNETT,
RICHARD STERN, ROBERT GRIFFITHS, and ALLAN BULCKAERT

SETTLEMENT HEARING RE: JOHN BENNETT

Hearing:	November 29, 2006	
Panel:	Paul M. Moore, Q.C., Chair	
	Robert L. Shirriff, Q.C., Commissioner	
	David L. Knight, Commissioner	
Appearances:	Pamela Foy Scott Pilkey	On behalf of Staff of the Commission
	Nigel Campbell	On behalf of John Bennett

ORAL RULING AND REASONS

The following text has been prepared for purposes of publication in the Ontario Securities Commission Bulletin and is based on excerpts of the transcript of the hearing. The excerpts have been edited and supplemented and the text has been approved by the chair of the panel for the purpose of providing a public record of the decision.

Chair:

[1] The panel has considered the settlement agreement between staff of the Ontario Securities Commission and John Bennett. We have listened to submissions of counsel for staff and for Mr. Bennett. We have decided that the settlement agreement should be approved as being in the public interest.

[2] This is the third settlement arising out of the matter. I refer to two previous settlements, approved at hearings held on June 20, 2006. They are reported in the Ontario Securities Commission bulletin at 2006-29-OSC-B-5725 and -5727. One was an agreement between staff of the Commission and Bennett Environmental Inc. The other was between staff of the Commission and Allan Bulckaert. The reasons given in those settlement hearings are relevant to our approval of this settlement agreement.

[3] I'm not going to go into all of the facts in the present settlement agreement because the facts are set out in the settlement agreement. It will be an exhibit in the bulletin.

[4] Briefly, the matter involved a contract entered into by Bennett Environmental, where all of the facts relating to that contract were not clearly disclosed. There were some subsequent disclosures of a dispute concerning the contract that caused the market price of the company's shares to drop almost 50 per cent within ten days after the disclosure.

[5] At all relevant times, Mr. Bennett was chair of the board of the company and chief executive officer until February 18, 2004.

[6] He is 71 years of age. He was the founder of the company and one of the two members of its disclosure committee which was responsible for the company's disclosure obligations.

[7] As chairman of the board and chief executive officer of the company, he was generally aware of the contract dispute that was material to this matter.

[8] It was Mr. Bennett's position that none of the events that occurred at the material time shook his confidence in the validity of the contract, and he mistakenly believed that the contract dispute would be resolved in favour of the company.

[9] But for our purposes, it's important that he does admit that the existence of the dispute over the contract constituted a material change within the meaning of the Act, and that the company failed to disclose forthwith the material change, contrary to section 75 of the Act and contrary to the public interest.

[10] Mr. Bennett acknowledges that by failing to act on the information available to him, he, in effect, authorized, permitted, or acquiesced in the company's failure to disclose the material change forthwith and thereby committed an offence, contract to section 122(3) of the Act, and acted contrary to the public interest.

[11] He also admits that the company's continued reporting of certain matters in relation to the contract was misleading or untrue, pursuant to section 122(1)(b) of the Act, and contrary to the public interest.

[12] He acknowledges that by failing to act on the information available to him, he authorized, permitted, or acquiesced in the misleading or untrue disclosure regarding the contract, and thereby committed an offence, pursuant to section 122(3) of the Act, and acted contrary to the public interest.

[13] There are mitigating factors. These are set out in Part 4 of the settlement agreement.

[14] By way of settlement, Mr. Bennett has agreed that he will be prohibited from acting as a director or officer of any issuer for a period of ten years, that he shall be reprimanded for his conduct, and that he will voluntarily pay to the Commission a significant administrative penalty in the amount of $250,000, plus $50,000 towards the cost of the investigation of the matters surrounding this issue.

[15] Staff submitted, and Mr. Bennett concurs, that the ten-year prohibition against Mr. Bennett is appropriate on the basis of his age, and the unlikelihood of Mr. Bennett returning to the capital markets in the capacity of a director or officer beyond the ten-year term. In effect, this is equivalent to a lifetime prohibition and, under all the circumstances, is proportionately appropriate.

[16] The role of a Commission panel reviewing a settlement agreement is not to substitute the sanctions it would impose in a contested hearing for what is proposed in the settlement agreement, but rather to make sure the agreed sanctions are within acceptable parameters.

[17] Our jurisdiction is not to punish. The Supreme Court of Canada in the *Committee for Equal Treatment of Asbestos Minority Shareholders v. Ontario Securities Commission* ([2001] 2 S.C.R. 132) made it quite clear that our jurisdiction is to prevent future harm to the public by removing, restricting, or sanctioning people who trade in the capital markets and registrants who abuse the market by acting contrary to the public interest.

[18] We have to be proportionate. The deterrent value of any decision is that persons in a like situation understand the consequences to them of any violation of the Act.

[19] We have considered the submissions of staff and of counsel for Mr. Bennett with reference to these matters, and we have come to the following conclusions.

[20] First, the failure to disclose material information in a timely way is a serious matter.

[21] Mr. Bennett was CEO and chairman of the board and a member of the disclosure committee. Ultimate responsibility for disclosure rested with him. He was aware of the material facts, notwithstanding an honest but misguided belief in the ultimate effect the dispute with the contract would have. So although he may have held an honest but mistaken belief that issues would be resolved in favour of the company, by virtue of his admissions, he does recognize the seriousness of his misconduct.

[22] Taking all these facts into account, we agree that the proposed sanctions are within the parameters of acceptability.

[23] Now, Mr. Bennett, part of the order is that you be reprimanded, so if you would please stand.

[24] By your acknowledgments, you understand the seriousness of what has gone on, and by your agreeing to the settlement provisions, including the payment of the funds, you understand that what you did was wrong, and you are hereby reprimanded.

Approved by the chair of the panel on November 29, 2006.

"Paul M. Moore"

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
Ampal-American Israel Corporation	21 Nov 06	01 Dec 06	01 Dec 06	
Fuel-Cell Technologies Ltd.	04 Dec 06	15 Dec 06		
Meta Health Services Inc.	01 Dec 06	13 Dec 06		
Toreador Resources Corporation	23 Nov 06	05 Dec 06	05 Dec 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
CoolBrands International Inc.	30 Nov 06	13 Dec 06			
SR Telecom Inc.	17 Nov 06	30 Nov 06	30 Nov 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		
CoolBrands International Inc.	30 Nov 06	13 Dec 06			
Fareport Capital Inc.	13 Sep 05	26 Sep 05	26 Sep 05		
The Helical Corporation Inc.	28 Nov 06	11 Dec 06			
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		
Neotel International Inc.	02 Jun 06	15 Jun 06	15 Jun 06		
Research In Motion Limited	24 Oct 06	07 Nov 06	07 Nov 06		
SR Telecom Inc.	17 Nov 06	30 Nov 06	30 Nov 06		
Straight Forward Marketing Corporation	02 Nov 06	15 Nov 06	15 Nov 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
11/03/2006	2	Actera Partners (G.P.) Limited - Limited Partnership Interest	217,500,000.00	2.00
10/18/2006 to 11/14/2006	8	ALL Group Financial Services Inc. - Notes	585,000.00	NA
11/15/2006	53	Aquiline Resources Inc. - Common Shares	22,073,038.50	4,746,890.00
08/14/2006	18	Armistice Resources Corp. - Common Shares	2,860,000.00	11,877,306.00
11/14/2006	7	Armistice Resources Corp. - Flow-Through Shares	400,248.95	NA
11/15/2006	8	Ascendent Copper Corporation - Common Shares	5,200,000.00	8,000,000.00
11/22/2006	134	Aurelian Resources Inc. - Common Shares	75,000,000.00	2,000,000.00
11/15/2006	16	Avery Resources Inc. - Common Shares	10,000,000.00	20,000,000.00
11/20/2006	2	AVT Studios Inc. - Common Shares	50,000.00	200,000.00
11/17/2006	4	Bitterroot Resources Ltd. - Units	2,530,000.55	4,600,001.00
11/01/2006	10	BridgePort Networks, Inc. - Preferred Shares	15,079,099.01	16,736,214.00
11/14/2006	2	Bunge Limited - Common Shares	3,414,600.00	30,000.00
11/17/2006	69	Burmis Energy Inc. - Flow-Through Shares	11,250,000.00	3,000,000.00
11/23/2006	2	Canadian Gold Hunter Corp. - Common Shares	1,300,000.00	1,000,000.00
11/23/2006	16	Canadian Gold Hunter Corp. - Flow-Through Shares	3,000,000.00	2,000,000.00
11/08/2006 to 11/14/2006	1	Canadian Solar Inc. - Common Shares	1,709,250.00	100,000.00
11/21/2006	1	Chartwell Master Care LP - Units	1,098,979.56	78,108.00
11/24/2006	28	Choice Resources Corp. - Common Shares	1,500,000.00	2,000,000.00
11/14/2006	23	Claude Resources Inc. - Common Shares	5,499,496.20	3,333,028.00

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
11/20/2006 to 11/29/2006	31	CMC Markets (Canada) Inc. - Contracts for Differences	277,600.00	31.00
11/21/2006	1	CNH Capital Canada Receivables Trust - Note	79,625,000.00	1.00
11/14/2006	1	CNH Capital Canada Receivables Trust - Notes	68,122,464.16	NA
11/10/2006	46	Consolidated Big Valley Resources Inc. - Flow-Through Shares	914,100.00	790,000.00
10/30/2006	60	Destinator Technologies Inc. - Debentures	13,821,000.00	13,821.00
11/17/2006	23	Dexit Inc. - Units	1,140,015.60	1,900,026.00
11/15/2006	8	Diadem Resources Ltd. - Units	1,654,002.00	4,767,654.00
11/16/2006	12	Diamonds North Resources Ltd. - Flow-Through Shares	7,000,000.90	7,368,422.00
11/15/2006 to 11/23/2006	132	Donner Petroleum Ltd. - Common Shares	22,951,070.49	NA
11/24/2006	4	Environmental Management Solutions Inc. - Common Shares	10,000,000.00	24,336,937.00
11/16/2006	5	Equimor Mortgage Investment Corporation - Common Shares	111,591.00	NA
11/16/2006 to 11/22/2006	2	First Solar Inc. - Common Shares	1,827,040.00	80,000.00
11/06/2006 to 11/15/2006	38	Fisgard Capital Corporation - Common Shares	807,194.67	807,192.00
11/20/2006	24	Franconia Minerals Corporation - Units	6,000,001.40	2,879,485.00
11/10/2006	2	Freewest Resources Canada Inc. - Common Shares	360,000.00	2,000,000.00
11/13/2006 to 11/17/2006	30	General Motors Acceptance Corporation of Canada, Limited - Notes	7,463,712.86	7,463,712.86
11/06/2006 to 11/10/2006	22	General Motors Acceptance Corporation of Canada, Limited - Notes	12,492,170.92	12,492,170.92
10/31/2006	1	GIS Leveraged 3 Limited - Notes	366,358,341.00	326,319,000.00
11/14/2006 to 11/20/2006	6	Global Trader Europe Limited - Special Trust Securities	5,632.00	NA
11/22/2006	9	Gold Canyon Resources Inc. - Units	211,960.00	781,000.00

