The Ontario Securities Commission

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

The Ontario Securities Commission
Cadillac Fairview Tower
Suite 1903, Box 55
20 Queen Street West
Toronto, Ontario
M5H 3S8

416-593-8314 or Toll Free 1-877-785-1555

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M1T 3V4

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2075 Kennedy Road
Toronto, Ontario
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Notices / News Releases

1.1 Notices

1.1.1 Current Proceedings Before The Ontario Securities Commission

MAY 30, 2008

CURRENT PROCEEDINGS

BEFORE

ONTARIO SECURITIES COMMISSION

- -

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

The Harry S. Bray Hearing Room
Ontario Securities Commission
Cadillac Fairview Tower
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20 Queen Street West
Toronto, Ontario
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Suresh Thakrar, FIBC	—	ST
Wendell S. Wigle, Q.C.	—	WSW

SCHEDULED OSC HEARINGS

June 2, 2008 9:30 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: WSW/DLK
June 10, 2008 2:30 p.m.	**Saxon Financial Services, Saxon Consultants, Ltd., International Monetary Services, FXBridge Technology, Meisner Corporation, Merchant Capital Markets, S.A., Merchant Capital Markets, MerchantMarx et al** s. 127(1) & (5) M. Boswell in attendance for Staff Panel: WSW/CSP
June 11, 2008 10:00 a.m.	**Irwin Boock, Svetlana Kouznetsova, Victoria Gerber, Compushare Transfer Corporation, Federated Purchaser, Inc., TCC Industries, Inc., First National Entertainment Corporation, WGI Holdings, Inc. and Enerbrite Technologies Group** s. 127(1) & (5) P. Foy in attendance for Staff Panel: LER/JEAT
June 12, 2008 10:00 a.m.	**Swift Trade Inc. and Peter Beck** s. 127 E. Cole in attendance for Staff Panel: TBA

June 12, 2008 10:30 a.m.	**Xi Biofuels Inc., Biomaxx Systems Inc., Ronald David Crowe and Vernon P. Smith** and **Xiiva Holdings Inc. carrying on Business as Xiiva Holdings Inc., Xi Energy Company, Xi Energy and Xi Biofuels** s. 127 M. Vaillancourt in attendance for Staff Panel: WSW/DLK/PJL
June 16, 2008 10:00 a.m.	**Juniper Fund Management Corporation, Juniper Income Fund, Juniper Equity Growth Fund and Roy Brown (a.k.a. Roy Brown-Rodrigues)** s.127 and 127.1 D. Ferris in attendance for Staff Panel: TBA
June 16, 2008 10:00 a.m.	**Adrian Samuel Leemhuis, Future Growth Group Inc., Future Growth Fund Limited, Future Growth Global Fund limited, Future Growth Market Neutral Fund Limited, Future Growth World Fund and ASL Direct Inc.** s. 127(5) K. Daniels & M. Britton in attendance for Staff Panel: WSW/MCH
June 16, 2008 2:30 p.m.	**FactorCorp Inc., FactorCorp Financial Inc. and Mark Twerdun** s. 127 M. Mackewn in attendance for Staff Panel: LER/ST
June 17, 2008 10:00 a.m.	**Borealis International Inc., Synergy Group (2000) Inc., Integrated Business Concepts Inc., Canavista Corporate Services Inc., Canavista Financial Center Inc., Shane Smith, Andrew Lloyd, Paul Lloyd, Vince Villanti, Larry Haliday, Jean Breau, Joy Statham, David Prentice, Len Zielke, John Stephan, Ray Murphy, Alexander Poole, Derek Grigor and Earl Switenky** s. 127 and 127.1 Y. Chisholm in attendance for Staff Panel: TBA
June 18, 2008 10:00 a.m.	**Shallow Oil & Gas Inc., Eric O'Brien, Abel Da Silva, Gurdip Singh Gahunia aka Michael Gahunia and Abraham Herbert Grossman aka Allen Grossman** s. 127(7) and 127(8) M. Boswell in attendance for Staff Panel: TBA
June 20, 2008 10:00 a.m.	**First Global Ventures, S.A., Allen Grossman and Alan Marsh Shuman** s. 127 D. Ferris in attendance for Staff Panel: WSW/ST/MCH
June 23, 2008 10:00 a.m.	**Sulja Bros. Building Supplies, Ltd. (Nevada), Sulja Bros. Building Supplies Ltd., Kore International Management Inc., Petar Vucicevich and Andrew DeVries** s. 127 & 127.1 J. S. Angus in attendance for Staff Panel: JEAT/MCH
June 24, 2008 2:30 p.m.	**Stanton De Freitas** s. 127 and 127.1 P. Foy in attendance for Staff Panel: JEAT/ST

June 24, 2008 2:30 p.m.	**David Watson, Nathan Rogers, Amy Giles, John Sparrow, Leasesmart, Inc., Advanced Growing Systems, Inc., The Bighub.com, Inc., Pharm Control Ltd., Universal Seismic Associates Inc., Pocketop Corporation, Asia Telecom Ltd., International Energy Ltd., Cambridge Resources Corporation, Nutrione Corporation and Select American Transfer Co.** s. 127 and 127.1 P. Foy in attendance for Staff Panel: JEAT/ST
July 14, 2008 10:00 a.m.	**Merax Resource Management Ltd. carrying on business as Crown Capital Partners, Richard Mellon and Alex Elin** s. 127 H. Craig in attendance for Staff Panel: TBA
July 14, 2008 10:00 a.m.	**Gold-Quest International, Health & Harmoney, Iain Buchanan and Lisa Buchanan** s.127 H. Craig in attendance for Staff Panel: TBA
July 18, 2008 10:00 a.m.	**Goldpoint Resources Corporation, Lino Novielli, Brian Moloney, Evanna Tomeli, Robert Black, Richard Wylie and Jack Anderson** s. 127(1) and 127(5) M. Boswell in attendance for Staff Panel: TBA
July 22, 2008 2:30 p.m.	**Sunwide Finance Inc., Sun Wide Group, Sun Wide Group Financial Insurers & Underwriters, Wi-Fi Framework Corporation, Bryan Bowles, Steven Johnson, Frank R. Kaplan and George Sutton** s. 127 C. Price in attendance for Staff Panel: JEAT/MCH
September 2, 2008 2:30 p.m.	**LandBankers International MX, S.A. De C.V.; Sierra Madre Holdings MX, S.A. De C.V.; L&B LandBanking Trust S.A. De C.V.; Brian J. Wolf Zacarias; Roger Fernando Ayuso Loyo, Alan Hemingway, Kelly Friesen, Sonja A. McAdam, Ed Moore, Kim Moore, Jason Rogers and Dave Urrutia** s. 127 M. Britton in attendance for Staff Panel: LER/ST
September 3, 2008 10:00 a.m.	**Shane Suman and Monie Rahman** s. 127 & 127(1) C. Price in attendance for Staff Panel: TBA
September 22, 2008 10:00 a.m.	**John Illidge, Patricia McLean, David Cathcart, Stafford Kelley and Devendranauth Misir** S. 127 and 127.1 I. Smith in attendance for Staff Panel: TBA
September 26, 2008 10:00 a.m.	**Hollinger Inc., Conrad M. Black, F. David Radler, John A. Boultbee and Peter Y. Atkinson** s.127 J. Superina in attendance for Staff Panel: LER/MCH
September 30, 2008 10:00 a.m.	**Al-Tar Energy Corp., Alberta Energy Corp., Drago Gold Corp., David C. Campbell, Abel Da Silva, Eric F. O'Brien and Julian M. Sylvester** s. 127 & 127.1 M. Boswell in attendance for Staff Panel: JEAT/DLK

October 6, 2008 10:00 a.m.	**Norshield Asset Management (Canada) Ltd., Olympus United Group Inc., John Xanthoudakis, Dale Smith and Peter Kefalas** s.127 P. Foy in attendance for Staff Panel: TBA
October 8, 2008 10:00 a.m.	**MRS Sciences Inc. (formerly Morningside Capital Corp.), Americo DeRosa, Ronald Sherman, Edward Emmons and Ivan Cavric** s. 127 & 127(1) D. Ferris in attendance for Staff Panel: TBA
November 3, 2008 10:00 a.m.	**Rene Pardo, Gary Usling, Lewis Taylor Sr., Lewis Taylor Jr., Jared Taylor, Colin Taylor and 1248136 Ontario Limited** s. 127 E. Cole in attendance for Staff Panel: TBA
November 11, 2008 2:30 p.m.	**LandBankers International MX, S.A. De C.V.; Sierra Madre Holdings MX, S.A. De C.V.; L&B LandBanking Trust S.A. De C.V.; Brian J. Wolf Zacarias; Roger Fernando Ayuso Loyo, Alan Hemingway, Kelly Friesen, Sonja A. McAdam, Ed Moore, Kim Moore, Jason Rogers and Dave Urrutia** s. 127 M. Britton in attendance for Staff Panel: LER/ST
January 12, 2009 10:00 a.m.	**Franklin Danny White, Naveed Ahmad Qureshi, WNBC The World Network Business Club Ltd., MMCL Mind Management Consulting, Capital Reserve Financial Group, and Capital Investments of America** s. 127 C. Price in attendance for Staff Panel: TBA
January 26, 2009 10:00 a.m.	**Darren Delage** s. 127 M. Adams in attendance for Staff Panel: TBA
February 2, 2009 10:00 a.m.	**Biovail Corporation, Eugene N. Melnyk, Brian H. Crombie, John R. Miszuk and Kenneth G. Howling** s. 127(1) and 127.1 J. Superina/A. Clark in attendance for Staff Panel: TBA
March 23, 2009 10:00 a.m.	**Imagin Diagnostic Centres Inc., Patrick J. Rooney, Cynthia Jordan, Allan McCaffrey, Michael Shumacher, Christopher Smith, Melvyn Harris and Michael Zelyony** s. 127 and 127.1 H. Craig in attendance for Staff Panel: TBA
TBA	**Yama Abdullah Yaqeen** s. 8(2) J. Superina in attendance for Staff Panel: TBA
TBA	**Microsourceonline Inc., Michael Peter Anzelmo, Vito Curalli, Jaime S. Lobo, Sumit Majumdar and Jeffrey David Mandell** s. 127 J. Waechter in attendance for Staff Panel: TBA
TBA	**Frank Dunn, Douglas Beatty, Michael Gollogly** s.127 K. Daniels in attendance for Staff Panel: TBA

TBA **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: JEAT/ST

TBA **Gregory Galanis**

s. 127

P. Foy in attendance for Staff

Panel: TBA

TBA **Peter Sabourin, W. Jeffrey Haver, Greg Irwin, Patrick Keaveney, Shane Smith, Andrew Lloyd, Sandra Delahaye, Sabourin and Sun Inc., Sabourin and Sun (BVI) Inc., Sabourin and Sun Group of Companies Inc., Camdeton Trading Ltd. and Camdeton Trading S.A.**

s. 127 and 127.1

Y. Chisholm in attendance for Staff

Panel: JEAT/DLK/CSP

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

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

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

Euston Capital Corporation and George Schwartz

ADJOURNED SINE DIE

Al-Tar Energy Corp., Alberta Energy Corp., Eric O'Brien, Bill Daniels, Bill Jakes, John Andrews, Julian Sylvester, Michael N. Whale, James S. Lushington, Ian W. Small, Tim Burton and Jim Hennesy

Global Partners Capital, WS Net Solution, Inc., Hau Wai Cheung, Christine Pan, Gurdip Singh Gahunia

Land Banc of Canada Inc., LBC Midland I Corporation, Fresno Securities Inc., Richard Jason Dolan, Marco Lorenti and Stephen Zeff Freedman

1.1.2 OSC Notice 51-714 (Revised) - OSC Continuous Disclosure Advisory Committee

ONTARIO SECURITIES COMMISSION
NOTICE 51-714 (REVISED)

(Previously published May 26, 2006)

OSC CONTINUOUS DISCLOSURE
ADVISORY COMMITTEE

The Ontario Securities Commission (OSC) is inviting new applications for membership on its Continuous Disclosure Advisory Committee (CDAC).