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
03/28/2006 to 10/12/2006	4	Goldman Sachs Investment Grade Credit Fund - Units	2,847,248.70	258,519,251.00
11/02/2005 to 10/12/2006	8	Goldman Sachs U.S. Mortgages Fund- Inst Shs - Units	4,693,366.20	425,645.95
11/13/2006	2	Grantium Inc. - Debenture	1,910,070.00	1.00
11/09/2006	16	HCA Inc. - Notes	22,414,949.90	19,561,000.00
11/17/2006	45	Horizon FX Limited Partnership - Limited Partnership Units	1,464,963.45	1,174,903.00
11/21/2006	2	HSBC Finance Corporation - Bonds	45,616,000.00	40,000,000.00
11/21/2006	2	HSBC Finance Corporation - Bonds	11,404,000.00	10,000,000.00
11/28/2006	1	HTR Fund - Units	1,002,500.00	100,250.00
11/09/2006	1	HydroPoint Data Systems, Inc. - Notes	26,064.50	NA
11/15/2006 to 11/22/2006	24	IGW Properties Limited Partnership I - Limited Partnership Units	1,783,300.00	1,783,300.00
10/06/2006	1	Imperial Capital Acquisition Fund III (Institutional) 2 Limited Partnership - Units	167,408.00	167,408.00
10/19/2006	1	Imperial Capital Acquisition Fund III (Institutional) 3 Limited Partnership - Units	83,424.60	83,424.60
11/14/2006 to 11/15/2006	6	J-Pacific Gold Inc. - Common Shares	1,350,000.00	3,375,000.00
11/14/2006 to 11/15/2006	2	J-Pacific Gold Inc. - Units	700,200.20	2,000,572.00
11/15/2006	8	KBSH Enhanced Income Fund - Units	392,000.00	35,946.81
11/17/2006	5	KBSH Income Trust Fund - Units	381,000.00	31,045.75
11/15/2006	8	KBSH Income Trust Fund - Units	201,000.00	17,726.43
11/15/2006	1	KBSH Private - Balanced Fund - Units	400,000.00	34,287.67
11/15/2006	1	KBSH Private - Balanced Registered Fund - Units	247,000.00	22,120.72
11/08/2006	13	KBSH Private - Balanced Registered Fund - Units	2,352,685.62	209,892.55
11/15/2006	7	KBSH Private - Canadian Equity Fund - Units	606,000.00	33,692.87
11/08/2006	7	KBSH Private - Canadian Equity Fund - Units	412,000.00	22,872.37

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
11/08/2006	5	KBSH Private - Canadian Equity Value Fund - Units	568,000.00	55,333.66
11/15/2006	5	KBSH Private - Fixed Income Fund - Units	402,000.00	38,836.83
11/08/2006	4	KBSH Private - Fixed Income Fund - Units	1,979,000.00	192,005.43
11/08/2006	5	KBSH Private - Global Value Fund - Units	1,039,000.00	103,900.00
11/15/2006	7	KBSH Private - International Fund - Units	414,000.00	37,037.04
11/08/2006	4	KBSH Private - International Fund - Units	244,000.00	21,993.87
11/15/2006	1	KBSH Private - Special Equity Fund - Units	25,000.00	990.30
11/15/2006	7	KBSH Private - U.S. Equity Fund - Units	260,000.00	19,490.47
11/08/2006	4	KBSH Private - U.S. Equity Fund - Units	163,000.00	12,383.78
11/15/2006	4	Kingwest Avenue Portfolio - Units	534,088.03	15,846.90
11/15/2006	1	Kingwest U.S. Equity Portfolio - Units	299,670.06	17,008.93
10/30/2006	27	Kria Resources Inc. - Flow-Through Shares	847,900.02	14,131,667.00
11/17/2006	1	Lara Exploration Ltd. - Common Shares	19,500.00	15,000.00
11/16/2006	3	LymphoSign Inc. - Preferred Shares	4,000,001.00	8,000,002.00
11/27/2006	7	MacDonald Mines Exploration Ltd. - Units	700,000.00	7,000,000.00
11/08/2006	3	Mavrix Small Cap Fund - Units	115,500.00	5,709.34
11/23/2006	57	MetalCorp Limited - Flow-Through Shares	5,500,000.00	2,750,000.00
11/23/2006	48	MetalCorp Limited - Units	10,000,000.00	6,060,606.00
11/10/2006	30	Midway Gold Corp. - Units	5,000,000.00	2,000,000.00
11/24/2006	12	Minaean International Corp. - Common Shares	209,820.00	699,400.00
11/14/2006	25	MonoGen, Inc. - Common Shares	18,520,795.70	33,674,174.00
11/17/2006	4	Nahwitti Land Holdings No. 2 Ltd. - Flow-Through Shares	1,180,000.80	6,555,556.00
10/06/2006 to 11/14/2006	118	Neutron Energy Inc. - Notes	6,491,610.00	1,144.50
11/17/2006 to 11/23/2006	2	New Solutions Financial (II) Corporation - Debentures	150,000.00	2.00

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
11/15/2006	69	NPC Growth Fund II Limited Partnership - Units	46,580,000.00	4,658.00
11/20/2006	7	Odyssey Resources Limited - Units	451,000.00	4,510,000.00
11/08/2006	3	OneBeacon Insurance Group Ltd. - Common Shares	3,805,987.50	135,000.00
11/17/2006	2	Open Joint Stock Company Gazprom - Notes	9,172,000.00	8,000.00
11/14/2006	49	Orleans Energy Ltd. - Common Shares	15,122,500.00	2,630,000.00
11/17/2006	194	Oromonte Resources Inc. - Units	3,000,000.00	5,000,000.00
02/13/2006	1	Ozz Corporation - Option	1.00	NA
11/15/2006	13	Panterra Resources Corp. - Common Shares	2,199,689.20	6,285,714.00
11/22/2006	4	Partners in Planning Financial Group Ltd. - Common Shares	2,522,976.00	105,124.00
11/14/2006	16	Patrician Diamonds Inc. - Flow-Through Shares	533,988.00	2,949,800.00
11/14/2006	96	Pearl Exploration and Production Ltd. - Receipts	110,999,993.85	NA
11/17/2006	40	Photon Control Inc. - Units	2,231,130.00	14,874,200.00
11/17/2006	1	Rampart Ventures Ltd. - Common Shares	66,000.00	200,000.00
11/21/2006	5	Romios Gold Resources Inc. - Common Shares	31,268.75	100,000.00
11/17/2006	6	Roycom (7) Limited Partnership - Limited Partnership Units	60,000,000.00	60,000,000.00
11/17/2006	60	RSX Energy Inc. - Common Shares	12,150,000.00	3,000,000.00
11/22/2006	31	Sage Gold Inc. - Flow-Through Shares	1,225,060.00	8,750,427.00
11/23/2006	78	Slam Exploration Ltd. - Flow-Through Units	2,303,640.00	NA
11/21/2006	1	Spansion Inc. - Common Shares	3,944,187.50	250,000.00
11/01/2006	3	Spartan Arbitrage Fund Limited Partnership - Units	800,000.00	800.00
10/01/2006	2	Spartan Arbitrage Fund Limited Partnership - Units	500,000.00	500.00
11/17/2006	20	Stroud Resources Ltd. - Common Shares	374,910.58	1,630,046.00
11/17/2006	54	St. Elias Mines Ltd. - Units	760,550.00	2,535,166.00

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
11/23/2006	2	The Eastwood Harvey Corporation - Common Shares	125,002.47	21,893.00
11/15/2006	2	TrueContext Corporation - Units	313,225.06	NA
11/15/2006	1	Ukraine - Minister of Finance - Bonds	5,693,500.00	500.00
11/23/2006	50	United Bolero Development Corp. - Units	3,000,000.20	8,571,429.00
11/29/2006	5	Unor Inc. - Flow-Through Shares	3,143,900.76	6,045,963.00
11/20/2006	1	Uranium World Energy Inc. - Flow-Through Shares	5,000.00	25,000.00
11/17/2006	6	Urban Intesification Fund LP - Units	80,400,000.00	80,400,000.00
11/17/2006	3	Vencan Gold Corporation - Units	750,000.00	7,500,000.00
10/31/2006	36	Ventus Energy Inc. - Common Shares	11,940,125.00	4,433,736.00
11/28/2006	6	VSS Communications Parallel Partners IV, L.P. - Limited Partnership Interest	3,211,494.00	NA
11/21/2006	145	Walton AZ Sunland Ranch Investment Corporation - Common Shares	2,742,040.00	274,204.00
11/21/2006	70	Walton AZ Sunland Ranch Limited Partnership - Limited Partnership Units	7,065,084.43	628,576.00
11/17/2006	36	Wildcat Exploration Ltd. - Units	2,750,002.50	7,857,150.00
11/23/2006	8	ZBx Corporation - Common Shares	355,000.00	355,000.00
11/23/2006	3	ZBx Corporation - Units	150,000.00	150,000.00

Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:
AIM Trimark Canadian Dollar Cash Management Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectus dated November 28, 2006
Mutual Reliance Review System Receipt dated November 29, 2006
Offering Price and Description:
Command Series Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
AIM Funds Management Inc.
Project #1023698

Issuer Name:
AIM Trimark Canadian Dollar Cash Management Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectus dated November 28, 2006
Mutual Reliance Review System Receipt dated November 29, 2006
Offering Price and Description:
(Corporate Series Units)
Underwriter(s) or Distributor(s):
-
Promoter(s):
AIM Funds Management Inc.
Project #1023713

Issuer Name:
AIM Trimark Canadian Dollar Cash Management Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectus dated November 28, 2006
Mutual Reliance Review System Receipt dated November 29, 2006
Offering Price and Description:
Select Series Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
AIM Funds Management Inc.
Project #1023747

Issuer Name:
Axia NetMedia Corporation
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated December 4, 2006
Mutual Reliance Review System Receipt dated December 4, 2006
Offering Price and Description:
$20,350,000.00 - 5,500,000 Common Shares Price: $3.70 per Common Share
Underwriter(s) or Distributor(s):
Orion Securities Inc.
Canaccord Capital Corporation
Haywood Securities Inc.
Promoter(s):
-
Project #1027791

Issuer Name:
Canadian Medical Discoveries Fund Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated November 27, 2006
Mutual Reliance Review System Receipt dated November 30, 2006
Offering Price and Description:
Class A, Series II, Shares
Offering Price Series Net Asset Value for Class A Shares
Minimum Initial Subscription $1,000
Minimum Subsequent Subscription $500
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1021832

Issuer Name:
Cascades Inc.
Principal Regulator - Quebec
Type and Date:
Preliminary Short Form Prospectus dated December 5, 2006
Mutual Reliance Review System Receipt dated December 5, 2006
Offering Price and Description:
$ * - * Subscription Receipts, each representing the right to receive one Common Share
Price: $ * per Subscription Receipt
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
National Bank Financial Inc.
Scotia Capital Inc.
Promoter(s):
-
Project #1028063

Issuer Name:
CC&L Aggressive Equity Portfolio
CC&L Balanced Growth Portfolio
CC&L Balanced Income Portfolio
CC&L Balanced Portfolio
CC&L Conservative Portfolio
CC&L Growth Portfolio
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectuses dated November 28, 2006
Mutual Reliance Review System Receipt dated December 1, 2006
Offering Price and Description:
Series I and O Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
Connor Clark & Lunn Managed Protfolios Inc.
Project #1026837

Issuer Name:
CMP 2007 Resource Limited Partnership
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated November 30, 2006
Mutual Reliance Review System Receipt dated December 5, 2006
Offering Price and Description:
$50,000,000 to $200,000,000 - 50,000 to 200,000 Limited Partnership Units
Price per Unit: $1,000 Minimum Subscription: $5,000 (Five Units)
Underwriter(s) or Distributor(s):
Dundee Securities Corporation
CIBC World Markets Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
Scotia Capital Inc.
TD Securities Inc.
Berkshire Securities Inc.
Canaccord Capital Corporation
Wellington West Capital Inc.
Blackmont Capital Inc.
GMP Securities L.P.
Promoter(s):
CMP 2007 Corporation
Goodman & Company, Investment Counsel Ltd.
Project #1027982

Issuer Name:
FortisAlberta Inc.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Shelf Prospectus dated November 29, 2006
Mutual Reliance Review System Receipt dated November 29, 2006
Offering Price and Description:
$350,000,000.00 - Medium Term Notes Debentures (Unsecured)
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
TD Securities Inc.
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
RBC Dominion Securities Inc.
National Bank Financial Inc.
Casgrain & Company Limited
Promoter(s):
-
Project #1024559

Issuer Name:
Franchise Services of North America Inc.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated December 1, 2006
Mutual Reliance Review System Receipt dated December 1, 2006
Offering Price and Description:
$ * - * Common Shares Price: $ * Per Common Share
Underwriter(s) or Distributor(s):
Blackmont Capital Inc.
Promoter(s):
-
Project #1027350

Issuer Name:
Ithaca Energy Inc.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated November 30, 2006
Mutual Reliance Review System Receipt dated December 1, 2006
Offering Price and Description:
$50,225,000.00 - 20,500,000 Common Shares Price: $2.45 per Common Share
Underwriter(s) or Distributor(s):
Tristone Capital Inc.
CIBC World Markets Inc.
Research Capital Corporation
Promoter(s):
-
Project #1027338

Issuer Name:
Manulife Finance (Delaware), L.P.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated December 4, 2006
Mutual Reliance Review System Receipt dated December 4, 2006
Offering Price and Description:
$ * principal amount of debentures being the aggregate of: (1) $* principal amount of * % Fixed/Floating Senior Debentures Due *fully and unconditionally guaranteed on a senior basis by Manulife Financial Corporation; (2) $ * principal amount of * % Fixed/Floating Subordinated Debentures Due * fully and unconditionally guaranteed on a subordinated basis by Manulife Financial Corporation
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
RBC Dominion Securities Inc.
TD Securities Inc.
CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
HSBC Securities (Canada) Inc.
Merrill Lynch Canada Inc.
Canaccord Capital Corporation
Desjardins Securities Inc.
Laurentian Bank Securities Inc.
Promoter(s):
-
Project #1027652

Issuer Name:
North American Palladium Ltd.
Type and Date:
Preliminary Short Form Shelf Prospectus dated December 5, 2006
Receipted on December 5, 2006
Offering Price and Description:
$ * - 58621 Common Shares Price: $ * per Common Share
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1028158

Issuer Name:
Petrobank Energy and Resources Ltd.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated December 1, 2006
Mutual Reliance Review System Receipt dated December 1, 2006
Offering Price and Description:
$53,250,000.00 - 3,000,000 Common Shares and $34,500,000.00 - 1,500,000 Flow-Through Shares
Underwriter(s) or Distributor(s):
Haywood Securities Inc.
TD Securities Inc.
Fraser Mackenzie Limited
Promoter(s):
-
Project #1027395

Issuer Name:
Steadyhand Equity Fund
Steadyhand Global Equity Fund
Steadyhand Income Fund
Steadyhand Savings Fund
Steadyhand Small-Cap Equity Fund
Principal Regulator - British Columbia
Type and Date:
Preliminary Simplified Prospectuses dated December 1, 2006
Mutual Reliance Review System Receipt dated December 1, 2006
Offering Price and Description:
Units
Underwriter(s) or Distributor(s):
Steadyhand Investment Funds Inc.
Promoter(s):
-
Project #1027319

Issuer Name:
Telesat Holding Inc.
Principal Regulator - Ontario
Type and Date:
Second Amended and Restated Preliminary Prospectus dated November 29, 2006
Mutual Reliance Review System Receipt dated December 1, 2006
Offering Price and Description:
$ * - * Class B non-Voting Shares Price: $ * per Share
Underwriter(s) or Distributor(s):
Goldman Sachs Canada Inc.
Citigroup Global Markets Canada Inc.
RBC Dominion Securities Inc.
Promoter(s):
-
Project #993499

Issuer Name:
The Hartford Global Balanced Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectus dated December 1, 2006
Mutual Reliance Review System Receipt dated December 1, 2006
Offering Price and Description:
Class A, B, D, F, and I Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
Hartford Investments Canada Corp.
Project #1027351

Issuer Name:
Urbana Corporation
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated November 29, 2006
Mutual Reliance Review System Receipt dated December 1, 2006
Offering Price and Description:
$ * - * Units, each comprised of One Non-Voting Class A Share and one-half of one Non-Voting Class A Share Purchase Warrant Price: $ * per Unit
Underwriter(s) or Distributor(s):
Blackmont Capital Inc.
Canaccord Capital Corporation
Raymond James Ltd.
Wellington West Capital Markets Inc.
Promoter(s):
-
Project #1026737

Issuer Name:
5Banc Split Inc.
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated November 28, 2006
Mutual Reliance Review System Receipt dated November 29, 2006
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
TD Securities Inc.
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
National Bank Financial Inc.
RBC Dominion Securities Inc.
Canaccord Capital Corporation
Dundee Securities Corporation
HSBC Securities (Canada) Inc.
Desjardins Securities Inc.
Raymond James Ltd.
Blackmont Capital Inc.
Wellington West Capital Inc.
Promoter(s):
TD Securities Inc.
Project #1004552

Issuer Name:
Mutual Fund Series, Series D, Series F, Series O and Series T Securities of :
AGF Canadian Balanced Fund
AGF Canadian Real Value Balanced Fund
AGF Diversified Dividend Income Fund
AGF Monthly High Income Fund
Principal Regulator - Ontario
Type and Date:
* Amendment No. 3 dated November 24th, 2006 to the Simplified Prospectuses dated April 18th, 2006; and
* Amendment No. 4 dated November 24th, 2006 to the Annual Information Forms dated April 18th, 2006
Mutual Reliance Review System Receipt dated November 30, 2006
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
AGF Funds Inc.
Promoter(s):
-
Project #901498

Issuer Name:
Mutual Fund Series, Series D, Series F and Series O Units of :
AGF ELEMENTS CONSERVATIVE PORTFOLIO
AGF ELEMENTS BALANCED PORTFOLIO
AGF ELEMENTS GROWTH PORTFOLIO
AGF ELEMENTS GLOBAL PORTFOLIO
AGF ELEMENTS YIELD PORTFOLIO
Series T Units of:
AGF ELEMENTS BALANCED PORTFOLIO
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated November 24, 2006
Mutual Reliance Review System Receipt dated November 29, 2006
Offering Price and Description:
Mutual Fund Series, Series D, Series F and Series O Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
AGF Funds Inc.
Project #1004736

Issuer Name:
American Capital Strategies, Ltd.
Principal Regulator - Ontario
Type and Date:
Final MJDS Prospectus dated December 1, 2006
Mutual Reliance Review System Receipt dated December 5, 2006
Offering Price and Description:
$3,000,000,000.00 - COMMON STOCK PREFERRED STOCK DEBT SECURITIES
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #953964

Issuer Name:
Bellamont Exploration Ltd.
Principal Regulator - Alberta
Type and Date:
Final Prospectus dated November 30, 2006
Mutual Reliance Review System Receipt dated November 30, 2006
Offering Price and Description:
Minimum: 9,000 Units ($9,000,000.00); Maximum: 11,000 Units ($11,000,000.00) Price: $1,000 per Unit
Minimum Subscription: 5 Units ($5,000)
Underwriter(s) or Distributor(s):
Tristone Capital Inc.
FirstEnergy Capital Corp.
GMP Securities L.P.
Promoter(s):
Steve Moran
Craig Thomas
Chris Birchard
Project #1001453

Issuer Name:
BIOTEQ ENVIRONMENTAL TECHNOLOGIES INC.
Principal Regulator - British Columbia
Type and Date:
Final Short Form Prospectus dated November 29, 2006
Mutual Reliance Review System Receipt dated November 29, 2006
Offering Price and Description:
$20,000,000.00 - 11,428,571 Offered Shares Price: $1.75 per Offered Share
Underwriter(s) or Distributor(s):
Canaccord Capital Corporation
Promoter(s):
-
Project #1016772

Issuer Name:
Birch Mountain Resources Ltd.
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated November 28, 2006
Mutual Reliance Review System Receipt dated November 30, 2006
Offering Price and Description:
Cdn. $30,000,000.00 - 6.0% Convertible Unsecured Subordinated Debentures Due December 31, 2011
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
Westwind Partners Inc.
Acumen Capital Finance Partners Limited
Promoter(s):
-
Project #1018777

Issuer Name:
Bow Valley Energy Ltd.
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated December 1, 2006
Mutual Reliance Review System Receipt dated December 1, 2006
Offering Price and Description:
$16,965,000.00 - 2,900,000 Common Shares Price $5.85 per Common Share
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
FirstEnergy Capital Corp.
Raymond James Ltd.
Tristone Capital Inc.
Promoter(s):
-
Project #1021203

Issuer Name:
Cangene Corporation
Principal Regulator - Manitoba
Type and Date:
Final Short Form Prospectus dated December 5, 2006
Mutual Reliance Review System Receipt dated December 5, 2006
Offering Price and Description:
$81,000,000.00 - 10,000,000 Common Shares Price: $8.10 per Common Share
Underwriter(s) or Distributor(s):
GMP Securities L.P.
TD Securities Inc.
Scotia Capital Inc.
Sprott Securities Inc.
Promoter(s):
-
Project #1021720

Issuer Name:
Dundee Real Estate Investment Trust
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated November 29, 2006
Mutual Reliance Review System Receipt dated November 29, 2006
Offering Price and Description:
$150,015,000.00 - 4,110,000 REIT Units, Series A Price: $36.50 per Unit
Underwriter(s) or Distributor(s):
TD Securities Inc.
CIBC World Markets Inc.
Scotia Capital Inc.
Dundee Securities Corporation
RBC Dominion Securities Inc.
Genuity Capital Markets G.P.
Desjardins Securities Inc.
HSBC Securities (Canada) Inc.
National Bank Financial Inc.
Trilon Securities Corporation
Promoter(s):
-
Project #1019484