The Commission recognizes the critical importance of consulting with industry participants and other stakeholders in carrying out its mandate. The CDAC, established in 2002, advises staff on a range of matters including the planning, implementation and communication of its review program, and policy- and rule-making initiatives. The CDAC also serves as a forum to make staff aware of emerging issues and to critically assess its procedures.

The CDAC is made up of approximately fifteen individual members. The CDAC generally meets five times a year and members serve two-year terms. Members are expected to have extensive knowledge of continuous disclosure issues and a strong interest in securities regulatory policy as it relates to these issues. The CDAC is chaired by a Commission staff representative. The current chair is Kelly Gorman.

Representatives of reporting issuers, industry associations, advisors, investing organizations and any other interested persons are invited to apply in writing for membership on the CDAC indicating their areas of practice and relevant experience. Interested parties should submit their application by June 30, 2008.

Applications and any queries regarding CDAC may be forwarded to:

Kelly Gorman
Manager, Corporate Finance
Ontario Securities Commission
416-593-8251
kgorman@osc.gov.on.ca

May 30, 2008

1.1.3 OSC Staff Notice 81-709 Report on Staff's Continuous Disclosure Review of Investment Funds (2008)

ONTARIO SECURITIES COMMISSION STAFF NOTICE 81-709
***REPORT ON STAFF'S CONTINUOUS DISCLOSURE REVIEW OF INVESTMENT FUNDS* (2008)**

1. – Purpose

This notice summarizes the findings and comments as at March 31, 2008, arising from the Continuous Disclosure Review Program conducted by the Investment Funds Branch (the Branch) of the Ontario Securities Commission (OSC).

Continuous disclosure review has been an important element of our approach to securities regulation and aims to improve disclosure available to investors. In 2003, the Branch set out a framework for the continuous disclosure review of investment funds in OSC Staff Notice 81-705 *Implementation of a Continuous Disclosure Review Program for Investment Funds – Investment Funds Branch* (Staff Notice 81-705). The purpose of that notice was to communicate general features of the Continuous Disclosure Review Program.

Following the publication of Staff Notice 81-705, the Branch developed continuous disclosure rules specific to investment funds. The result was National Instrument 81-106 *Investment Fund Continuous Disclosure* (NI 81-106) which came into force on June 1, 2005. Subsequently, we conducted an issue-oriented review of general compliance with NI 81-106. This notice focuses on issues identified in the course of the review, aiming to assist preparers of financial statements and management reports of fund performance (MRFP) in improving their future continuous disclosure.

2. – Scope of Review

NI 81-106 sets out the requirements for:

- financial statements and MRFPs;
- quarterly portfolio disclosure;
- annual information forms (for funds not subject to National Instrument 81-101 *Mutual Fund Prospectus Disclosure*); and
- proxy voting records.

Our review focused on these requirements and the investment fund's public disclosure record including the fund manager's website and all prescribed regulatory filings on SEDAR. Our review predominantly covered financial year-ends in 2005 and 2006, but also captured some periods ending in 2007.

We reviewed a sample of investment funds and sent comment letters to fund managers who, in aggregate, manage approximately 45% of the industry's assets under management. We focused on conventional mutual funds because they are the investment vehicle of choice for most Canadian investors. Although our findings are mainly based on the review of disclosure of conventional mutual funds, other investment funds such as closed-end and exchange traded funds will also benefit from this notice, and its guidance can be applied to their continuous disclosure.

3. – Executive Summary

We noted the following areas for improvement which are discussed in more detail in the body of the notice.

Quality of the discussion

- **Results of operations.** Management's discussion of the investment fund's activities in the results of operations section should be more thorough and analyze and explain the nature of and reasons for changes in the fund.
- **Broad-based index.** Discussion of the relative performance of the investment fund as compared to a broad-based securities market index is required and cannot be replaced by a comparison to a narrow index or blended benchmark.
- **Discussion of relative performance.** A more thorough discussion of why the investment fund under- or over-performed the index should be provided.

Overall presentation

- **Plain language.** MRFPs should be written in plain language and avoid the use of jargon and technical language.

- **Investment subgroups.** Management should review the investment portfolio to determine if the most appropriate categories have been used when disclosing the summary of investment portfolio in the MRFP or quarterly portfolio disclosure, and whether the breakdown conveys the nature of the fund to readers.

- **Analytical review of financial statements.** Management should perform an analytical review of the financial statements to ensure that all significant changes have been explained in the results of operations.

- **Financial statement notes presentation.** Notes to the financial statements are part of continuous disclosure and should not be convoluted with inapplicable information.

Regulatory compliance

- **Commissions to related parties.** Unless exemptive relief has been obtained, a monthly report must be filed when a fund pays a fee to a related company on a purchase or sale of portfolio securities.

- **Financial highlights tables.** The format specified in Form 81-106F1 (the Form) for financial highlights and past performance is mandated.

- **Annual compound returns.** Certain information must be discussed including the performance of all series and changes in an index from the prior period. Discussion of past performance should be limited to the standard performance periods.

- **Mandatory notes to financial statements.** Certain information must be disclosed in the notes to the financial statements to provide consistent and comparable financial statements.

4. – Quality of the Discussion

4.1 – Results of Operations

The summary of results of operations in the MRFP is an area that requires more attention. The intent of the summary is to put the financial statements into words and provide context for the financial results. Part B, subsection 2.3(1) of the Form requires that the results of operations include a discussion of changes to an investment fund. The list in subsection 2.3(1) addresses changes in portfolio assets, revenue and expenses, and redemptions or sales which correspond to data in the financial statements and can be found specifically in the statement of net assets, statement of investment portfolio, statement of operations, and statement of changes in net assets. The list also covers changes to the economy and markets, and requires that these factors be related back to changes in the composition of the investment portfolio.

In our review, we found that approximately 40% of investment funds selected had financial statements that revealed significant changes in the fund which were not discussed in the results of operations section of the MRFP. Examples of significant changes over the prior year included: an increase in redemptions by 81%; custodian fees that tripled; and an 11% increase in the holdings of a specific sector. In response to our comment letters, fund managers were able to address our questions with comprehensive and insightful explanations. Most fund managers stated that they did not include such explanations because they did not believe that the information fell within the requirements of subsection 2.3(1), or the discussion was not warranted because it did not add useful information pertaining to the investor's investment.

While discussion and analysis of every financial statement item may not be warranted, we expect that the results of operations will focus on significant changes in the fund over the financial period and discuss the reasons for the changes. We remind preparers to review the list of items in subsection 2.3(1). Generally, these items are material and must be discussed in the summary of the results of operations, as applicable.

We also found that 25% of investment funds disclosed significant changes but provided very little explanation or analysis. For example, we expect a fund to discuss why expenses increased, rather than simply stating that expenses were higher. As explained in the Form, the management discussion of fund performance (which includes the results of operations) "provides the manager of an investment fund with the opportunity to discuss the investment fund's position and financial results for the relevant period. The discussion is intended to give a reader the ability to look at the investment fund through the eyes of management by providing both a historical and prospective analysis of the investment activities and operations of the investment fund. Coupled with the financial highlights, this information should enable readers to better assess the investment fund's performance and future prospects." In response to our comment letters, investment funds provided us with disclosure

that should have been included in the results of operations. We expect such information to be discussed in the MRFP, enabling readers to look through the eyes of management.

4.2 – Annual Compound Returns

(a) Broad-based securities market index

Approximately 65% of fund managers did not compare the relative performance of an investment fund to a broad-based securities market index. We remind preparers that the discussion of the relative performance of an investment fund as compared to a broad-based securities market index is a requirement under Part B, subsection 4.3(3) of the Form. Please note that instruction (3) to section 4.3 states that a narrowly-based securities index or a blended index may be used in addition to a broad-based securities market index. Neither a narrowly-based index or a blended index can be a substitute for the broad-based index.

Some investment funds only provided a discussion of the fund's performance relative to a narrowly-based securities index. One fund manager explained this decision by citing concerns that the comparison of an investment fund's performance to a broad-based index would not be fully appreciated by investors. We believe that investors are more likely to understand the broad-based index as it is more widely recognized than a narrow index. A comparison to the broad-based index will help readers understand the fund's performance relative to the movement of the market more generally. In the MRFP, a fund manager has the opportunity to explain variances between the fund's performance and the general market, which may be caused by factors such as different sector exposure, and there is always the option of expanding the discussion by adding a comparison to a narrowly-based index.

(b) Discussion of relative performance

Some investment funds should have provided a more thorough discussion of the relative performance of the investment fund as compared to the appropriate index. This issue was raised with 75% of fund managers. We do not believe simply stating that the fund under- or over-performed relative to the index is a suitable discussion. Instead, we expect an explanation as to why the fund under- or over-performed relative to the index.

Often, we saw disclosure that a fund's performance was due to over- and under-weight portfolio allocations. Investment funds should consider using percentages and quantitative measures when discussing over- and under-weight portfolio allocations; otherwise, based on the disclosure provided, the reader has no sense of the magnitude of the over- or under-weight positions in various industry sectors or countries.

(c) Discussion of past performance

While we have not taken issue with the discussion of an investment fund's performance relative to an index appearing in the results of operations section rather than the annual compound returns section of the MRFP, we remind preparers that all rules relating to past performance in Part B, item 4 of the Form must still be applied. In one example, the results of operations discussed the performance of a narrow index which was not disclosed in the annual compound returns table. If a discussion of past performance is included elsewhere in the MRFP, all rules governing the disclosure of past performance still apply, such as providing disclosure only for standard performance periods.

5. – Overall Presentation

5.1 – Plain Language

We remind investment funds of the requirement to use plain language, which is stated in the beginning of the Form. We noted the use of jargon and technical language in the management discussion of fund performance. Some examples include:

- "off-index allocations"
- "duration positioning"
- "fundamental bottom-up strategy with a top down country overlay".

We believe that plain language will help investors understand an investment fund's disclosure documents so that they can make informed investment decisions. We strongly encourage investment funds to communicate as simply and directly as possible.

5.2 – Summary of Investment Portfolio

In our view, 17% of investment funds did not break down their investment portfolio into appropriate subgroups in the summary of investment portfolio, as required by Part B, paragraph 5(2)(a) of the Form. The instructions in this section state that an investment fund should use the most appropriate categories given the nature of the fund. An investment fund may use more than one breakdown, such as by security type, industry, or geographical locations, so as to provide the most meaningful information.

We reviewed a precious metals fund with the majority of its assets invested in Canada that provided a geographic breakdown of the investment portfolio. A breakdown by precious metals and precious metals activities would have been more meaningful given the nature of the fund, as opposed to a breakdown by geography.

We also raised a comment if we felt that one subgroup was too generic and obvious. For example, we saw over 40% of one fund classified as "Other" and 75% of another fund labelled as "Income Funds". In such cases, we do not believe that the disclosure is meaningful nor does it provide the reader with additional information.

5.3 – Analytical Review

As discussed earlier in this notice, the management discussion of fund performance is an analysis and explanation designed to complement and supplement an investment fund's financial statements. Management should perform an analytical review of the financial statements to ensure that the management discussion of fund performance is complete and explains the significant changes of the fund or any unusual events. In our review of financial statements, we found significant changes that were not addressed in management's discussion. By performing an analytical review, it is likely that most items required to be discussed in the results of operations (Part B, subsection 2.3(1) of the Form) are identified.

5.4 – Financial Statement Notes Presentation

For two fund managers, certain notes to the financial statements were unrelated to the investment funds included in the bound document. One set of notes had been prepared for all the funds managed by the fund manager, but the financial statements were bound in different sets. As a result, some information in the notes related to investment funds that were not included in the particular set of financial statements. For example, the notes contained information on management fee changes, performance and incentive fees, and fund windups for individual funds regardless of whether those funds were included in that set of financial statements.