Issuer Name:
Class A, C, and I Units of:
Frontiers Global Bond Pool
Principal Regulator - Ontario
Type and Date:
Amendment #2 dated November 24, 2006 to the Simplified Prospectus and Annual Information Form dated January 20, 2006
Mutual Reliance Review System Receipt dated December 5, 2006
Offering Price and Description:
Class A, C and I Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
CIBC Asset Management Inc.
Project #868139

Issuer Name:
Junex Inc.
Principal Regulator - Quebec
Type and Date:
Final Short Form Prospectus dated November 28, 2006
Mutual Reliance Review System Receipt dated November 29, 2006
Offering Price and Description:
Minimum Offering: $1,000,000.00 - 909,090 Shares; Maximum Offering: $5,000,000.00 - 4,545,454 Shares Price: $1.10 per Share
Underwriter(s) or Distributor(s):
Laurentian Bank Securities Inc.
Promoter(s):
-
Project #1004372

Issuer Name:
Series A, F and O units of:
Lakeview Disciplined Leadership Canadian Equity Fund
Lakeview Disciplined Leadership U .S. Equity Fund
Lakeview Disciplined Leadership High Income Fund
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated November 23, 2006 to the Simplified Prospectuses and Annual Information Forms dated June 22, 2006
Mutual Reliance Review System Receipt dated December 1, 2006
Offering Price and Description:
Series A, F and O Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
Lakeview Asset Management Inc.
Project #941534

Issuer Name:
Series A, F and O units of:
Lakeview KBSH Equity Income Explorer Fund
Lakeview KBSH Large Cap Explorer Fund
Lakeview KBSH Premium Bond Explorer Fund
Lakeview KBSH Small Cap Explorer Fund
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated November 23, 2006 to the Simplified Prospectuses and Annual Information Forms dated August 25, 2006
Mutual Reliance Review System Receipt dated December 1, 2006
Offering Price and Description:
Series A, F and O Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
Lakeview Asset Management Inc.
Project #966637

Issuer Name:
Lanesborough Real Estate Investment Trust
Principal Regulator - Manitoba
Type and Date:
Final Short Form Prospectus dated November 30, 2006
Mutual Reliance Review System Receipt dated December 1, 2006
Offering Price and Description:
$20,000,000.00 (Minimum Offering); $25,000,000.00 (Maximum Offering) 7.50% Series G Convertible Redeemable Unsecured Subordinated Debentures, due 2011 Price: $1,000 per Debenture
Underwriter(s) or Distributor(s):
National Bank Financial Inc.
Blackmont Capital Inc.
Desjardins Securities Inc.
Wellington West Capital Inc.
Westwind Partners Inc.
Dundee Securities Corporation
Promoter(s):
-
Project #1017904

Issuer Name:
Migenix Inc.
Principal Regulator - British Columbia
Type and Date:
Final Short Form Prospectus dated November 29, 2006
Mutual Reliance Review System Receipt dated December 1, 2006
Offering Price and Description:
$10,050,000.00 - 16,750,000 Units Price Per Unit: $0.60
Underwriter(s) or Distributor(s):
Canaccord Capital Corporation
Promoter(s):
-
Project #1019630

Issuer Name:
Pacgen Biopharmaceuticals Corporation
Principal Regulator - British Columbia
Type and Date:
Final Prospectus dated November 28, 2006
Mutual Reliance Review System Receipt dated November 29, 2006
Offering Price and Description:
Maximum of $10,001,250.00 (9,525,000 Units); Minimum of $7,000,350.00 (6,667,000 Units) Price: $1.05 per Unit
Underwriter(s) or Distributor(s):
Canaccord Capital Corporation
Jennings Capital Inc.
Promoter(s):
-
Project #987175

Issuer Name:
Pennine Petroleum Corporation
Principal Regulator - Alberta
Type and Date:
Final Prospectus dated November 27, 2006
Mutual Reliance Review System Receipt dated November 29, 2006
Offering Price and Description:
Minimum Offering: 4,833,334 Units ($1,450,000.00); Maximum Offering: 8,333,334 Units ($2,500,000.00) Price: $0.30 per Unit
Underwriter(s) or Distributor(s):
Wolverton Securities Ltd.
Promoter(s):
Peter C. Brown
Project #984530

Issuer Name:
Rockcliff Resources Inc.
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated November 28, 2006
Mutual Reliance Review System Receipt dated November 29, 2006
Offering Price and Description:
$1,200,000.00 - 4,000,000 Flow-Through Units and Maximum WC Unit Offering: $1,100,000 (4,400,000 WC Units) Minimum WC Unit Offering: $600,000 (2,400,000 WC Units) Price: $0.30 per FT Unit $0.25 per WC Unit
Underwriter(s) or Distributor(s):
Northern Securities Inc.
Promoter(s):
Ken Lapierre
Peter Wood
Project #1007519

Issuer Name:
Silver Wheaton Corp.
Principal Regulator - British Columbia
Type and Date:
Final Short Form Prospectus dated November 30, 2006
Mutual Reliance Review System Receipt dated November 30, 2006
Offering Price and Description:
Cdn$228,600,000.00 - 18,000,000 Common Shares Price: Cdn$12.70 per Common Share
Underwriter(s) or Distributor(s):
GMP Securities L.P.
BMO Nesbitt Burns Inc.
Canaccord Capital Corporation
CIBC World Markets Inc.
Genuity Capital Markets
Merrill Lynch Canada Inc.
National Bank Financial Inc.
UBS Securities Canada Inc.
Fort House Inc.
Salman Partners Inc.
Sprott Securities Inc.
Promoter(s):
-
Project #1019515

Issuer Name:
The VenGrowth Investment Fund Inc.
Type and Date:
Final Prospectus dated December 4, 2006
Receipted on December 5, 2006
Offering Price and Description:
Class A Shares, Series A
Class A Shares, Series B
Class A Shares, Series C
Class A Shares, Series F
Underwriter(s) or Distributor(s):
-
Promoter(s):
ACFO/ACAF Sponsor Corp.
Project #1006249

Issuer Name:
Whiterock Real Estate Investment Trust
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated November 30, 2006
Mutual Reliance Review System Receipt dated December 1, 2006
Offering Price and Description:
$15,005,900.00 (1,261,000 Units) $25,000,000.00 Series E Convertible Unsecured Subordinated Debentures Price: $11.90 per Unit $1,000 per Series E Debenture
Underwriter(s) or Distributor(s):
Canaaccord Capital Corporation
Blackmont Capital Inc.
National Bank Financial Inc.
BMO Nesbitt Burns Inc.
Desjardins Securities Inc.
Genuity Capital Markets
TD Securities Inc.
Promoter(s):
-
Project #1020018

Issuer Name:
Zermatt Capital Inc.
Principal Regulator - Quebec
Type and Date:
Final Prospectus dated November 28, 2006
Mutual Reliance Review System Receipt dated November 29, 2006
Offering Price and Description:
Minimum Offer: 25,000,000 Common Shares / $5,000,000.00; Maximum Offer: 50,000,000 Common Shares / $10,000,000.00 - Price: $0.20 per Common Share
Underwriter(s) or Distributor(s):
Paradigm Capital Inc.
Promoter(s):
-
Project #1013906

Issuer Name:
BluMont Equity Advantage Fund
Principal Jurisdiction - Ontario
Type and Date:
Preliminary Prospectus dated September 28th, 2006
Withdrawn on December 4th, 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:
Pinetree Capital Ltd.
Principal Jurisdiction - Ontario
Type and Date:
Preliminary Short Form Prospectus dated November 17th, 2006
Withdrawn on December 4th, 2006
Offering Price and Description:
$ * - * Units Price: $ * per Unit
Underwriter(s) or Distributor(s):
Genuity Capital Markets G.P.
Canaccord Capital Corporation
Westwind Partners Inc.
Kingsdale Capital Markets Inc
Promoter(s):
Sheldon Inwentash
Project #1018247

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Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
Name Change	From : Harris Nesbitt Corp. To : BMO Capital Markets Corp.	International Dealer	June 19, 2006
Name Change	From : Rockwater Asset Management Inc. To : Barometer Capital Inc.	Investment Counsel and Portfolio Manager	November 22, 2006
Consent to Suspension (*Rule 33-501 – Surrender of Registration)*	Mt Auburn Capital Corp.	Investment Counsel and Portfolio Manager	November 24, 2006
Consent to Suspension (*Rule 33-501 – Surrender of Registration)*	Creststreet Investment Management Limited	Investment Counsel and Portfolio Manager	November 29, 2006
Consent to Suspension (*Rule 33-501 – Surrender of Registration)*	Regent Mercantile Bancorp Inc.	Limited Market Dealer	November 30, 2006
Amalgamation	Clearsight Wealth Management Inc. and Wellington West Capital Inc. To Form: Wellington West Capital Inc.	Investment Dealer	November 30, 2006
New Registration	Regent Securities Capital Corporation	Limited Market Dealer	November 30, 2006
Voluntary Surrender of Registration	Creststreet Investment Management Limited	Investment Counsel and Portfolio Manager	December 1, 2006
Change of Category	Lazard Canada Corporation	From: Investment Dealer To: Limited Market Dealer	December 4, 2006
Voluntary Surrender of Registration	KidsFutures Investments Inc.	Mutual Fund Dealer and Scholarship Plan Dealer	December 4, 2006
Voluntary Surrender of Registration	Independence Investment Inc.	International Adviser (Investment Counsel & Portfolio Manager)	December 5, 2006

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Chapter 13

SRO Notices and Disciplinary Proceedings

13.1.1 MFDA Issues Notice of Hearing Regarding Jean-Pierre Groulx

NEWS RELEASE
For immediate release

MFDA ISSUES NOTICE OF HEARING
REGARDING JEAN-PIERRE GROULX

December 5, 2006 (Toronto, Ontario) – The Mutual Fund Dealers Association of Canada ("MFDA") today announced that it has commenced disciplinary proceedings against Jean-Pierre Groulx.

MFDA staff alleges in its Notice of Hearing that Mr. Groulx engaged in the following conduct contrary to the By-laws, Rules or Policies of the MFDA:

> Allegation: Between 1997 and September 2005, Mr. Groulx misappropriated from his insurance clients the sum of $1,123,000, more or less, and thereby failed to be of such character and business repute as is consistent with the standards prescribed by MFDA Rule 2.1.1.

The first appearance in this matter will take place by teleconference before a Hearing Panel of the MFDA Central Regional Council in the Hearing Room located at the offices of the MFDA, 121 King Street West, Suite 1000, Toronto, Ontario on Monday, January 15, 2007 at 10:00 a.m. (Eastern) or as soon thereafter as can be held.

The purpose of the first appearance is to schedule the date for the commencement of the hearing on its merits and to address any other procedural matters.

The first appearance is open to the public, except as may be required for the protection of confidential matters. Members of the public attending the first appearance will be able to listen to the proceeding by teleconference.

A copy of the Notice of Hearing is available on the MFDA website at **www.mfda.ca**.

The Mutual Fund Dealers Association of Canada is the self-regulatory organization for Canadian mutual fund dealers. The MFDA regulates the operations, standards of practice and business conduct of its 169 Members and their approximately 75,000 Approved Persons with a mandate to protect investors and the public interest.