Inclusion of notes that do not relate to investment funds in the document is confusing. While subsection 7.1(2) of NI 81-106 allows notes to the financial statements to be combined when financial statements of investment funds are bound together in a document, in our view, notes should only be included if they actually relate to the investment funds in the document. Notes to the financial statements are part of continuous disclosure and should not be convoluted. We do not believe that it is appropriate to create one set of notes for the whole fund complex that is then attached to every set of financial statements without being modified for relevance. We remind preparers to review all notes to determine those relevant to the investment funds in the document.

5.5 – Websites

We found that approximately 40% of fund managers did not provide easily accessible links to continuous disclosure documents on their websites. In one example, a link to the fund prospectus was available on the fund manager's website but not given much prominence. In another example, the financial statements, MRFPs, proxy voting records, and quarterly portfolio disclosure were not easily accessible from the fund's webpage as they were posted under a menu option that did not seem to relate to these documents. We also found that in some cases excessive drilling down was required to reach documents. In these situations, we raised comments asking that the fund manager consider adding more intuitive links to the fund's disclosure documents on their website.

Since NI 81-106 removed mandatory delivery of continuous disclosure documents to all unitholders, access to these documents by alternative methods should be made as simple as possible. Unitholders may not wish to receive paper copies of financial statements and MRFPs in the mail because they are opting to find this information online. In our view, funds should ensure that their websites are organized in a way that makes this information relatively easy to find (and is in keeping with the spirit of section 5.5 of NI 81-106).

5.6 – SEDAR Filings

Each MRFP should be filed on SEDAR only under the individual investment fund to which it pertains (and not under a group profile) as stated in item E-2 of CSA Staff Notice 81-315 *Frequently Asked Questions on National Instrument 81-106 Investment Fund Continuous Disclosure* (the FAQs). Further, if the financial statements and the accompanying notes for each fund are in a

separate document, the relevant statements should only be filed under the fund to which they pertain (consistent with item E-2 in the FAQs). Please note that only the disclosure relevant to a particular fund should be filed under that fund's profile on SEDAR.

In one example, a fund manager produced stand-alone financial statements for each fund, but filed all the financial statements and MRFPs under every fund's profile. This made it very difficult to find the disclosure applicable to the individual fund. In this case, we requested that future SEDAR filings be corrected.

6. – Regulatory Compliance

6.1 – Commissions to Related Parties

Where commissions were paid to brokerage firms that are affiliates of an investment fund, we asked for confirmation that the fund complied with the reporting requirement in paragraph 117(1)(c) of the *Securities Act (*Ontario). Investment funds must file a monthly report when a fund pays a fee to a related company on a purchase or sale of portfolio securities, unless the fund has obtained exemptive relief from this requirement. Some exemptive relief obtained in the past can no longer be relied upon as it was conditional on certain disclosure being provided in the statement of portfolio transactions, which is no longer required.

6.2 – Financial Highlights Tables

Part A, subsection 1(c) of the Form states that we do not generally mandate the use of a specific format for the MRFP, *except* for financial highlights and past performance as required by items 3 and 4 of Parts B and C of the Form. We found that approximately 40% of fund managers did not follow the set format of the financial highlights tables.

For example, with the implementation of Section 3855 of the CICA Handbook, some funds added a new line in the Fund's Net Asset Value (NAV) per Unit/Share table to represent the effect of the new accounting policy on NAV. We indicated in our comment letters that, while an explanation of the difference can be added to the MRFP, the tables' format must be maintained.

One fund manager added new ratios to the Ratios and Supplemental Data table, such as "MER excluding performance fee". In this manager's opinion, performance fees are not prevalent in the industry and it believes that additional ratios will benefit investors and provide fuller disclosure. Again, while an explanation can be added to the MRFP, additional lines cannot be included in the standard tables. The format of the financial highlights and past performance tables must be adhered to as mandated by the Form to ensure comparability between investment funds.

6.3 – Management Fees

The purpose of the requirement in Part B, section 3.3 of the Form is to promote transparency around the composition of management fees. The FAQs discuss our expectations with respect to management fee breakdown in items C-8 through to C-10. We remind investment funds that the purpose of the breakdown is to explain to investors what services are provided in exchange for the management fee. If services cannot be individually itemized, the nature of those services should at least be described qualitatively. For example, some funds did not indicate that the manager's fee for acting as trustee is included in the management fee. Even if trustee fees are not separately recorded, the management fee breakdown should disclose that these fees form part of the management fee.

Item C-8 in the FAQs states that the breakdown of management fees does not have to add to 100%, as the item requires disclosure of the *major* services paid for out of the management fee. We expect services to be expressed as an actual percentage of management fees, not as an estimate or a range, because the MRFP reports the prior period's activity. We also reiterate that the management fees breakdown must disclose any differences between classes or series.

REMINDERS

Some of the requirements of our rules were overlooked. Based on our review, we provide the following reminders.

MRFP

6.4 – Investment Objective and Strategies

Approximately 40% of fund managers should have provided a more concise summary of the investment objective and strategies of their investment funds. The disclosure must be a concise summary of the fundamental investment objective and strategies of the investment fund, and not merely copied from the prospectus (Part B, section 2.1 of the Form). For some funds, we found that the investment objectives and strategies disclosed in the MRFP and simplified prospectus had exactly the same wording.

6.5 – Risk

Approximately 40% of fund managers did not provide an adequate discussion of risk. A discussion of how changes to the investment fund have affected the overall level of risk associated with an investment in the investment fund is required (Part B, section 2.2 of the Form). We noted that some funds merely repeated the risk information contained in the fund's prospectus or annual information form, while others only examined the impact of the main risk factors during the financial period. In both examples, the disclosure is generally incomplete as the discussion of risk should be focused on explaining how changes to the investment fund have affected the overall level of risk. We expect investment funds to provide a commentary on whether changes in the fund have had an impact on risk, along with a discussion of whether the suitability of the investment has changed from what was previously disclosed in the prospectus.

6.6 – Annual Compound Returns

(a) Multiple series

Almost all investment funds with multiple series discussed the performance of only one series of the investment fund, typically the retail series. The Form requires a discussion of the performance of the investment fund relative to the broad-based securities market index (Part B, subsection 4.3(3)) and NI 81-106 states that the distinctions between the series must be disclosed in the MRFP (subsection 7.2(2)). At a minimum, investment funds must provide an explanation as to how the performance of all series differs from the specific series discussed.

(b) Change in index from prior period

If an index is different from the one included in the most recently filed MRFP, the reasons for the change must be explained and the requirements relating to annual compound returns must be disclosed separately for both the new and former indices for the financial year (Part B, subsection 4.3(4) of the Form). This means that both indices must appear in the annual compound returns table in the year of the change to help readers compare the fund's performance to the new and former indices. One investment fund showed a blend of the new and former indices, which does not fulfil the requirement.

(c) Non-standard performance periods

Part B, item 4 of the Form only allows the disclosure of past performance for the ten, five, three, one year, and since inception periods in the annual MRFP. Part C also allows for the inclusion of the interim period in the bar chart of the interim MRFP. We do not believe that the discussion of past performance should focus on non-standard performance periods such as the six-month return in the annual MRFP, or the quarterly return in the interim MRFP. In our comment letters, we asked that future discussions be limited to the standard performance periods.

6.7 – Interim MRFP

We remind preparers that the interim MRFP was specifically designed as an update to the last annual MRFP and was intended to be a shorter document. Interim MRFPs are not required to repeat all of the annual MRFP disclosure, but only update the required sections in Part C of the Form.

FINANCIAL STATEMENTS

6.8 – Mandatory Notes to Financial Statements

NI 81-106 lists items which must be disclosed in the notes to the financial statements (subsection 3.6(1)). We found that not all information required was disclosed. For example, the method used to allocate income and expenses, and realized and unrealized capital gains and losses to each class was sometimes not disclosed in the notes (item 2(d)). Also missing was the basis for determining cost of portfolio assets (item (1)). Almost all investment funds only discussed the basis for determining cost in the context that gains and losses on securities sold were determined on the basis of average cost. We remind investment funds to include a more general statement about the basis for determining the cost of portfolio assets.

OTHER MATTERS

6.9 – National Instrument 81-102 Mutual Funds Compliance Reports

Some investment funds did not file the compliance report from their custodian to the securities regulatory authority within 30 days after the filing of the annual financial statements (subsection 6.7(3) of National Instrument 81-102 *Mutual Funds* (NI 81-102)). In addition, some investment funds did not file the report describing compliance with Parts 9, 10 and 11 of NI 81-102, along with their auditor's compliance report, within the time limit as required by Part 12 of NI 81-102. We remind investment funds that the above reports must be filed on time.

6.10 - Annual Notification of Unitholders' Rights to Redemption

Fund managers are required to notify securityholders annually of their redemption rights (subsections 10.1(3) and 10.1(4) of NI 81-102). Some investment funds fulfilled this requirement in the past by including a note in the annual financial statements explaining the rights of securityholders with respect to redemption of securities. Under NI 81-106, investment funds are allowed to deliver certain continuous disclosure documents according to standing or annual instructions received from securityholders, which means that financial statements are not required to be sent to all securityholders anymore (sections 5.2 and 5.3 of NI 81-106). We remind investment funds that the requirements of NI 81-102 to provide all securityholders, at least annually, with a statement outlining rights with respect to redemptions may no longer be met by including it in the financial statements if those financial statements are not sent to every unitholder.

7. – Conclusion

Our findings suggest that investment funds can improve the quality of their continuous disclosure. Good disclosure is an opportunity to reach investors and advisors. We expect funds to consider the guidance in this notice when reviewing their continuous disclosure records to ensure their disclosure documents comply with NI 81-106. In future situations where disclosure requirements are not met, we will ask that the disclosure document be revised and refiled.

In some cases, staff is continuing to correspond with investment funds included in this review to obtain additional information and resolve the issues identified. On completion of this review, staff will expand our scope to include other investment funds such as closed-end funds, exchange traded funds, labour sponsored investment funds, limited partnerships, and scholarship plans. We will communicate our findings of the continuous disclosure of those types of investment funds in the future.

8. – Questions

Questions may be referred to:

Stacey Barker
Senior Accountant, Investment Funds Branch
416-593-2391

Raymond Chan
Senior Accountant, Investment Funds Branch
416-593-8128

Vera Nunes
Assistant Manager, Investment Funds Branch
416-593-2311

Sovener Yu
Accountant, Investment Funds Branch
416-593-2395

May 29, 2008

1.2 Notices of Hearing

1.2.1 Borealis International Inc. et al. - ss. 127, 127.1

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

AND

IN THE MATTER OF
BOREALIS INTERNATIONAL INC.,
SYNERGY GROUP (2000) INC.,
INTEGRATED BUSINESS CONCEPTS INC.,
CANAVISTA CORPORATE SERVICES INC.,
CANAVISTA FINANCIAL CENTER INC.,
SHANE SMITH, ANDREW LLOYD, PAUL LLOYD,
VINCE VILLANTI, LARRY HALIDAY, JEAN BREAU,
JOY STATHAM, DAVID PRENTICE, LEN ZIELKE,
JOHN STEPHAN, RAY MURPHY,
ALEXANDER POOLE,DEREK GRIGOR,
EARL SWITENKY, MICHELLE DICKERSON,
DEREK DUPONT, BARTOSZ EKIERT,
ROSS MACFARLANE, BRIAN NERDAHL,
HUGO PITTOORS and LARRY TRAVIS

AMENDED
NOTICE OF HEARING
(Sections 127 and 127.1)

TAKE NOTICE that the Ontario Securities Commission will hold a hearing pursuant to sections 127 and 127.1 of the Securities Act, R.S.O. 1990, c. S.5, as amended (the "Act"), at the offices of the Commission located at 20 Queen Street West, Toronto, in the Large Hearing Room, 17th Floor, commencing on May 27, 2008, at 2:30 p.m. or as soon thereafter as the hearing can be held;

AND TAKE NOTICE that the purpose of the hearing is to consider whether:

(a) pursuant to sections 127(1) and (5) of the Act, to order pursuant to clause 2 of section 127(1) that trading in any securities by Michelle Dickerson, Derek Dupont, Bartosz Ekiert, Ross Macfarlane, Brian Nerdahl, Hugo Pittoors and Larry Travis shall cease, and that pursuant to clause 3 of section 127(1), any exemptions contained in Ontario securities law shall not apply to them, and pursuant to section 127(7) to continue such order until November 27, 2008;

(b) pursuant to sections 127(1), (5) and (7) of the Act, to continue the Temporary Order made November 15, 2007 until November 27, 2008 to provide pursuant to clause 2 of section 127(1) that trading in any securities of and by the respondents named therein, including Alexander Poole ("Poole") shall cease, and that pursuant to clause 3 of section 127(1), any exemptions contained in Ontario securities law shall not apply to the respondents named therein, including Poole;

(c) at the conclusion of the hearing, to make an order pursuant to clause 1 of section 127(1) that the registration of Poole be terminated, suspended or restricted, or that terms and conditions be placed or continued on his registration;

(d) at the conclusion of the hearing, to make an order pursuant to clause 2 of section 127(1) that trading in any securities by the respondents cease permanently or for such period as is specified by the Commission;

(e) at the conclusion of the hearing, to make an order pursuant to clause 2.1 of section 127(1) that acquisition of any securities by the respondents is prohibited permanently or for such period as is specified by the Commission;

(f) at the conclusion of the hearing, to make an order pursuant to clause 3 of section 127(1) that any exemptions contained in Ontario securities law do not apply to the respondents permanently or for such period as is specified by the Commission;

(g) at the conclusion of the hearing, to make an order pursuant to clause 6 of section 127(1) that the respondents be reprimanded;

(h) at the conclusion of the hearing, to make an order pursuant to clause 7 of section 127(1) that each of the individual respondents resign all positions that he or she holds as a director or officer of an issuer;

(i) at the conclusion of the hearing, to make an order pursuant to clause 8 of section 127(1) that each of the individual respondents be prohibited from becoming or acting as a director or officer of any issuer;

(j) at the conclusion of the hearing, to make an order pursuant to clause 8.2 of section 127(1) that the respondents be prohibited from becoming or acting as a director or officer of a registrant;

(k) at the conclusion of the hearing, to make an order pursuant to clause 9 of section 127(1) that the respondents each pay an administrative penalty for each failure to comply with Ontario securities law;

(l) at the conclusion of the hearing, to make an order pursuant to clause 10 of section 127(1) that the respondents each disgorge to the Commission any amounts obtained as a result of their non-compliance with Ontario securities law; and

(m) at the conclusion of the hearing, to make an order pursuant to section 127.1 that the respondents pay the costs of the investigation and hearing.

BY REASON OF the allegations set out in the Amended Statement of Allegations dated May 22, 2008 and such additional allegations as counsel may advise and the Commission may permit;

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

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

DATED at Toronto this 22nd day of May, 2008.

"Nancy Makepeace"
per 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
BOREALIS INTERNATIONAL INC.,
SYNERGY GROUP (2000) INC.,
INTEGRATED BUSINESS CONCEPTS INC.,
CANAVISTA CORPORATE SERVICES INC.,
CANAVISTA FINANCIAL CENTER INC.,
SHANE SMITH, ANDREW LLOYD, PAUL LLOYD,
VINCE VILLANTI, LARRY HALIDAY, JEAN BREAU,
JOY STATHAM, DAVID PRENTICE, LEN ZIELKE,
JOHN STEPHAN, RAY MURPHY,
ALEXANDER POOLE,DEREK GRIGOR,
EARL SWITENKY, MICHELLE DICKERSON,
DEREK DUPONT, BARTOSZ EKIERT,
ROSS MACFARLANE, BRIAN NERDAHL,
HUGO PITTOORS and LARRY TRAVIS

AMENDED
STATEMENT OF ALLEGATIONS
OF STAFF OF THE
ONTARIO SECURITIES COMMISSION

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

Corporate Respondents

1. Borealis International Inc. ("Borealis") is an Ontario company which was incorporated on February 16, 2007. Borealis is not a reporting issuer and has never been registered with the Commission.

2. Synergy Group (2000) Inc. ("Synergy") is an Ontario company which was incorporated on June 15, 2004. Synergy is not a reporting issuer and has never been registered with the Commission.

3. Integrated Business Concepts Inc. ("IBC") is an Ontario company which was incorporated on June 14, 1994. IBC is not a reporting issuer and has never been registered with the Commission.

4. Borealis, Synergy and IBC share the same registered address: 235 Yorkland Boulevard, Suite 202, North York, Ontario.

5. Canavista Corporate Services Inc. ("Canavista Corporate") is an Ontario company which was incorporated on September 1, 2005. Canavista Corporate is not a reporting issuer and has never been registered with the Commission.

6. Canavista Financial Center Inc. ("Canavista Financial") is an Ontario company which was incorporated on July 31, 1996. Canavista Financial is not a reporting issuer and has never been registered with the Commission.

7. Canavista Corporate and Canavista Financial share the same registered address: 311 George Street North, Peterborough, Ontario. Borealis and Synergy also have offices at this address.

Individual Respondents

8. Shane Smith ("Smith") is a resident of Peterborough, Ontario. Smith is not currently registered with the Commission.

9. Smith is a respondent in a pending Commission proceeding (the "Sabourin Proceeding"). Smith is subject to a cease trade order which was issued by the Commission on December 7, 2006 and extended by further orders of the Commission on December 20, 2006 , June 14, 2007 and April 7, 2008 (the "Sabourin Cease Trade Order").

10. Smith holds himself out as the President of Borealis and of Synergy.

11. Andrew Lloyd ("Lloyd") is a resident of Peterborough, Ontario. Lloyd is not currently registered with the Commission.

12. Lloyd is a respondent in the Sabourin Proceeding and is subject to the Sabourin Cease Trade Order.

13. Lloyd acts as Synergy's Regional Manager GTA and Central Ontario and as the Regional Manager and Regional Contact for Borealis in Central and North Ontario. Lloyd is also a director of Canavista Corporate and the Vice-President and a director of Canavista Financial.

14. Paul Lloyd is Lloyd's father and is a resident of Peterborough, Ontario. Paul Lloyd is a director of Canavista Corporate and the President and a director of Canavista Financial. Paul Lloyd is not currently registered with the Commission.

15. Vince Villanti ("Villanti") is a resident of Whitby, Ontario. Villanti is the President and a director of Borealis, and the Executive Director and a director of IBC. Villanti has never been registered with the Commission.

16. Larry Haliday ("Haliday") is a resident of Richmond Hill, Ontario. Haliday is a director of IBC. Haliday has never been registered with the Commission.

17. Jean Breau ("Breau") is a resident of Whitby, Ontario. Breau is the President and a director of Synergy. Breau has never been registered with the Commission.

18. Joy Statham ("Statham") is a resident of Ottawa, Ontario. Statham is not currently registered with the Commission.

19. David Prentice ("Prentice") is a resident of Mississauga, Ontario. Prentice holds himself out as the Executive Vice-President of Synergy. Prentice has never been registered with the Commission.

20. Len Zielke ("Zielke") is a resident of Richmond, British Columbia. Zielke holds himself out as Synergy's Regional Manager and Regional Contact for British Columbia, Alberta and Saskatchewan. Zielke has never been registered with the Commission.

21. John Stephan ("Stephan") is a resident of London, Ontario. Stephan holds himself out as Synergy's Regional Manager for Western and South-Western Ontario and the Borealis Regional Contact for Western Ontario. Stephan is not currently registered with the Commission.

22. Ray Murphy ("Murphy") is a resident of Kingston, Ontario. Murphy holds himself out as Synergy's Regional Manager for Eastern Ontario, Quebec and the Maritimes and as Borealis' Regional Contact for Quebec, Maritimes, Manitoba and Eastern Ontario. Murphy is not currently registered with the Commission.

23. Alexander Poole ("Poole") is a resident of Waterloo, Ontario and is currently registered with the Commission as a salesperson in the categories of mutual fund dealer and limited market dealer.

24. Derek Grigor ("Grigor") is a resident of Okotoks, Alberta. Grigor has never been registered with the Commission.

25. Earl Switenky ("Switenky") is a resident of Kelowna, British Columbia. Switenky has never been registered with the Commission.

26. Michelle Dickerson ("Dickerson") is a resident of Napanee, Ontario. Dickerson has never been registered with the Commission.

27. Derek Dupont ("Dupont") is a resident of Nepean, Ontario. Dupont is not currently registered with the Commission.

28. Bartosz Ekiert ("Ekiert") is a resident of Kitchener, Ontario. Ekiert has never been registered with the Commission.

29. Ross Macfarlane ("Macfarlane") is a resident of Powell River, British Columbia. Macfarlane has never been registered with the Commission.

30. Brian Nerdahl ("Nerdahl") is a resident of Elmira, Ontario. Nerdahl is not currently registered with the Commission.

31. Hugo Pittoors ("Pittoors") is a resident of Calgary, Alberta. Pittoors has never been registered with the Commission.

32. Larry Travis ("Travis") is a resident of Chatham, Ontario. Travis has never been registered with the Commission.

Borealis Guaranteed Return Investment Certificate

33. Borealis and Synergy representatives and associates promote and sell an investment called the Borealis Guaranteed Return Investment Certificate ("Borealis GRIC"). The Borealis GRIC is a form of prime bank investment scheme. The Borealis GRIC is described in promotional material as a "bank-guaranteed product" which requires a minimum initial investment of $150,000 with minimum additional investments of $25,000. Investors are promised fixed returns of 10 to 18 percent. The Borealis GRIC is purportedly "locked in" for 24 months.

34. The respondents' Borealis GRIC sales approach includes making representations and providing information to investors which are false, inaccurate and misleading, including that:

(a) the Borealis GRIC was developed by Synergy and is promoted as the product of a "proprietary strategic alliance" with Borealis, Atlantic Trust Co. ("Atlantic Trust") and The Laiki Group;

(b) the Borealis GRIC is regulated by the Financial Consumer Agency of Canada ("FCAC") and the "Bank Act";

(c) the "first $100,000" of a Borealis GRIC is "protected" by Canada Deposit Insurance Corporation ("CDIC"); and

(d) Borealis has purchased the Croatian (Toronto) Credit Union Limited.

35. IBC is described as a recipient of funds from Atlantic Trust. Atlantic Trust and The Laiki Group are not participants in the Borealis GRIC, and have no arrangements with Borealis, Synergy nor any other of the respondents. References to Atlantic Trust, The Laiki Group, FCAC, the Bank Act and CDIC are part of an effort by the respondents to give the appearance of legitimacy to the scheme described herein.

Scope of Activity

36. Smith, Lloyd and Paul Lloyd have each promoted, and sold or attempted to sell, the Borealis GRIC personally and through representatives and associates. To this end, Smith, Lloyd and Paul Lloyd are variously acting with and through Borealis, Synergy, Canavista Corporate, Canavista Financial and/or IBC.

37. Statham, Prentice, Zielke, Stephan, Murphy, Poole, Grigor, Switenky, Dickerson, Dupont, Ekiert, Macfarlane, Nerdahl, Pittoors and Travis have each promoted, and sold or attempted to sell, the Borealis GRIC.

38. Villanti, Haliday and Breau, through their respective positions with Borealis, Synergy and IBC, have authorized, permitted or acquiesced in the unlawful conduct described herein.

39. The respondents' activity has resulted in sales of the Borealis GRIC in excess of $16 million.

Investment Contracts

40. The Borealis GRIC is an "investment contract" and therefore a "security" as defined in section 1(1)(n) of the Ontario *Securities Act*, R.S.O. 1990, c.S.5, as amended (the "Act").

Alberta Securities Commission Proceeding

41. Synergy, Borealis, Zielke, Prentice, Smith, Grigor and Switenky are respondents in a proceeding issued by the Alberta Securities Commission and are subject to a cease trade order, which is in place until a hearing is concluded and a decision rendered, or until otherwise ordered.