For further information, please contact:
Shaun Devlin
Vice-President, Enforcement
(416) 943-4672 or sdevlin@mfda.ca

13.1.2 CDS Notice and Request for Comments – Material Amendments to CDS Rules Relating to CREST Link

CDS CLEARING AND DEPOSITORY SERVICES INC. (CDS)

MATERIAL AMENDMENTS TO CDS RULES

CREST LINK

REQUEST FOR COMMENTS

A. DESCRIPTION OF THE PROPOSED AMENDMENTS

CDS's strategy is to become a gateway between Canada's capital markets and foreign capital markets in order to enhance the efficiency and cost-effectiveness of the clearing and settling of eligible securities for market participants. CDS plans to achieve this by establishing additional links with depositories in foreign markets that provide control, ease of access and market efficiency at competitive rates for CDS's participants transacting in those markets and for foreign market participants seeking to access Canada's capital markets.

The next link that CDS plans to develop is a link with CRESTCo Limited ("CRESTCo"). CRESTCo is the central securities depository for the U.K. market and for Irish equities. CRESTCo is part of the Euroclear group, the world's largest settlement system for domestic and international securities transactions, covering bonds, equities and investment funds.

B. NATURE AND PURPOSE OF THE PROPOSED AMENDMENTS

The CREST Link Service, governed by new Rule 14, will give Canadian participants direct access to settlement of securities transactions through CREST, the settlement system operated by CRESTCo. Currently, many participants use CREST indirectly by appointing a UK agent. The new service gives direct control to the Canadian office, without the delay and cost of using an agent. Instructions are input directly by the Canadian participant, and the participant can use CREST throughout its operating hours, without having to allow time to transmit instructions to its agent, who must then re-input the data into CREST.

CDS will become a CREST gateway, providing Canadian participants with direct access to CREST via the SWIFT network. CDS provides only the network connectivity; CDS does not in any way process or approve the data. CREST will send to CDS information on entitlement events with respect to the securities held by participants, which CDS will send to participants. CRESTCo licenses software to CDS, which CDS then provides to participants; the Rules ensure that the relevant terms of the software licence are imposed on the participants using the software (Rule 14.1.6).

CDS will become a sponsoring member of CREST. Participants will become members of CREST under the sponsorship of CDS. Each participant must apply to CRESTCo to be accepted as a member of CREST and must be eligible under the CREST Rules (Rule 14.1.3). Each participant sponsored by CDS will have its own accounts with CREST (Rule 14.1.8), and will appoint (i) a CREST settlement bank to pay or receive its settlements in the UK on each transaction, and (ii) an agent for service to receive legal process in the UK (Rule 14.1.7). CDS will also be responsible for the fees (including penalties) that may be owed by sponsored members to CRESTCo, and these charges must be reimbursed by participants (Rule 14.1.10). CDS may monitor the level of charges payable by a participant and require a prepayment if necessary (which may be the case if a participant is subject to penalties, for instance for failure to settle within the required time).

CREST provides real-time settlement, delivery versus payment, in central bank money, with simultaneous and irrevocable transfer of cash and securities. CREST is substantially different from CDSX®. There is no netting of settlement obligations against a central counterparty; each transaction is settled one-on-one in real time, with payment in full and delivery of the full amount of the securities.

On the settlement of a transaction, the settlement bank for the buyer provides funds directly to the settlement bank for the seller. For Pounds Sterling and Euros, the payment is made immediately upon the delivery of the securities, through the settlement accounts of the payor and payee banks at the Bank of England. Payment for US dollars is made end-of-day through FedWire.

CRESTCo does not act as registered holder of securities and maintain ledgers of securities held by it for its members. CREST interfaces with the transfer agents for issuers. On the settlement of a transaction, the seller ceases to be the registered holder of the securities and the buyer becomes the registered holder on the records of the issuer.

As no value is held or exchanged within CREST itself, CDS does not, as the sponsoring member, incur any settlement risk arising from the transactions of its sponsored participants. As a result, there is no need for participants to pledge collateral to support participant obligations, to provide contributions to a participant fund for the CREST Link Service, or to provide mutual guarantees through a credit ring.

The UK charges stamp duty on most transfers of securities. Stamp duty is collected through the settlement bank. Thus, the stamp duty is an obligation of the participant to its settlement bank (and not an obligation of CDS as the sponsoring member). The Rules will make it clear that each participant is responsible for all duties that may attach to transactions settled through CREST and that CDS has no obligation for those (Rule 14.1.10(c)).

Under its agreement with CRESTCo, CDS is required to undertake that it will not send any instructions with respect to corporate elections on securities held by a sponsored member unless that member has satisfied any related conditions. As CDS does not have the information to determine compliance with such conditions, the participants must undertake this obligation (Rule 14.1.9).

Rule 2.7.1 has been revised so that CDS can restrict a participant's use of the CREST Link Service if the participant does not carry out its obligations. In addition, CRESTCo has its own independent ability to deal with its members for any breach of the CREST rules. The Rules governing suspension also apply to all participants, including those using the CREST Link Service (Rule 14.1.2).

C. IMPACT OF PROPOSED AMENDMENTS

A link to CREST provides the Canadian investment community with a more efficient and lower cost access to the capital markets of the U.K. and Ireland. By having their own accounts with CRESTCo, participants are able to use the full system functionality available in CREST. This functionality includes:

1. maintaining exclusive control of their accounts at CREST,

2. managing their individual cash management accounts, and

3. accessing the system at any time that CREST is operational.

The CREST Link is also in alignment with the joint EU-Canada strategy to facilitate bilateral trade in financial services. More specifically, as provided in the EU-Canada Trade and Investment Enhancement Agreement as presented at the EU-Canada Summit in Ottawa on March 18, 2004, (http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/er/79508.pdf)

> "the EU and Canada agree to explore ways to facilitate bilateral trade in financial services, including the feasibility of facilitating market access by investment dealers to foreign stock exchanges, without prejudice to the fora or mechanism for advancing enhanced access."

The nature of the CREST link will also allow CDS to broaden its service offering to customers while continuing to minimize the risk and exposure for CDS.

D. DESCRIPTION OF THE RULE DRAFTING PROCESS

CDS is recognized as a clearing agency by the Ontario Securities Commission pursuant to section 21.1 of the Ontario *Securities Act*. The Autorité des marchés financiers has authorized CDS to carry on clearing activities in Québec pursuant to sections 169 and 170 of the Québec *Securities Act*. In addition CDS is deemed to be the clearing house for CDSX, a clearing and settlement system designated by the Bank of Canada pursuant to section 4 of the *Payment Clearing and Settlement Act.* The Ontario Securities Commission, the Autorité des marchés financiers and the Bank of Canada will hereafter be collectively referred to as the "Recognizing Regulators".

Each amendment to the CDS Participant Rules is reviewed by CDS's Legal Drafting Group ("LDG"). The LDG is a committee that includes members of Participants' legal and business groups. The LDG's mandate is to advise CDS management and its Board of Directors on rule amendments and other legal matters relating to centralized securities depository and clearing services in order to ensure that they meet the needs of CDS, its Participants and the securities industry.

The amendments to Participant Rules will be effective upon approval of the changes by the Recognizing Regulators following public notice and comment.

E. IMPACT OF PROPOSED AMENDMENTS ON TECHNOLOGICAL SYSTEMS

CDS will undertake the following development to support implementation of the CREST link:

1. Development of a process that converts a Participant's CREST Link charges into a Canadian dollar equivalent amount, and

2. Development of an end of day corporate action information report/file to Participants. This report informs members of the details of a corporate action on a security held in CREST. It contains full details of the impending corporate action, and details the options available to the security owner.

Participants and their service bureaus may also elect to make modifications to their internal systems if they deem it necessary. Changes of this nature are the responsibility of each Participant in conjunction with their service bureau.

F. COMPARISON TO OTHER CLEARING AGENCIES

Many clearing agencies have developed, and continue to develop, links with foreign depositories to facilitate the trading and settlement of cross-border transactions. CDS's strategy to develop additional links with depositories in foreign markets is consistent with the strategy of other depositories.

The proposed relationship between CDS and CREST is unique to CREST, as CREST does not currently have other depositories as CREST members that in turn sponsor foreign domiciled entities. However, CDS has experience with sponsoring arrangements such as the New York Link and the DTC Direct Link with The Depository Trust and Clearing Corporation.

G. PUBLIC INTEREST ASSESSMENT

In analysing the impact of the proposed amendments to the Participant Rules, CDS has determined that the implementation of these amendments would not be contrary to the public interest.

CDS provides a gateway between Canada's capital markets and foreign capital markets to enhance the efficiency and cost-effectiveness of clearing and settling securities transactions. CDS links with clearing agencies in foreign markets provide control, ease of access and market efficiency at competitive rates for Canadian financial institutions that wish to effect transactions in those markets. The link to CREST will enable Canadian financial institutions to offer their clients enhanced access to the global market place.

H. COMMENTS

Comments on the proposed amendments should be in writing and delivered by January 8, 2007 and delivered to:

Jamie Anderson
Managing Director, Legal
CDS Clearing and Depository Services Inc.
85 Richmond Street West
Toronto, Ontario M5H 2C9

Fax: 416-365-1984
e-mail: attention@cds.ca

A copy should also be provided to the Ontario Securities Commission 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

CDS will make available to the public, upon request, copies of comments received during the comment period.

I. PROPOSED RULE AMENDMENTS

Appendix "A" contains text of current CDS Participant Rules marked to reflect proposed amendments as well as text of these rules reflecting the adoption of the proposed amendments.