Borealis Cease Trade Order

42. On November 15, 2007, the Commission ordered that all trading in securities of the respondents, with the exception of Poole, cease, that trading in securities by the respondents, with the exception of Poole, cease, and that any exemptions contained in Ontario securities law did not apply to the respondents, with the exception of Poole. The Order also provided for the imposition of terms and conditions on Poole's registration (the "Borealis Cease Trade Order"). The Borealis Cease Trade Order was continued by orders of the Commission on November 28, 2007 and January 11, 2008.

Breach of Cease Trade Orders

43. Through their activity described herein, Smith and Lloyd have breached the Sabourin Cease Trade Order.

44. After November 15, 2007, each of Smith, Lloyd and Poole traded in securities, and accordingly, each has breached the Borealis Cease Trade Order.

Conduct Contrary to Ontario Securities Law and Conduct Contrary to the Public Interest

45. The activities of the respondents constitute trading in securities without registration in respect of which no exemption was available, contrary to section 25 of the Act.

46. The activities of the respondents constitute distributions of securities for which no preliminary prospectus and prospectus were issued nor receipted by the Director, contrary to section 53 of the Act.

47. Each of the individuals who are directors and officers of the corporate respondents, including *de facto* directors and officers of the corporate respondents, have authorized, permitted or acquiesced in the corporate respondents' non-compliance with Ontario securities law, and accordingly, failed to comply with Ontario securities law contrary to section 129.2 of the Act.

48. Each of the respondents has directly or indirectly engaged or participated in an act, practice or course of conduct relating to securities which he, she or it knows, or reasonably ought to know, has perpetrated a fraud on investors in the Borealis GRIC, contrary to section 126.1 of the Act.

49. The respondents' conduct is contrary to the public interest and harmful to the integrity of the Ontario capital markets.

DATED AT TORONTO this 22nd day of May, 2008.

1.4 Notices from the Office of the Secretary

1.4.1 David Berry

FOR IMMEDIATE RELEASE
May 22, 2008

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

AND

IN THE MATTER OF
A REQUEST FOR A HEARING AND REVIEW
OF A DECISION OF A HEARING PANEL OF
MARKET REGULATION SERVICES INC.

AND

IN THE MATTER OF
THE UNIVERSAL MARKET INTEGRITY RULES

AND

IN THE MATTER OF
DAVID BERRY

TORONTO – On May 21, 2008, the Commission issued its Reasons and Decision in the above noted matter.

A copy of the Reasons and Decision dated May 21, 2008 is available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

For media inquiries: Wendy Dey
Director, Communications
& Public Affairs
416-593-8120

Laurie Gillett
Manager, Public Affairs
416-595-8913

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

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

1.4.2 Sulja Bros. Building Supplies, Ltd. (Nevada) et al.

FOR IMMEDIATE RELEASE
May 23, 2008

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

AND

IN THE MATTER OF
SULJA BROS. BUILDING SUPPLIES, LTD. (NEVADA),
SULJA BROS. BUILDING SUPPLIES LTD.,
KORE INTERNATIONAL MANAGEMENT INC.,
PETAR VUCICEVICH AND ANDREW DeVRIES

TORONTO – Following a hearing held today in the above noted matter, the Commission ordered that the Temporary Order is extended to June 23, 2008, and the hearing is adjourned to June 23, 2008 at 10:00 a.m.

A copy of the Order dated May 23, 2008 is available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

For media inquiries: Wendy Dey
Director, Communications
& Public Affairs
416-593-8120

Laurie Gillett
Manager, Public Affairs
416-595-8913

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

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

1.4.3 XI Biofuels Inc. et al.

FOR IMMEDIATE RELEASE
May 23, 2008

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

AND

IN THE MATTER OF
XI BIOFUELS INC., BIOMAXX SYSTEMS INC.,
RONALD DAVID CROWE AND VERNON P. SMITH

AND

IN THE MATTER OF
XIIVA HOLDINGS INC. CARRYING ON BUSINESS
AS XIIVA HOLDINGS INC., XI ENERGY COMPANY,
XI ENERGY AND XI BIOFUELS

TORONTO – Following a hearing on May 22, 2008, the Commission ordered that the Temporary Orders are extended to June 13, 2008 and the XI Hearing and the Xiiva Hearing for the extension of the Temporary Orders and the hearing of the Respondents' Motion are adjourned to June 12, 2008 at 10:30 a.m.

A copy of the Order dated May 22, 2008 is available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

For media inquiries: Wendy Dey
Director, Communications
& Public Affairs
416-593-8120

Laurie Gillett
Manager, Public Affairs
416-595-8913

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

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

1.4.4 Borealis International Inc. et al.

FOR IMMEDIATE RELEASE
May 26, 2008

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

AND

IN THE MATTER OF
BOREALIS INTERNATIONAL INC.,
SYNERGY GROUP (2000) INC.,
INTEGRATED BUSINESS CONCEPTS INC.,
CANAVISTA CORPORATE SERVICES INC.,
CANAVISTA FINANCIAL CENTER INC.,
SHANE SMITH, ANDREW LLOYD, PAUL LLOYD,
VINCE VILLANTI, LARRY HALIDAY, JEAN BREAU,
JOY STATHAM, DAVID PRENTICE, LEN ZIELKE,
JOHN STEPHAN, RAY MURPHY,
ALEXANDER POOLE, DEREK GRIGOR,
EARL SWITENKY, MICHELLE DICKERSON,
DEREK DUPONT, BARTOSZ EKIERT,
ROSS MACFARLANE, BRIAN NERDAHL,
HUGO PITTOORS AND LARRY TRAVIS

TORONTO – The Office of the Secretary issued an Amended Notice of Hearing on May 22, 2008 scheduling the hearing in the above named matter to be held at the offices of the Commission, on the 17th Floor, Large Hearing Room, 20 Queen St. West, Toronto, Ontario, commencing on May 27, 2008, at 2:30 p.m., or as soon thereafter as the hearing can be held.

A copy of the Amended Notice of Hearing and Amended Statement of Allegations is available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

For media inquiries: Wendy Dey
Director, Communications
& Public Affairs
416-593-8120

Laurie Gillett
Manager, Public Affairs
416-595-8913

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

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

1.4.5 Adrian Samuel Leemhuis et al.

FOR IMMEDIATE RELEASE
May 26, 2008

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

AND

IN THE MATTER OF
ADRIAN SAMUEL LEEMHUIS,
FUTURE GROWTH GROUP INC.,
FUTURE GROWTH FUND LIMITED,
FUTURE GROWTH GLOBAL FUND LIMITED,
FUTURE GROWTH MARKET NEUTRAL FUND LIMITED,
FUTURE GROWTH WORLD FUND, AND
ASL DIRECT INC.

TORONTO – Following a hearing held in the above noted matter, today the Commission issued an Order that the Temporary Orders issued on April 22, 2008 and May 1, 2008, are continued until June 17, 2008 and that this matter is adjourned until June 16, 2008 at 10:00 a.m.

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
& Public Affairs
416-593-8120

Laurie Gillett
Manager, Public Affairs
416-595-8913

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

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

1.4.6 Borealis International Inc. et al.

FOR IMMEDIATE RELEASE
May 27, 2008

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

AND

IN THE MATTER OF
BOREALIS INTERNATIONAL INC.,
SYNERGY GROUP (2000) INC.,
INTEGRATED BUSINESS CONCEPTS INC.,
CANAVISTA CORPORATE SERVICES INC.,
CANAVISTA FINANCIAL CENTER INC.,
SHANE SMITH, ANDREW LLOYD, PAUL LLOYD,
VINCE VILLANTI, LARRY HALIDAY, JEAN BREAU,
JOY STATHAM, DAVID PRENTICE, LEN ZIELKE,
JOHN STEPHAN, RAY MURPHY,
ALEXANDER POOLE, DEREK GRIGOR,
EARL SWITENKY,MICHELLE DICKERSON,
DEREK DUPONT, BARTOSZ EKIERT,
ROSS MACFARLANE, BRIAN NERDAHL,
HUGO PITTOORS AND LARRY TRAVIS

TORONTO – Following a hearing held today, the Commission issued an Order in the above noted matter. This matter is set to return before the Commission on June 17, 2008 at 10:00 a.m.

A copy of the Order dated May 27, 2008 is available at **www.osc.gov.on.ca**.

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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 Bioscrypt Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions - Application for an order that the issuer is not a reporting issuer - Filer has no publicly held securities - Requested relief granted.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., s. 1(10).

May 21, 2008

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

AND

IN THE MATTER OF
THE PROCESS OF EXEMPTIVE RELIEF
APPLICATIONS IN MULTIPLE JURISDICTIONS

AND

IN THE MATTER OF
BIOSCRYPT INC. (the Filer)

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (the **Decision Maker**) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the **Legislation**) to not be a reporting issuer in the Jurisdictions in accordance with the Legislation (the **Exemptive Relief Sought**).

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions (for a coordinated review application):

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

(b) the decision is the decision of the principal regulator and evidences the decision of each other Decision Maker.

Interpretation

Terms defined in National Instrument 14-101 *Definitions* have the same meaning in this decision, unless otherwise defined.

Representations

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

1. The Filer was incorporated on June 25, 1987 under the *Canada Business Corporations Act* (**CBCA**) as Mytec Technologies Inc. By articles of amendments dated April 6, 2001, the Filer changed its name from Mytec Technologies Inc. to Bioscrypt Inc. The registered and principal office of the Filer is located at 505 Cochrane Drive, Markham, Ontario, L3R 8E3.

2. On February 1, 2008, 6897525 Canada Inc. (the Purchaser), a wholly-owned subsidiary of L-1 Identity Solutions Operating Company (**Opco**), which is in turn a direct, wholly-owned subsidiary of L-1 Identity Solutions, Inc. (**L-1 Parent**), offered to acquire all of the issued and outstanding common shares (the **Shares**) of the Filer by way of an arrangement under the CBCA (the **Arrangement**), the terms and conditions of which are described in the plan of arrangement contained in the Filer's information circular dated February 1, 2008.

3. The Purchaser is incorporated under the CBCA and was formed solely for the purpose of engaging in the transaction contemplated by the Arrangement. Opco and L-1 Parent are each incorporated under the laws of the State of Delaware. The shares of L-1 Parent's common stock are traded on the New York Stock Exchange under the trading symbol "ID".

4. The Arrangement was approved by the securityholders of the Filer at a special meeting of the Filer on February 29, 2008 and subsequently approved by a final order of the Ontario Superior Court of Justice issued on March 4, 2008.

5. On March 5, 2008 the Purchaser, Opco and L-1 Parent completed the acquisition of all the issued and outstanding Shares of the Filer. As a result of the Arrangement, the Purchaser is now the sole shareholder of the Filer.

6. The Filer is applying for relief to not be a reporting issuer in all of the jurisdictions in Canada in which

it is currently a reporting issuer. On April 9, 2008, the Filer filed a notice of voluntary surrender of reporting issuer status in British Columbia pursuant to British Columbia Instrument 11-502 *Voluntary Surrender of Reporting Issuer Status*. As a consequence of filing this notice, the Filer ceased to be a reporting issuer in British Columbia on April 19, 2008.

7. As a result of the Arrangement, L-1 Parent, by operation of law, became a reporting issuer in British Columbia, Alberta, Saskatchewan, Manitoba, Québec, Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland and Labrador. Neither the Purchaser nor Opco is a reporting issuer, or its equivalent, in any jurisdiction in Canada.

8. Prior to the Arrangement, the Filer's Shares were listed for trading on the Toronto Stock Exchange (the **TSX**) under the symbol "BYT". The Shares were de-listed from the TSX at the close of trading on March 6, 2008. No securities of the Filer are traded on a marketplace as defined in National Instrument 21-101 *Marketplace Operations*.

9. The outstanding securities of the Filer, including debt securities, are beneficially owned, directly or indirectly, by fewer than 15 security holders in each of the jurisdictions in Canada and fewer than 51 security holders in total in Canada.