J. QUESTIONS

Questions regarding this notice may be directed to:

Jamie Anderson
Managing Director, Legal
CDS Clearing and Depository Services Inc.
85 Richmond Street West
Toronto, Ontario M5H 2C9

Fax: 416-365-1984
e-mail: attention@cds.ca

TOOMAS MARLEY
Chief Legal Officer

APPENDIX "A"

PROPOSED RULE AMENDMENT

Text of CDS Participant Rules marked to reflect proposed amendments	Text CDS Participant Rules reflecting the adoption of proposed amendments
1.1.1 Application The Rules adopted by CDS by which each Participant has agreed to be bound pursuant to the Participant Agreement are: (a) Rule 1 – Documentation …. (n) Rule 14 - CREST Link Service.	**1.1.1 Application** The Rules adopted by CDS by which each Participant has agreed to be bound pursuant to the Participant Agreement are: (a) Rule 1 – Documentation …. (n) Rule 14 - CREST Link Service.
1.2.1 Definitions For the purposes of the Legal Documents, unless otherwise specified: … "CREST" means the system operated by CRESTCo for the settlement of trades in securities. "CREST Charges" has the meaning set out in Rule 14.1.10. "CREST Link Participant" means a Participant who uses the CREST Link Service". "CREST Link Service" means the CREST Link Service made available pursuant to Rule 14. "CREST Software" has the meaning set out in Rule 14.1.6. "CRESTCo" means CRESTCo Limited, the central securities depository for the UK market and Irish equities and a part of the Euroclear group, or any Person who succeeds to the rights and obligations of CRESTCo with respect to CREST. "Service" means the Depository Service, the Settlement Service, a Cross-Border Service, ATON, ~~or~~ the Delivery Services or the CREST Link Service. Any reference to a Service includes all Functions made available in respect of that Service.	**1.2.1 Definitions** For the purposes of the Legal Documents, unless otherwise specified: … "CREST" means the system operated by CRESTCo for the settlement of trades in securities. "CREST Charges" has the meaning set out in Rule 14.1.10. "CREST Link Participant" means a Participant who uses the CREST Link Service". "CREST Link Service" means the CREST Link Service made available pursuant to Rule 14. "CREST Software" has the meaning set out in Rule 14.1.6. "CRESTCo" means CRESTCo Limited, the central securities depository for the UK market and Irish equities and a part of the Euroclear group, or any Person who succeeds to the rights and obligations of CRESTCo with respect to CREST. "Service" means the Depository Service, the Settlement Service, a Cross-Border Service, ATON, the Delivery Services or the CREST Link Service. Any reference to a Service includes all Functions made available in respect of that Service.
2.4.11 CREST Link Service A full service Participant may use the CREST Link Service in accordance with Rule 14.	**2.4.11 CREST Link Service** A full service Participant may use the CREST Link Service in accordance with Rule 14.
2.7.1 Restrictions on System Functionality CDS may restrict the right of a Participant to use system functionality in the following circumstances: (a) CDS determines that the Participant is unable to properly use system functionality due to operational or technical problems with the Participant's own	**2.7.1 Restrictions on System Functionality** CDS may restrict the right of a Participant to use system functionality in the following circumstances: (a) CDS determines that the Participant is unable to properly use system functionality due to operational or technical problems with the Participant's own

Text of CDS Participant Rules marked to reflect proposed amendments	Text CDS Participant Rules reflecting the adoption of proposed amendments
systems or the systems of third parties, or due to events over which the Participant has no control; (b) in accordance with Rule 5.14 with respect to the Participant's CCP Cap; (c) the Participant requests CDS to do so; or (d) in the course of monitoring the Participant pursuant to Rule 5.1.3, CDS determines such action is necessary to protect the interests of CDS and is in the best interest of all other Participants; or (e) the Participant fails to comply with Rule 10.2.3 with respect to the Cross-Border Services or with Rule 14 with respect to the CREST Link Service. A restriction may apply to any Service or any Function, to a particular Security or class of Securities, to a particular Transaction or class of Transactions, or to Securities or Transactions generally. A restriction may be limited to a particular location or office of the Participant or a particular Office of CDS. CDS may remove the restriction when CDS in its sole discretion determines that the Participant is able to resume normal operations.	systems or the systems of third parties, or due to events over which the Participant has no control; (b) in accordance with Rule 5.14 with respect to the Participant's CCP Cap; (c) the Participant requests CDS to do so; or (d) in the course of monitoring the Participant pursuant to Rule 5.1.3, CDS determines such action is necessary to protect the interests of CDS and is in the best interest of all other Participants; or (e) the Participant fails to comply with Rule 10.2.3 with respect to the Cross-Border Services or with Rule 14 with respect to the CREST Link Service. A restriction may apply to any Service or any Function, to a particular Security or class of Securities, to a particular Transaction or class of Transactions, or to Securities or Transactions generally. A restriction may be limited to a particular location or office of the Participant or a particular Office of CDS. CDS may remove the restriction when CDS in its sole discretion determines that the Participant is able to resume normal operations.
RULE 14 CREST LINK SERVICE **14.1 OVERVIEW OF CREST LINK SERVICE** **14.1.1 CREST Link Service** CDS offers the CREST Link Service to facilitate the settlement of Transactions by Participants with members of CREST. The CREST Link Service is a gateway providing Network Access between each CREST Link Participant and CREST. CREST is offered directly by CRESTCo to each CREST Link Participant, and CDS has no liability or obligation to any Participant with respect to its use of CREST or any Transaction settled by it through CREST. Notwithstanding anything in this Rule 14, and subject to Rule 3.3.10, CDS will provide the CREST Link Service and the related facilities described in this Rule 14 only for so long as (i) CDS continues to be a member of CREST, (ii) its membership permits CDS to provide the CREST Link Service, and (iii) there has been no change in the CREST Documents and no action by CRESTCo that would prevent its doing so or that would, in CDS's opinion, make it impractical or unduly onerous to do so. **14.1.2 Application of Rules to CREST Link Service** The CREST Link Service is one of the Services offered by CDS and governed by the Legal Documents. The use of the CREST Link Service is governed by Rule 1 through Rule 5 and by Rule 9, except for Rules 4.2.4 and 4.3, which apply only to CDSX. The CREST Link Service is separate from and does not form part of CDSX. Accordingly, the use of the CREST Link Service is not governed by Rule 6 - Depository Service, Rule 7 - Settlement Service, or Rule 8 - Payment	**RULE 14 CREST LINK SERVICE** **14.1 OVERVIEW OF CREST LINK SERVICE** **14.1.1 CREST Link Service** CDS offers the CREST Link Service to facilitate the settlement of Transactions by Participants with members of CREST. The CREST Link Service is a gateway providing Network Access between each CREST Link Participant and CREST. CREST is offered directly by CRESTCo to each CREST Link Participant, and CDS has no liability or obligation to any Participant with respect to its use of CREST or any Transaction settled by it through CREST. Notwithstanding anything in this Rule 14, and subject to Rule 3.3.10, CDS will provide the CREST Link Service and the related facilities described in this Rule 14 only for so long as (i) CDS continues to be a member of CREST, (ii) its membership permits CDS to provide the CREST Link Service, and (iii) there has been no change in the CREST Documents and no action by CRESTCo that would prevent its doing so or that would, in CDS's opinion, make it impractical or unduly onerous to do so. **14.1.2 Application of Rules to CREST Link Service** The CREST Link Service is one of the Services offered by CDS and governed by the Legal Documents. The use of the CREST Link Service is governed by Rule 1 through Rule 5 and by Rule 9, except for Rules 4.2.4 and 4.3, which apply only to CDSX. The CREST Link Service is separate from and does not form part of CDSX. Accordingly, the use of the CREST Link Service is not governed by Rule 6 - Depository Service, Rule 7 - Settlement Service, or Rule 8 - Payment

Text of CDS Participant Rules marked to reflect proposed amendments	Text CDS Participant Rules reflecting the adoption of proposed amendments
Exchange for CDSX.	Exchange for CDSX.
14.1.3 CREST Link Participants	**14.1.3 CREST Link Participants**
A full service Participant may apply to CDS in accordance with Rule 2.2.2 to use the CREST Link Service. An applicant must also apply to CRESTCo to become a sponsored member of CREST, in accordance with the CREST Documents, and must satisfy all of the requirements of CRESTCo, including providing a legal opinion if required. Upon acceptance of its application by CDS and by CRESTCo, the Participant becomes a CREST Link Participant. Each CREST Link Participant is a direct member of CREST, and acknowledges that CDS does not have the authority to make any representations or give any advice on behalf of CRESTCo.	A full service Participant may apply to CDS in accordance with Rule 2.2.2 to use the CREST Link Service. An applicant must also apply to CRESTCo to become a sponsored member of CREST, in accordance with the CREST Documents, and must satisfy all of the requirements of CRESTCo, including providing a legal opinion if required. Upon acceptance of its application by CDS and by CRESTCo, the Participant becomes a CREST Link Participant. Each CREST Link Participant is a direct member of CREST, and acknowledges that CDS does not have the authority to make any representations or give any advice on behalf of CRESTCo.
14.1.4 CREST Documents	**14.1.4 CREST Documents**
In order to offer the CREST Link Service and the related facilities governed by this Rule 14, CDS has become a sponsoring member of CREST, has entered into various agreements with CRESTCo and, as a member of CREST, has agreed to abide by such agreements and by the rules, by-laws, procedures and other requirements of CRESTCo from time to time in force. In order to become a sponsored member of CREST, each CREST Link Participant must enter into various agreements with CRESTCo and, as a member of CREST, agrees to abide by such agreements and by the rules, by-laws, procedures and other requirements of CRESTCo from time to time in force. Each CREST Link Participant shall enter into any such further agreements or instruments, and make such declarations and provide such information, relating to its use of the CREST Link Service, as may be required by CDS. Each Participant shall observe and comply with the CREST Documents applicable to the Participant. "CREST Documents" means: (a) the agreements entered into, instruments executed, declarations made and acts done (i) by CDS from time to time in respect of CDS's sponsoring membership in CREST and (ii) by the CREST Link Participant from time to time in respect of its sponsored membership in CREST; and (b) the rules, by-laws, procedures and other requirements of CRESTCo from time to time in force.	In order to offer the CREST Link Service and the related facilities governed by this Rule 14, CDS has become a sponsoring member of CREST, has entered into various agreements with CRESTCo and, as a member of CREST, has agreed to abide by such agreements and by the rules, by-laws, procedures and other requirements of CRESTCo from time to time in force. In order to become a sponsored member of CREST, each CREST Link Participant must enter into various agreements with CRESTCo and, as a member of CREST, agrees to abide by such agreements and by the rules, by-laws, procedures and other requirements of CRESTCo from time to time in force. Each CREST Link Participant shall enter into any such further agreements or instruments, and make such declarations and provide such information, relating to its use of the CREST Link Service, as may be required by CDS. Each Participant shall observe and comply with the CREST Documents applicable to the Participant. "CREST Documents" means: (a) the agreements entered into, instruments executed, declarations made and acts done (i) by CDS from time to time in respect of CDS's sponsoring membership in CREST and (ii) by the CREST Link Participant from time to time in respect of its sponsored membership in CREST; and (b) the rules, by-laws, procedures and other requirements of CRESTCo from time to time in force.
14.1.5 Conflict	**14.1.5 Conflict**
Each Participant acknowledges that CDS, as a member of CREST, must observe and comply with the CREST Documents. In the event that such obligations of CDS conflict with its obligations under the Rules, each Participant acknowledges that CDS must comply with its obligations under the CREST Documents, and such compliance shall not be considered to be a breach by CDS of its obligations	Each Participant acknowledges that CDS, as a member of CREST, must observe and comply with the CREST Documents. In the event that such obligations of CDS conflict with its obligations under the Rules, each Participant acknowledges that CDS must comply with its obligations under the CREST Documents, and such compliance shall not be considered to be a breach by CDS of its obligations