10. The Filer has no current intention to seek public financing by way of an offering of securities.

11. The Filer is not in default of any of its obligations under the Legislation as a reporting issuer other than the requirement to file by March 31, 2008 annual financial statements, related management's discussion and analysis and officer's certificates, and an annual information form in respect of the year ended December 31, 2007.

Decision

Each of the Decision Makers is satisfied that the decision meets the test set out in the Legislation for the Decision Maker to make the decision.

The decision of the Decision Makers under the Legislation is that the Exemptive Relief Sought is granted.

"James E.A. Turner"
Vice-Chair
Ontario Securities Commission

"Suresh Thakrar"
Commissioner
Ontario Securities Commission

2.1.2 Frontier*Alt* 2007 Energy & Precious Metals Flow Through LP et al.

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – Exemptions granted to flow-through limited partnerships from the requirements in National Instrument 81-106 Investment Fund Continuous Disclosure to file an annual information form, to maintain and prepare an annual proxy voting record, to post the proxy voting record on their website, and to provide it to securityholders upon request – Flow-though limited partnerships are short-term investment vehicles formed solely to invest its available funds in flow-through shares of resource issuers – The securities of flow-through limited partnerships are not redeemable and there is no readily available secondary market for the securities – A flow-through limited partnership's other continuous disclosure documents will provide all relevant information necessary for investors to understand the its investment objectives and strategies, financial position and future plans.

Rules Cited

National Instrument 81-106 Investment Fund Continuous Disclosure, ss. 9.2, 10.3, 10.4, 17.1.

April 29, 2008

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

AND

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

AND

IN THE MATTER OF
FRONTIER*ALT* 2007 ENERGY & PRECIOUS METALS FLOW THROUGH LP
(the "2007 Partnership"),
FRONTIER*ALT* 2008 PRECIOUS METALS & ENERGY FLOW-THROUGH LIMITED PARTNERSHIP
(the "2008 Partnership")
AND FRONTIER*ALT* CAPITAL CORPORATION
("frontier*Alt*")
(collectively, the "Filers")

MRRS DECISION DOCUMENT

Background

The local securities regulatory authority or regulator (the "Decision Maker") in each of the Jurisdictions has received

an application from the Filers on behalf of the 2007 Partnership and the 2008 Partnership (together, the "Partnerships") and each future limited partnership promoted by frontier*Alt* or its affiliates that is identical to the Partnerships in all respects which are material to this decision (the "Future Partnerships" and collectively with the Partnerships, the "Partnership Filers"), for an exemption from:

(i) the requirement in section 9.2 of National Instrument 81-106 *Investment Fund Continuous Disclosure* ("NI 81-106") to prepare and file an annual information form (the "AIF");

(ii) the requirement in section 10.3 of NI 81-106 to maintain a proxy voting record (the "Proxy Voting Record"); and

(iii) the requirements in section 10.4 of NI 81-106 to prepare a Proxy Voting Record on an annual basis for the period ending June 30 of each year, to post the Proxy Voting Record on the Filers' website no later than August 31 of each year and to send the Proxy Voting Record to the limited partners of the Partnership Filers (the "Limited Partners") upon request,

((i), (ii), and (iii) are 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 the Filers:

1. The 2007 Partnership was formed pursuant to the provisions of the *Limited Partnerships Act* (Ontario) on August 16, 2007 and the 2008 Partnership was formed pursuant to the provisions of the *Limited Partnerships Act* (Ontario) on December 3, 2007.

2. The 2007 Partnership and the 2008 Partnership filed a final prospectus relating to its initial public offering in each of the provinces of Canada on October 30, 2007 and February 28, 2008, respectively, and became a reporting issuer in each of the provinces of Canada, except Prince Edward Island. Any Future Partnership will be a reporting issuer in each of the Jurisdictions.

3. frontier*Alt* Energy & Precious Metals Inc. is the general partner (the "2007 General Partner") of the 2007 Partnership and frontier*Alt* 2008 Precious Metals & Energy Inc. is the general partner (the "2008 General Partner") of the 2008 Partnership. Both the 2007 General Partner and the 2008 General Partner are wholly-owned subsidiaries of frontier*Alt*.

4. frontier*Alt* is the promoter of the Partnerships and it or its affiliates will be the promoter of the Future Partnerships.

5. The principal office address and the registered office address of the Filers are located in Toronto, Ontario.

6. The Partnerships were formed, and any Future Partnerships will be formed, to invest in certain common shares ("Flow-Through Shares") of companies that operate, as their principal business, in any of the energy, precious metals, base metals, minerals or other resource-based industries ("Resource Issuers") pursuant to agreements ("Investment Agreements") between the Partnership Filer and the Resource Issuer. Under the terms of each Investment Agreement, the Partnership Filer will subscribe for Flow-Through Shares of the Resource Issuer and the Resource Issuer will agree to incur and renounce to the Partnership Filer, in amounts equal to the subscription price of the Flow-Through Shares, expenditures in respect of resource exploration and development that qualify as Canadian exploration expense and that may be renounced as Canadian exploration expense to the Partnership Filer.

7. The 2007 Partnership will be dissolved on or about December 31, 2009 and the 2008 Partnership will be dissolved on or about April 30, 2010. Upon such dissolution, the Limited Partners of the respective Partnerships will receive their *pro rata* share of the net assets of the relevant Partnership, subject to the approval by a special resolution of unitholders of the relevant Partnership to continue the operation of the Partnership with an actively managed portfolio.

8. It is the current intention of the 2007 General Partner that the 2007 Partnership, and the current intention of the 2008 General Partner that the 2008 Partnership, will transfer its assets to an open-end mutual fund corporation managed by frontier*Alt* Funds Management, an affiliate of frontier*Alt*, in exchange for shares of a class of shares of such mutual fund corporation. Upon dissolution, the Limited Partners of each of the Partnerships would receive their *pro rata* share of the shares of that mutual fund. Any Future

Partnership will be terminated approximately two years after it is formed on the same basis as the Partnerships.

9. The Partnership Filers are not, and will not be, operating businesses. Rather, each Partnership Filer is, or will be, a short-term special purpose vehicle that will be dissolved within approximately two years of its formation. The primary investment purpose of the Partnerships Filers is not to achieve capital appreciation, although this is a secondary benefit, but rather to obtain for the Limited Partners the significant tax benefits that accrue when Resource Issuers renounce resource exploration and development expenditures to the Partnership Filers through Flow-Through Shares.

10. The units of the Partnership Filers (the "Units") are not, and will not be, listed or quoted for trading on any stock exchange or market. The Units are not redeemable by the Limited Partners. Generally, Units are not transferred by Limited Partners, since Limited Partners must be holders of the Units on the last day of each fiscal year of the Partnership Filer in order to obtain the desired tax deduction.

11. It is, and will be, a term of the partnership agreement governing the Partnership Filers that the general partner of the particular Partnership Filer has, and will have, the authority to manage, control, administer and operate the business and affairs of the Partnership Filers, including the authority to take all measures necessary or appropriate for the business, or ancillary thereto, and to ensure that the Partnership Filers comply with all necessary reporting and administrative requirements. frontier*Alt* provides or will cause to be provided all of the administrative services required by the Partnership Filers.

12. Each of the Limited Partners of the Partnership Filers has, or will be expected to have, by subscribing for Units, agreed to the irrevocable power of attorney contained in the partnership agreement and has thereby, in effect, consented to the making of this application.

13. Since its formation, the Partnerships' activities have been limited to (i) completing the issue of the Units under its respective prospectus, (ii) investing its available funds in accordance with its respective investment objectives, and (iii) incurring expenses as described in its prospectus. Any Future Partnerships will be structured in a similar fashion.

14. Given the limited range of business activities to be conducted by the Partnership Filers, the short duration of their existence and the nature of the investment of the Limited Partners, the preparation and distribution of an AIF by the Partnership Filers would not be of any benefit to the Limited Partners and may impose a material financial burden on the Partnership Filers. Upon the occurrence of any material change to a Partnership Filer, Limited Partners would receive all relevant information from the material change reports the Partnership Filer is required to file with the Decision Makers.

15. As a result of the implementation of NI 81-106, investors purchasing Units of the Partnership Filers were, or will be, provided with a prospectus containing written policies on how the Flow-Through Shares or other securities held by the Partnership Filer are voted (the "Proxy Voting Policies"), and had, or will have, the opportunity to review the Proxy Voting Policies before deciding whether to invest in Units.

16. Generally, the Proxy Voting Policies require that the securities of companies held by a Partnership Filer be voted in a manner most consistent with the economic interests of the Limited Partners of the Partnership Filer.

17. Given a Partnership Filer's short lifespan, the production of a Proxy Voting Record would provide Limited Partners with very little opportunity for recourse if they disagreed with the manner in which the Partnership Filer exercised or failed to exercise its proxy voting rights, as the Partnership Filer would likely be dissolved by the time any potential change could materialize.

18. Preparing and making available to Limited Partners a Proxy Voting Record will not be of any benefit to Limited Partners and may impose a material financial burden on the Partnership Filers.

19. The Filers are of the view that the Requested Relief is not against the public interest, is in the best interests of the Partnership Filers and their Limited Partners and represents the business judgment of responsible persons uninfluenced by considerations other than the best interest of the Partnership Filers and their Limited Partners.

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.

"Vera Nunes"
Assistant Manager, Investment Funds Branch
Ontario Securities Commission

2.1.3 Aim Funds Management Inc. et al.

Headnote

National Policy 11-203 Process For Exemptive Relief Applications in Multiple Jurisdictions - Top Funds proposing to invest a portion of their assets in index participation units (IPUs) issued by mutual funds managed by a U.S. affiliate - Because investment by top funds in underlying IPUs not made in full compliance with requirements of sections 2.5 of NI 81-102, top funds unable to rely on statutory exemption in subsection 2.5(7) of NI 81-102 providing relief from mutual fund conflict of interest investment restrictions and mutual fund conflict of interest reporting requirements - Top Funds may, either alone or together with other related mutual funds, become substantial security holders of the underlying IPUs - Substantial security holder of manager of top funds may make a seed capital investment in underlying IPUs which would represent a significant interest in those IPUs - Top funds exempted from mutual fund conflict of interest investment restrictions and manager of top funds exempted from mutual fund conflict of interest reporting requirements, subject to compliance with certain conditions - Securities Act (Ontario).

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 111(2)(b), 111(2)(c)(ii), 111(3), 113, 117(1)(a), 117(1)(d), 117(2).

Rules Cited

National Instrument 81-102 Mutual Funds, ss. 2.5, 2.5(7).

May 9, 2008

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO
(the Jurisdiction)

and

IN THE MATTER OF
THE PROCESS FOR EXEMPTIVE RELIEF
APPLICATIONS IN MULTIPLE JURISDICTIONS

AND

IN THE MATTER OF
AIM FUNDS MANAGEMENT INC.
(the Filer)

AND

INVESCO TRIMARK RETIREMENT PAYOUT 2023 PORTFOLIO, INVESCO TRIMARK RETIREMENT PAYOUT 2028 PORTFOLIO, INVESCO TRIMARK RETIREMENT PAYOUT 2033 PORTFOLIO AND INVESCO TRIMARK RETIREMENT PAYOUT 2038 PORTFOLIO
(the Top Funds)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on its behalf and on behalf of the Top Funds and any other mutual fund for which the Filer acts as manager (together with the Top Funds, the **Funds**) for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) exempting:

1. the Funds from:

   (a) the investment restriction in paragraph 111(2)(b) of the *Securities Act* (Ontario) (the **Act**) which prohibits a mutual fund from knowingly making an investment in a person or company in which the mutual fund, alone or together with one or more related mutual funds, is a substantial security holder;

   (b) the investment restriction in clause 111(2)(c)(ii) of the Act which prohibits a mutual fund from knowingly making an investment in an issuer in which any person or company who is a substantial security holder of the mutual fund, its management company, manager or distribution company, has a significant interest; and

   (c) the investment restriction in subsection 111(3) of the Act which prohibits a mutual fund or its management company or its distribution company from knowingly holding an investment described in (a) or (b) above (this paragraph (c) together with paragraphs (a) and (b) above are together referred to in this decision as the **Mutual Fund Conflict of Interest Investment Restrictions**); and

2. the Filer from the management company reporting requirement in paragraphs 117(1)(a) and 117(1)(d) of the Act which require that a management company file a report of every transaction of purchase or sale of securities between a mutual fund it manages and any related person or company, and any transaction in which, by arrangement other than an arrangement relating to insider trading in portfolio securities, the mutual fund is a joint participant with one or more of its related persons or companies (the **Mutual Fund Conflict of Interest Reporting Requirements**, and together with the exemption sought from the Mutual Fund Conflict of Interest Investment Restrictions, the **Exemption Sought**)

in connection with the Funds' proposed investments in securities of the Underlying ETFs (as defined in this decision).

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions (for a passport application):

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

(b) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in British Columbia, Alberta, Saskatchewan, Nova Scotia and New Brunswick.

Interpretation

Terms defined in the Act, in National Instrument 14-101 *Definitions* and MI 11-102 have the same meaning if used in this decision, unless otherwise defined.

Invesco means Invesco Ltd.

Invesco PowerShares means Invesco PowerShares Capital Management LLC.

Trusts means PowerShares Exchange-Traded Fund Trust and PowerShares Exchange-Traded Fund Trust II.

Underlying ETFs means exchange traded funds managed by the Filer or an affiliate or associate of the Filer which exist currently or which may be created in the future, and which each meet the definition of an "index participation unit" under NI 81-102.

NI 81-102 means National Instrument 81-102 *Mutual Funds*.

Representations

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

1. The Filer is a corporation amalgamated under the laws of Ontario with its head office in Toronto, Ontario. The Filer will act as the trustee, manager and portfolio adviser for the Top Funds.

2. The Top Funds will be open-end mutual fund trusts established pursuant to a Declaration of Trust governed under the laws of Ontario.

3. A preliminary simplified prospectus in respect of the Top Funds was filed via SEDAR under project #1232843 on March 20, 2008. Once a final prospectus for the Top Funds is filed and a receipt is obtained, the Top Funds will be "reporting issuers" or equivalent in each province and territory of Canada.

4. Currently, the Underlying ETFs are mutual funds that attempt to replicate the performance of various non-Canadian indices, the securities of which are currently listed and traded on either the American Stock Exchange (AMEX) or the New York Stock Exchange (NYSE) in the United States. As a result, the Underlying ETFs meet the definition of an "index participation unit" under NI 81-102. In the future, the Filer or its associates or affiliates may offer other exchange traded funds that meet the definition of an "index participation unit" under NI 81-102.

5. Invesco PowerShares is the manager and portfolio advisor of the existing Underlying ETFs.

6. The Filer and Invesco PowerShares are affiliates as they are both indirect wholly owned subsidiaries of Invesco. Invesco is a publicly listed independent global investment manager with approximately US$475 billion in assets under management as at February 29, 2008.

7. Currently, the Underlying ETFs are investment portfolios of the Trusts, both of which are organized as Massachusetts business trusts. Each Trust is an open-end management investment company, registered under the Investment Company Act of 1940, as amended. In the future, the Filer or its associates or affiliates may offer other exchange-traded funds that are structured as trusts or corporations.

8. The Top Funds seek to achieve a total investment return until specific horizon dates. Total investment return includes interest, dividends and capital gains. The Top Funds use dynamic asset allocation to allocate assets among mutual funds, which may include the Underlying ETFs. These mutual funds invest primarily in fixed-income and/or other debt securities or primarily in equity securities. As each Top Fund approaches its horizon date, an increasing proportion of its assets will be invested in fixed-income funds, money market funds and/or short-term debt securities. As a result, the asset allocation of the Top Funds will become increasingly conservative to focus on capital preservation and income. Each Top Fund seeks to provide a regular distribution stream for its investors.

9. Securities of the Underlying ETFs may only be directly purchased or redeemed from a fund in large blocks called "creation units" by "authorized participants" that have entered into a contract with its manager to purchase and redeem such securities. Generally, such purchases and redemptions may only be done "in kind" through the deposit or receipt of a portfolio of securities that substantially replicate the securities included in the index that the Underlying ETF attempts to track.

10. The vast majority of trading in securities of the Underlying ETFs will typically occur in the secondary market.

11. As is the case with the purchase or sale of any other equity security made on an exchange, brokers are typically paid a commission in connection with trading in securities of exchange-traded funds.

12. It is proposed that the Funds will purchase and sell securities of the Underlying ETFs on the applicable exchange using third party brokers who are "authorized participants" and that the Funds will pay commissions to these brokers in connection with the purchase and sale of such securities.

13. As Invesco PowerShares is an affiliate of the Filer, the Funds are prohibited by paragraph 2.5(2)(e) of NI 81-102 from purchasing securities of the existing Underlying ETFs unless no sales fees or redemption fees are payable in connection with a purchase or redemption of such securities. To the extent brokerage fees paid to arm's length third party brokers by the Funds in connection with trades in securities of the Underlying ETFs may be considered to be "sales fees or redemption fees", the Funds have sought and obtained relief from compliance with paragraph 2.5(2)(e) of NI 81-102 by way of a decision dated May 8, 2008 (the **NI 81-102 Exemption**). The NI 81-102 Exemption permits the Funds to invest in securities of the Underlying ETFs, subject to compliance with the requirements pertaining to mutual funds investing in other mutual funds set out in section 2.5 of NI 81-102, except the requirement in paragraph 2.5(2)(e).

14. The NI 81-102 Exemption maintains the Funds' requirement to ensure that the Funds' investments in the Underlying ETFs will not cause the Funds to pay duplicate management fees or incentive fees. In addition, the Filer will not be allowed to vote the securities of an Underlying ETF that are held by a Fund but may, if it so chooses, arrange for all of the securities a Fund holds of an Underlying ETF to be voted by the beneficial holders of securities of the Fund.

15. If the Funds' investment in securities of the Underlying ETFs complied fully with each of the requirements of section 2.5 of NI 81-102, the Exemption Sought would not be required because subsection 2.5(7) of NI 81-102 exempts mutual funds that invest in other mutual funds from the Mutual Fund Conflict of Interest Investment Restrictions and Mutual Fund Conflict of Interest Reporting Requirements provided the investment is made in compliance with each of the requirements of section 2.5 of NI 81-102.

16. In the absence of an exemption from the Mutual Fund Conflict of Interest Investment Restrictions, each Fund would be prohibited from knowingly making or holding an investment in an Underlying ETF if the Fund, alone or together with one or more related mutual funds, would be a substantial security holder of the Underlying ETF.

17. Furthermore, Invesco may at times have a seed capital investment in an Underlying ETF which would represent a significant interest in that fund. As Invesco is a substantial security holder of the Filer, which is the manager of the Funds, the Mutual Fund Conflict of Interest Investment Restrictions would further prohibit a Fund from investing in an Underlying ETF at a time where Invesco would hold a significant interest in that fund.

18. In the absence of an exemption from the Mutual Fund Conflict of Interest Reporting Requirements, the Filer would be required to file a report of every transaction by a Fund involving securities of an Underlying ETF, as well as a report of every transaction in which, by arrangement, a Fund and an Underlying ETF would be acting as joint participants.

19. The Funds' investment in securities of the Underlying ETFs will represent the business judgment of responsible persons uninfluenced by considerations other than the best interests of the Funds.

Decision

The principal regulator is satisfied that the decision meets the test set out in the Legislation for the principal regulator to make the decision.

The decision of the principal regulator under the Legislation is that the Exemption Sought is granted provided that the Funds' investments in securities of the Underlying ETFs are made in compliance with the requirements of section 2.5 of NI 81-102, as modified by the NI 81-102 Exemption.

"James E. A. Turner"
Vice-Chair
Ontario Securities Commission

"Suresh Thakrar"
Commissioner
Ontario Securities Commission

2.1.4 Templeton International Stock Fund - MRRS Decision

Headnote

MRRS- exemptive relief from the matching requirement in paragraph 15.3(4)(c) of National Instrument 81-102 – Mutual Funds – Relief exempting the applicants from the requirement to publish performance and ranking rating, as produced by a specified rating agency, that conforms to the "since inception" period (as applicable) of standard performance data – Relief granted to applicants and other funds wishing to publish the ratings of the specified rating agency.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, ss. 15.2(1)(a), 15.3(4)(c), 15.8, 19.1(1).

May 14, 2008

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

AND

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

AND

IN THE MATTER OF
TEMPLETON INTERNATIONAL STOCK FUND
(the "Fund")

MRRS DECISION DOCUMENT

Background

The local securities regulatory authority or regulator (the "Decision Maker") in each of the Jurisdictions has received an application (the "Application") from Franklin Templeton Investments Corp. (the "Filer") on behalf of the Fund and other Canadian mutual funds that are governed by National Instrument 81-102 *Mutual Funds* ("Other Funds") that wish to publish Lipper Leader Ratings and refer to Lipper Awards, as defined below, produced through the use of the Lipper Leader Methodology, as defined below, in sales communications for a decision under the securities legislation of the Jurisdictions (the "Legislation") that the Fund and the Other Funds are exempted from the requirement contained in paragraph 15.3(4)(c) of National Instrument 81- 102 Mutual Funds so as to permit the Fund and Other Funds to publish in a sales communication the Lipper Leader Ratings and refer to such awards for certain periods for which standard performance data is required to be given (the "Requested Relief").

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

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

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

Interpretation

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

Representations

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

1. The Filer is the manager of the Fund. The head office of the Filer is in Ontario.

2. The Fund is an open-ended mutual fund trust established under the laws of Ontario. Units of the Fund are offered on a continuous basis in each of the Jurisdictions pursuant to a simplified prospectus dated June 12, 2007 as amended.

3. The Filer wishes to include in sales communications of the Fund certain ratings of its performance (the "Lipper Leader Ratings") determined on the proprietary rating methodology prepared and provided by Lipper, Inc. ("Lipper") (the "Lipper Leader Methodology"), which sales communications will not strictly comply with the requirement in paragraph 15.3(4)(c) of National Instrument 81-102 *Mutual Funds* ("NI 81-102"), which requires that the ratings that are published be provided for, or "match", each period for which standard performance data is required to be given (the "Matching Requirement"). Other Funds similarly wish to publish Lipper Leader Ratings in sales communications. The Fund and Other Funds may also wish, from time to time, to include in their sales communication disclosure of any awards awarded to them by Lipper (the "Lipper Awards"), as described below.

4. Lipper is a rating agency that is not a member of the organization of the Fund or of the Other Funds. The Fund and Other Funds may make reference to the Lipper Leader Ratings or Lipper Awards in sales communication subject to the terms of a license agreement with Lipper.

5. In accordance with the requirements of section 15.8 of NI 81-102, standard performance data in sales communications for mutual funds is required for the following periods (as applicable): one year,

three years, five years, 10 years, and since inception if the mutual fund has been offering securities by way of simplified prospectus for more than one and less than 10 years.

6. The Lipper Leader system is a toolkit that uses investor-centered criteria to deliver a simple, clear description of a fund's success in meeting certain goals, such as preserving capital or building wealth through consistent, strong returns. Lipper Leader Ratings are designed to be used in conjunction with each other to effectively identify funds that meet the particular characteristics sought by investors. The basis of generating Lipper Leader Ratings is consistent from mutual fund to mutual fund and captures a quantitative assessment of a mutual fund's past-risk-adjusted return, presented related to its category.

7. Lipper Leader Ratings are derived from formulas that analyze funds against clearly defined criteria. Funds are compared to similar funds, and only those that truly stand out are awarded Lipper Leader status. Funds are ranked against their peers on each of three measures: Total Return, Consistent Return and Preservation.