Text of CDS Participant Rules marked to reflect proposed amendments	Text CDS Participant Rules reflecting the adoption of proposed amendments
under the Rules.	under the Rules.
14.1.6 CREST Software	**14.1.6 CREST Software**
(a) licence Pursuant to a licence granted by CRESTCo to CDS, CDS will permit each CREST Link Participant to use certain software built by CRESTCo (the "CREST Software"), but only for the purpose of using the CREST Link Service. No CREST Link Participant shall: (a) rent, lease, sub-license, transfer, loan, copy, modify, adapt, amend, develop, distribute, enhance, assign, merge or translate the whole or any part of the CREST Software; (b) reverse engineer, decompile, disassemble or create derivative works based on the whole or any part of the CREST Software; (c) use, reproduce or deal in the CREST Software in any way; or (d) allow any third parties to load, use, copy or reproduce the CREST Software in any way. This limited licence to use the CREST Software shall terminate when the Participant ceases to be a CREST Link Participant, and the Participant shall then immediately remove all copies of the CREST Software from its systems and return to CDS all copies of the CREST Software and all materials relating to the CREST Software.	**(a) licence** Pursuant to a licence granted by CRESTCo to CDS, CDS will permit each CREST Link Participant to use certain software built by CRESTCo (the "CREST Software"), but only for the purpose of using the CREST Link Service. No CREST Link Participant shall: (a) rent, lease, sub-license, transfer, loan, copy, modify, adapt, amend, develop, distribute, enhance, assign, merge or translate the whole or any part of the CREST Software; (b) reverse engineer, decompile, disassemble or create derivative works based on the whole or any part of the CREST Software; (c) use, reproduce or deal in the CREST Software in any way; or (d) allow any third parties to load, use, copy or reproduce the CREST Software in any way. This limited licence to use the CREST Software shall terminate when the Participant ceases to be a CREST Link Participant, and the Participant shall then immediately remove all copies of the CREST Software from its systems and return to CDS all copies of the CREST Software and all materials relating to the CREST Software.
(b) upgrades A CREST Link Participant (i) will accept upgrades of, or other changes to, the CREST Software as issued by CRESTCo from time to time; (ii) will install, test and accept such upgrades or other changes promptly in accordance with the timetable issued by CRESTCo; and (iii) at all times will load and use only the most recent upgrade or other changes to the CREST Software.	**(b) upgrades** A CREST Link Participant (i) will accept upgrades of, or other changes to, the CREST Software as issued by CRESTCo from time to time; (ii) will install, test and accept such upgrades or other changes promptly in accordance with the timetable issued by CRESTCo; and (iii) at all times will load and use only the most recent upgrade or other changes to the CREST Software.
14.1.7 Agents As required by the CREST Documents, each CREST Link Participant will appoint: (a) a CREST settlement bank to make or receive payment for Transactions settled through CREST; and (b) an agent for service to receive legal process in the United Kingdom on its behalf.	**14.1.7 Agents** As required by the CREST Documents, each CREST Link Participant will appoint: (a) a CREST settlement bank to make or receive payment for Transactions settled through CREST; and (b) an agent for service to receive legal process in the United Kingdom on its behalf.
14.1.8 Accounts Pursuant to the CREST Documents, CRESTCo maintains accounts for CDS as the sponsoring member of CREST and for the CREST Link Participants as sponsored members of CREST. These accounts are not maintained by CDS, do not	**14.1.8 Accounts** Pursuant to the CREST Documents, CRESTCo maintains accounts for CDS as the sponsoring member of CREST and for the CREST Link Participants as sponsored members of CREST. These accounts are not maintained by CDS, do not

Text of CDS Participant Rules marked to reflect proposed amendments	Text CDS Participant Rules reflecting the adoption of proposed amendments
form part of the Depository Service, and are not "Accounts" as that term is defined in Rule 1.2.1.	form part of the Depository Service, and are not "Accounts" as that term is defined in Rule 1.2.1.
14.1.9 Settlements	**14.1.9 Settlements**
CREST Transactions are settled through CREST by the delivery of securities and the making of payment in accordance with the CREST Documents. Using its CREST accounts, each CREST Link Participant may settle Transactions through the facilities of CREST in accordance with the CREST Documents. A CREST Link Participant will not send any instructions regarding an election concerning a right, privilege or benefit attaching to a Security delivered to it through CREST unless it has satisfied any conditions that are required to be met by persons making such an election.	CREST Transactions are settled through CREST by the delivery of securities and the making of payment in accordance with the CREST Documents. Using its CREST accounts, each CREST Link Participant may settle Transactions through the facilities of CREST in accordance with the CREST Documents. A CREST Link Participant will not send any instructions regarding an election concerning a right, privilege or benefit attaching to a Security delivered to it through CREST unless it has satisfied any conditions that are required to be met by persons making such an election.
14.1.10 CREST Charges	**14.1.10 CREST Charges**
Each CREST Link Participant shall pay all CREST Charges upon notice by CDS. Payment of any CREST Charges shall be without prejudice to the rights of the CREST Link Participant after the payment to an accounting of the amounts properly owing. "CREST Charges" means all fees, fines, calls, assessments, taxes and other charges that are made, levied, assessed or imposed in respect of the Participant's use of the CREST Link Service, including: (a) charges arising from the delivery of Securities to or from the Participant as a result of a CREST settlement; (b) charges imposed by CDS, CRESTCo or any service provider arising from transactions made by the Participant through the CREST Link Service, including any penalties assessed by CRESTCo under the CREST Documents; and (c) stamp duty, taxes (except taxes measured by income to which CDS or CRESTCo is beneficially entitled), other governmental charges, and obligations to deduct or withhold taxes on entitlements and other amounts, arising from the delivery of Securities to or from the Participant as a result of a CREST settlement, with all interest and penalties thereon and additions thereto (other than interest, penalties or additions imposed because of the default of CDS). CDS may monitor the CREST Charges that are or may become payable by CDS on behalf of a CREST Link Participant, and may require the CREST Link Participant to make a prepayment to CDS in respect of such CREST Charges if CDS considers such prepayment to be necessary or desirable to protect its interests.	Each CREST Link Participant shall pay all CREST Charges upon notice by CDS. Payment of any CREST Charges shall be without prejudice to the rights of the CREST Link Participant after the payment to an accounting of the amounts properly owing. "CREST Charges" means all fees, fines, calls, assessments, taxes and other charges that are made, levied, assessed or imposed in respect of the Participant's use of the CREST Link Service, including: (a) charges arising from the delivery of Securities to or from the Participant as a result of a CREST settlement; (b) charges imposed by CDS, CRESTCo or any service provider arising from transactions made by the Participant through the CREST Link Service, including any penalties assessed by CRESTCo under the CREST Documents; and (c) stamp duty, taxes (except taxes measured by income to which CDS or CRESTCo is beneficially entitled), other governmental charges, and obligations to deduct or withhold taxes on entitlements and other amounts, arising from the delivery of Securities to or from the Participant as a result of a CREST settlement, with all interest and penalties thereon and additions thereto (other than interest, penalties or additions imposed because of the default of CDS). CDS may monitor the CREST Charges that are or may become payable by CDS on behalf of a CREST Link Participant, and may require the CREST Link Participant to make a prepayment to CDS in respect of such CREST Charges if CDS considers such prepayment to be necessary or desirable to protect its interests.
14.1.11 Indemnity	**14.1.11 Indemnity**
Each CREST Link Participant shall indemnify and hold harmless CDS from and against any loss, damage, cost, expense, assessment, penalty, charge, liability or claim	Each CREST Link Participant shall indemnify and hold harmless CDS from and against any loss, damage, cost, expense, assessment, penalty, charge, liability or claim

Text of CDS Participant Rules marked to reflect proposed amendments	Text CDS Participant Rules reflecting the adoption of proposed amendments
(including the reasonable cost of legal counsel to advise on or defend against such claims) suffered or incurred by or made against CDS as a result of the CREST Link Participant's use of the CREST Link Service or the CREST Link Participant's sponsored membership of CREST. If any claim is made against CDS by CRESTCo or any other Person in connection with the activities of a CREST Link Participant, then upon notice by CDS the Participant shall make arrangements acceptable to CDS either (i) to pay the claim, or (ii) to contest the claim, provided the CREST Link Participant provides CDS with an indemnity in respect of such proceedings, in form and amount acceptable to CDS. If the CREST Link Participant contests the claim, CDS may permit the CREST Link Participant to take proceedings in the name of CDS to contest such claim at the sole risk and expense of the CREST Link Participant.	(including the reasonable cost of legal counsel to advise on or defend against such claims) suffered or incurred by or made against CDS as a result of the CREST Link Participant's use of the CREST Link Service or the CREST Link Participant's sponsored membership of CREST. If any claim is made against CDS by CRESTCo or any other Person in connection with the activities of a CREST Link Participant, then upon notice by CDS the Participant shall make arrangements acceptable to CDS either (i) to pay the claim, or (ii) to contest the claim, provided the CREST Link Participant provides CDS with an indemnity in respect of such proceedings, in form and amount acceptable to CDS. If the CREST Link Participant contests the claim, CDS may permit the CREST Link Participant to take proceedings in the name of CDS to contest such claim at the sole risk and expense of the CREST Link Participant.

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Chapter 25

Other Information

25.1 Exemptions

25.1.1 Thistle Mining Inc. - s. 13.1 of NI 51-102

Headnote

Issuer's shares are listed on the Alternative Investment Market of the London Stock Exchange - issuer not excluded from the definition of "venture issuer" under National Instrument 51-102 Continuous Disclosure Obligations solely due to such listing. Relief expires 60 days from the effective date of the amendments to NI 51-102 initially published for comment on December 9, 2005.

Instruments Cited

Section 13.1 of National Instrument 51-102 Continuous Disclosure Obligations.

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

AND

NATIONAL INSTRUMENT 51-102
CONTINUOUS DISCLOSURE OBLIGATIONS

AND

IN THE MATTER OF
THISTLE MINING INC.

EXEMPTION
(Section 13.1 of NI 51-102)

UPON the Director having received an application from Thistle Mining Inc. (the Filer) for an order under section 13.1 of National Instrument 51-102 *Continuous Disclosure Obligations* (NI 51-102) that the listing of the Filer on the Alternative Investment Market of the London Stock Exchange (AIM) does not cause the Filer to be excluded from the definition of "venture issuer" solely due to that listing;

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

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

1. The Filer is a corporation incorporated under the laws of the Yukon Territory, is a reporting issuer under the Securities Act, R.S.B.C. 1996, c. 418 (the BC Act), is a reporting issuer under the Securities Act, R.S.A. 2000, c S-4 (the Alberta Act), is a reporting issuer under the Securities Act R.S.O. 1990, c.S5 (the Ontario Act) and is not in default of any requirement of the BC Act, the Alberta Act or the Ontario Act or the rules and regulations pertaining to those acts.

2. Presently the Filer only lists and quotes its common shares on the AIM.

3. Other than the fact that the Filer lists its common shares on the AIM, the Filer is a "venture issuer" as defined by NI 51-102 and does not have any of its securities listed or quoted on any of the Toronto Stock Exchange, a U.S. marketplace or a marketplace outside of Canada and the United States of America.

4. The British Columbia Securities Commission has issued BC Instrument 51-507 and the Alberta Securities Commission has issued Alberta Blanket Order 51-509, both of which provide that the requirement in the definition of "venture issuer" in NI 51-102 that a reporting issuer not, at the relevant time, have any of its securities listed or quoted on a marketplace outside of Canada and the United States of America, does not apply to a reporting issuer whose securities are traded on AIM, provided that the issuer's securities are not also quoted or traded on any other marketplace outside of Canada and the United States of America.

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

IT IS THE DECISION of the Director, under section 13.1 of NI 51-102, that the requirement in the definition of venture issuer in NI 51-102, that an issuer not, at the relevant time, have any of its securities listed or quoted on a marketplace outside of Canada and the United States of America, does not apply to the Filer for so long as securities of the Filer are listed or quoted on the Alternative Investment Market of the London Stock Exchange and no other marketplace outside Canada or the United States of America; provided that this decision will terminate sixty days following the effective date of the amendments to NI 51-102 that were initially published for comment on December 9, 2005.

DATED this 27th day of November, 2006

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

25.2 Consents

25.2.1 Boulder Mining Corporation - s. 4(b) of the Regulation

Headnote

Consent given to an offering corporation under the Business Corporations Act (Ontario) to continue under the Business Corporations Act (British Columbia).

Statutes Cited

Business Corporations Act, R.S.O. 1990, c. B.16, as am.
Business Corporations Act (British Columbia), S.B.C. 2002, c. 57, as am.
Securities Act, R.S.O. 1990, c. S.5, as am.

Regulations Cited

Regulation made under the Business Corporations Act, Ont. Reg. 289/00, as am., s. 4(b).

IN THE MATTER OF
ONT. REG. 289/00, AS AMENDED
(THE "REGULATION") MADE UNDER
THE BUSINESS CORPORATIONS ACT
R.S.O. 1990, C.b.16, AS AMENDED (THE "OBCA")

AND

IN THE MATTER OF
BOULDER MINING CORPORATION

CONSENT
(Subsection 4(b) of the Regulation)

UPON the application (the "**Application**") of Boulder Mining Corporation (the "Applicant") to the Ontario Securities Commission (the "**Commission**") requesting a consent from the Commission for the Applicant to continue in another jurisdiction, as required by subsection 4(b) of the Regulation;

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

AND UPON the Applicant having represented to the Commission that:

1. The Applicant intends to apply (the "**Application for Continuance**") to the Director under the OBCA for authorization to continue under the *Business Corporations Act* (British Columbia), S.B.C. 2002, c.57, as amended (the "**BCBCA**").

2. Pursuant to subsection 4(b) of the Regulation, where a corporation is an offering corporation, the Application for Continuance must be accompanied by a consent from the Commission.

3. The Applicant was amalgamated under the OBCA on December 12, 1988. Its head office is located at 951 – 409 Granville Street, Vancouver, British Columbia. The Applicant is an offering corporation under the OBCA and is a reporting issuer under the *Securities Act* (Ontario) R.S.O. 1990, c.S.5, as amended (the "**Act**"). The applicant is also a reporting issuer under the securities legislation of the provinces of Alberta, British Columbia and Quebec (the "**Legislation**").

4. The Applicant's authorized share capital consists of an unlimited number of common shares. As at November 23, 2006, there were 133,596,450 common shares issued and outstanding.

5. The Applicant intends to remain a reporting issuer under the Act and the Legislation after the continuance.

6. The Applicant is not in default of any of the provisions, regulations or rules of the Act.

7. The Applicant is not a party to any proceeding or, to the best of its knowledge, information and belief, pending proceeding under the Act or the Legislation.

8. The Applicant's shareholders authorized the continuance of the Applicant as a corporation under the BCBCA by special resolution at a special meeting of shareholders held on November 16, 2006 (the "**Meeting**"). Consequently, assuming the receipt of the requested consent, the Application for Continuance will be made, articles of continuance will be filed under the BCBCA and the continuance will become effective.

9. Pursuant to section 185 of the OBCA, all common shareholders of record as at the record date for the Meeting were entitled to dissent rights with respect to the continuance (the "**Dissent Rights**").

10. The management information circular describing the continuance, which was dated October 17, 2006, was printed and mailed to shareholders and was filed on the System for Electronic Document Analysis and Retrieval on October 24, 2006 (the "**Circular**"). Full disclosure of the reasons and implications of the continuance are included at pages 5, 6 and 7 of the Circular. The Circular also advised the holders of the Applicant's common shares of their Dissent Rights.

11. The principal reason for the proposed continuance is that the Directors of the Applicant have determined that it is in the Applicant's best interest to transfer its jurisdiction of organization from Ontario to British Columbia. This will save the Applicant administrative costs in that it will not have to file annual reports, tax returns and other notices and disclosure documents in both Ontario and in British Columbia, where its head office is

located and where it is registered to carry on business.

12. The material rights, duties and obligations of a corporation governed by the BCBCA are substantially similar to those of a corporation governed by the OBCA.

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 Applicant as a corporation under the BCBCA.

DATED December 4th, 2006.

"Wendell S. Wigle, Q.C."
Commissioner

"Paul K. Bates"
Commissioner

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Index

1248136 Ontario Limited
Notice from the Office of the Secretary 9500
Order 9530

Ampal-American Israel Corporation
Cease Trading Order 9555

Argus Corporation Limited
Cease Trading Order 9555

Authorization Order
Order - s. 3.5(3) 9533

Barometer Capital Inc.
Name Change 9667

Bennett Environmental Inc.
Notice from the Office of the Secretary 9498
Notice from the Office of the Secretary 9499
Order - s. 127 9527
Order - s. 127 9529
OSC Decisions, Orders and Rulings 9537
OSC Decisions, Orders and Rulings 9545
OSC Decisions, Orders and Rulings 9553

Bennett, John
Notice from the Office of the Secretary 9498
Notice from the Office of the Secretary 9499
Order - s. 127 9527
Order - s. 127 9529
OSC Decisions, Orders and Rulings 9537
OSC Decisions, Orders and Rulings 9545
OSC Decisions, Orders and Rulings 9553

Big Rock Brewery Income Trust
MRRS Decision 9512

BMO Capital Markets Corp.
Name Change 9667

Boulder Mining Corporation
Consent - s. 4(b) of the Regulation 9682

Bulckaert, Allan
Notice from the Office of the Secretary 9498
Notice from the Office of the Secretary 9499
Order - s. 127 9527
Order - s. 127 9529
OSC Decisions, Orders and Rulings 9537
OSC Decisions, Orders and Rulings 9545
OSC Decisions, Orders and Rulings 9553

Burgundy Asset Management Ltd.
Decision 9521

Canadian Imperial Bank Of Commerce
MRRS Decision 9506

Castaneda, Jose L.
Notice from the Office of the Secretary 9499
Order - s. 127 9528

CDS Notice and Request for Comments – Material Amendments to CDS Rules Relating to CREST Link
SRO Notices and Disciplinary Proceedings 9670

CHUM Limited
Decision - s. 83 9503

CIBC World Markets Inc.
MRRS Decision 9506

Clearsight Wealth Management Inc.
Amalgamation 9667

CoolBrands International Inc.
Cease Trading Order 9555

Creststreet Investment Management Limited
Consent to Suspension (Rule 33-501 – Surrender of Registration) 9667
Voluntary Surrender of Registration 9667

Crown Capital Partners Ltd.
Notice of Hearing - s. 127 9496
Notice from the Office of the Secretary 9500

CSA Notice 24-303 – CSA SRO Oversight Project – Review of Oversight of Self-Regulatory Organizations and Market Infrastructure Entities – December 2006 Report of the CSA SRO Oversight Project Committee
Notice 9462

Elin, Alex
Notice of Hearing - s. 127 9496
Notice from the Office of the Secretary 9500

Euston Capital Corp.
Notice from the Office of the Secretary 9501
Order - s. 127(7) 9534

Fareport Capital Inc.
Cease Trading Order 9555

Fuel-Cell Technologies Ltd.
Cease Trading Order 9555

George Schwartz
Notice from the Office of the Secretary 9501
Order - s. 127(7) 9534

Griffiths, Robert
Notice from the Office of the Secretary 9498
Notice from the Office of the Secretary 9499
Order - s. 127 9527
Order - s. 127 9529
OSC Decisions, Orders and Rulings 9537
OSC Decisions, Orders and Rulings 9545
OSC Decisions, Orders and Rulings 9553

Groulx, Jean-Pierre
SRO Notices and Disciplinary Proceedings 9669

H& R Block Canada, Inc.
MRRS Decision 9519

Harris Nesbitt Corp.
Name Change 9667

Hillsdale Canadian Long/Short Equity Fund
MRRS Decision 9504

Hillsdale Canadian Market Neutral Equity Fund
MRRS Decision 9504

Hillsdale Canadian Performance Equity Fund
MRRS Decision 9504

Hillsdale US Long/Short Equity Fund
MRRS Decision 9504

Hillsdale US Performance Equity Fund
MRRS Decision 9504

Hip Interactive Corp.
Cease Trading Order 9555

HMZ Metals Inc.
Cease Trading Order 9555

Hollinger Inc.
Cease Trading Order 9555

Independence Investment Inc.
Voluntary Surrender of Registration 9667

KidsFutures Investments Inc.
Voluntary Surrender of Registration 9667

Lazard Canada Corporation
Change of Category 9667

Mackenzie Financial Corporation
MRRS Decision 9516

Mega-C Power Corporation
Notice from the Office of the Secretary 9500
Order 9530

Mellon, Richard
Notice of Hearing - s. 127 9496
Notice from the Office of the Secretary 9500

Meta Health Services Inc.
Cease Trading Order 9555

Mt Auburn Capital Corp.
Consent to Suspension (Rule 33-501 – Surrender of Registration) 9667

Neotel International Inc.
Cease Trading Order 9555

Orion Capital Incorporated
Order - s. 144 9526

Pardo, Rene
Notice from the Office of the Secretary 9500
Order 9530

Regent Mercantile Bancorp Inc.
Consent to Suspension (Rule 33-501 – Surrender of Registration) 9667

Regent Securities Capital Corporation
New Registration 9667

Research In Motion Limited
Order - s. 144 9516
Cease Trading Order 9555

Rockwater Asset Management Inc.
Name Change 9667

Skye Resources Inc.
MRRS Decision 9522

SR Telecom Inc.
Cease Trading Order 9555

Stern, Richard
Notice from the Office of the Secretary 9498
Notice from the Office of the Secretary 9499
Order - s. 127 9527
Order - s. 127 9529
OSC Decisions, Orders and Rulings 9537
OSC Decisions, Orders and Rulings 9545
OSC Decisions, Orders and Rulings 9553

Straight Forward Marketing Corporation
Cease Trading Order 9555

Sunrise Senior Living Real Estate Investment Trust
MRRS Decision 9509

Symmetry Canadian Stock Capital Class
MRRS Decision 9516

Symmetry EAFE Stock Capital Class
MRRS Decision 9516

Symmetry Specialty Stock Capital Class
MRRS Decision 9516

Symmetry US Stock Capital Class
MRRS Decision 9516

Taylor Jr., Lewis
Notice from the Office of the Secretary 9500
Order 9530

Taylor Sr., Lewis
Notice from the Office of the Secretary 9500
Order 9530

Taylor, Colin
Notice from the Office of the Secretary 9500
Order 9530

Taylor, Jared
Notice from the Office of the Secretary 9500
Order 9530

Tengtu International Corp.
Order - s. 144 9526

The Helical Corporation Inc.
Cease Trading Order 9555

Thistle Mining Inc.
Exemption - s. 13.1 of NI 51-102 9681

Toreador Resources Corporation
Cease Trading Order 9555

Usling, Gary
Notice from the Office of the Secretary 9500
Order 9530

Wellington West Capital Inc.
Amalgamation 9667

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