8. The Lipper Leader Ratings provide ratings for the following periods (as applicable): one-year (for mutual funds with a three-year history), three years, five years, ten years, and the overall rating (the "Overall Rating"), which is a un-weighted average of the previous three periods. If only five years of history are available, the three-year and five-year periods are averaged. If only three years of data are available, the three-year statistics alone are used. Mutual funds less than three years old are not rated and accordingly are not included in the applicable category. For each measure, the highest 20% of funds in each peer group are named Lipper Leaders. The next 20% receive a score of 4; the middle 20% are scored 3; the next 20% are scored 2, and the lowest 20% are scored 1.

9. Lipper also awards to appropriate funds the Lipper Awards pursuant to the Lipper Fund Awards program that highlights funds that have excelled in delivering consistently strong risk adjusted performance, relative to peers. The Lipper Awards are funds and fund families being ranked 1st in the Consistency Lipper Leader Rating. Lipper designates award-winning funds in most individual classifications for the three-, five- and ten-year periods. In addition, the Lipper Fund Awards program spotlights fund families with high average scores for all funds within a particular asset class or overall.

10. The Lipper Leader Ratings do not provide a "since inception" period rating, since a "since inception" period is not accommodated within the Lipper Leader Methodology. Any period that runs from the inception of the mutual fund in question will, by definition, create a host of different periods for mutual funds within the same category. This undermines the comparability of the resulting information, which is an issue for any rating of performance, not just the Lipper Leader Methodology. Accordingly, a Lipper Leader Rating cannot be presented on a complete matching basis with the standard performance data periods. Any changes made to the Lipper Leader Methodology in these regards would undermine the integrity and rigour of the Lipper Leader Rating.

11. The categories against which the Fund and Other Funds are ranked by Lipper are the categories maintained by the Investment Funds Standards Committee ("IFSC") (www.cifsc.com), a Canadian organization that is independent of Lipper, or a successor to the CIFSC from time to time.

12. In order that the Fund and the Other Funds' sales communications more closely comply with the Matching Requirements, Lipper has agreed to calculate and provide a one year rating for mutual funds that have at least 3 years of performance history.

13. Given that the Lipper Leader Methodology does not include a since inception rating, the Fund and Other Funds wish to be exempt from the requirement to publish such rating in accordance with the Matching Requirement.

14. The absence of the since inception rating in sales communications, as well as the addition therein of the Overall Rating or disclosure of Lipper Awards would not be misleading to investors contrary to clause 15.2(1)(a) of NI 81-102. The Fund and the Other Funds will otherwise comply with the Matching Requirement when making reference to Lipper Leader Ratings or Lipper Awards in sales communications.

15. In the absence of this Decision, the fund managers would be prohibited from publishing the Lipper Leader Ratings for their funds in sales communications given that the Lipper Leader Ratings, while substantially complying with the Matching Requirements, fall short of technical compliance.

16. Lipper Awards are performance ranking, and, for the reasons described above in respect of the Lipper Leader Ratings, would not be prepared in technical compliance with the Matching Requirements.

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 granted such that

(i) the Fund and Other Funds are not required to publish Lipper Leader Ratings or refer to Lipper Awards that correspond to the "since inception" period of standard performance data; and

(ii) the Fund and Other Funds may publish Lipper's Overall Rating in sales communications alongside other Lipper Leader Ratings, or refer to Lipper Awards, that correspond to the one, three, five and 10-year periods, as applicable, for which standard performance data is required to be given,

provided that:

1) for Other Funds who wish to rely on this decision to publish in a sales communication the Lipper Leader Ratings and refer to Lipper awards, the manager of their mutual fund families, file an advance written notice with the Director of the Investment Funds Branch of the Ontario Securities Commission that:

   (a) names the mutual fund family, and

   (b) confirms that the mutual fund family has agreed to the conditions of this decision;

2) the sales communication of the Fund or Other Fund that contains the Lipper Leader Ratings or refers to Lipper Fund Awards complies with Part 15 of NI 81-102 and contains the following disclosure in at least 10 point type:

   (a) the name of the category within which the Fund or the Other Fund is rated;

   (b) the number of mutual funds in the applicable category for each required standard performance period;

   (c) the name of the ranking entity, i.e. Lipper;

   (d) the length of period and the ending date, or, the first day of the period and the ending date on which the Lipper Leader Ratings or the Lipper Fund Award is based;

   (e) a statement that the Lipper Leader Methodology is subject to change every month;

   (f) a brief overview of the Lipper Leader Methodology, including what return/risk measures it takes into account;

   (g) disclosure of the meaning of the Lipper Leader Ratings from 1 to 5 (e.g. ranking of 5 indicates fund is in top 20% of its category.)

   (h) reference to Lipper's website (www.lipperweb.com) for greater detail on the calculation of the Lipper Leader Ratings or the awarding of the Lipper Awards;

3) if the sales communication of the Fund or Other Fund also includes the Overall Rating, the Overall Rating is to the most recent calendar month end that is not more than 45 days before the date of the appearance or use of the advertisement in which it is included, and not more than three months before the date of first publication of any other sales communication in which it is included;

4) if the sales communication of the Fund or Other Fund makes reference to the Lipper Awards, the Lipper Awards must not have been awarded more than 365 days before the date of the sales communication;

5) the Lipper Leader Ratings or Lipper Awards provided or described in a sales communication of the Fund or Other Fund are calculated based on comparisons of performance of investment funds within a specified category established by CIFSC;

6) the corresponding Lipper Leader Rating that the Lipper Awards are derived from must be provided along with the Lipper Awards, when the Lipper Awards are referred to in a Sales Communication; and

7) this decision, as it relates to the Jurisdiction of a Decision Maker, will terminate in that Jurisdiction one year after the publication in final form of any legislation or rule of that Decision Maker which modifies the provisions of section 15.2(4) of NI 81-102 in a manner which makes the relief provided for in this decision unnecessary or provides similar relief on a different basis or subject to different conditions.

"Vera Nunes "
Assistant Manager, Investment Funds
Ontario Securities Commission

2.1.5 University of Western Ontario - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – Relief provided pursuant to section 74(1) of the Act for relief from the prospectus and registration requirements to permit former pension plan member as part of a related registered retirement income fund (RRIF) program to invest in mutual funds that were permitted investments under the pension plan.

Applicable Legislative Provisions

Securities Act (Ontario), ss. 25, 53, 74(1).

May 23, 2008

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

AND

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

AND

IN THE MATTER OF
THE UNIVERSITY OF WESTERN ONTARIO ("UWO")

MRRS DECISION DOCUMENT

Background

The securities regulatory authority or regulator (the "**Decision Maker**") in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, Nova Scotia, New Brunswick, Prince Edward Island, Newfoundland and Labrador, the Yukon Territory, the Northwest Territories and Nunavut (collectively, the "**Jurisdictions**") has received an application from UWO for a decision pursuant to the securities legislation in each of the Jurisdictions (collectively, the "**Legislation**") that certain trades made in connection with the UWO registered retirement income fund program (the "**UWO RRIF Program**") be exempted from the prospectus and registration requirements under the applicable Legislation.

Under National Policy 12-201 – *Mutual Reliance Review System for Exemptive Relief Applications* (the "**MRRS**"):

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

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

Interpretation

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

Representations

1) UWO is a Canadian university located in London, Ontario and established in 1878. UWO has an enrolment of approximately 30,000 students and employs approximately 4,500 full-time faculty and staff.

2) UWO is not a reporting issuer in any of the Jurisdictions.

3) UWO previously obtained relief in Ontario by way of order dated May 9, 2000 (the "**Original Ruling**") from the prospectus and registration requirements in the securities legislation of Ontario exempting certain trades in connection with the-then proposed UWO RRIF Program, provided that the UWO RRIF Program operated pursuant to certain conditions set out in the Original Ruling (the "**Ruling Conditions**").

4) The Original Ruling provides that the ruling "…shall terminate upon any amendment or withdrawal of Rule 32-503 – Registration and Prospectus Exemptions for Trades by Financial Intermediaries in Mutual Fund Securities to Corporate Sponsored Plans." ("**Rule 32-503**"). On September 14, 2005, the OSC revoked Rule 32-503 and the substance of the rule was incorporated verbatim into Section 3.2 of revised OSC Rule 45-501 – Ontario Prospectus and Registration Exemptions ("**Rule 45-501**"). Section 3.2 of Rule 45-501 remains in force, unamended, as of the date hereof. As a result of the revocation of Rule 32-503, the Original Ruling has terminated and has necessitated this Application for exemptive relief in Ontario. In addition, the Original Ruling was limited in scope to an exemption from Ontario securities legislation. Subsequent to the Original Ruling and the establishment of the UWO RRIF Program, UWO has determined that certain of the RRIF Investors now reside in Jurisdictions other than Ontario.

5) The Requested Relief is necessary in Ontario as the 'sunset' provision of the Original Ruling was triggered by the reformulation of Ontario prospectus and registration exemptions into single national and local instruments. In addition, UWO is seeking to (i) obtain relief similar to the Original Ruling in each of the Jurisdictions to permit the UWO RRIF Program to be made available to eligible persons in Jurisdictions other than Ontario, and (ii) to modify the relief granted in the

Original Ruling to permit UWO to extend certain investor education programs to participants in the UWO RRIF Program.

6) The Original Application set out the facts surrounding two pension plans (the "**Pension Plans**") established and administered by UWO for Plan Members (as defined below) as well as the then-proposed UWO RRIF Program.

7) The UWO RRIF Program was established on December 1, 2000 and allows former Plan Members (the "**RRIF Investors**") an opportunity to establish a registered retirement income fund (an "**RRIF**") through which they may continue to invest their assets formerly held in the Pension Plans in certain of the investment opportunities in which they were permitted to allocate their assets when they were Plan Members.

8) The Pension Plans are each registered as a pension plan under the *Pension Benefits Act*, R.S.O. 1990, c. L.25, as amended (the "**Pension Benefits Act**") and are each also registered pension plans within the meaning of the *Income Tax Act*, R.S.C., (5th Supp.), c. 1, as amended (the "**Income Tax Act**"). The Pension Plans' management and administration are each supervised by a committee of Plan Members and UWO administration (the "**Pension Boards**").

9) The Pension Plans primarily provide benefits on a "defined contribution" basis, but there remain some Plan Members that are eligible for payments on a "defined benefit" basis. Participation in the UWO RRIF Program is limited to former Plan Members whose pension entitlement has been determined on a "defined contribution" basis.

10) Eligible employees of UWO are entitled to participate in the Pension Plans, as are, in certain circumstances, the surviving spouses of such employees and former spouses of such employees upon a marriage breakdown (such eligible employees, surviving spouses and former spouses collectively referred to herein as the "**Plan Members**").

11) Contributions to the Pension Plans made in respect of a Plan Member are recorded in the Plan Member's pension account and transmitted to the Northern Trust Company, Canada (the "**Plan Trustee**") which has been appointed by UWO to act as trustee and custodian of a master trust and the two participating trusts (the "**Pension Funds**") that hold the Pension Plans' assets. The Plan Trustee is a federally incorporated trust company registered under the *Loan and Trust Corporations Act*, R.S.O. 1990, c. L.25, as amended.

12) The assets comprising the Pension Funds are allocated among a series of "sub-funds" (the "**Unit Funds**"). The Pension Boards have engaged a number of third party investment managers (the "**Managers**") to direct the investment of the Unit Funds' assets according to investment mandates determined by the Pension Boards. Plan Members direct the proportional investment of their accounts among such Unit Funds based on their individual preferences.

13) Each of the Managers or one of their respective affiliates is registered in Ontario under the *Securities Act* (Ontario) (the "**Act**") as an advisor in the sub-categories of investment counsel and portfolio manager. All action taken by a Manager in respect of a Unit Fund is either done directly by such Manager where such Manager is registered under the Act as an advisor or by an affiliate of such Manager that is registered in Ontario under the Act as an advisor.

14) Each Manager directs how the assets of the relevant Unit Fund should be invested. All trades in connection with the Unit Funds are effected by the Plan Trustee through a registered dealer (or pursuant to an exemption from applicable dealer registration requirements), the relevant Managers or through such Managers' registered affiliates.

15) Under the Income Tax Act's regulations that govern pension plans, Plan Members must, by the end of the year in which they reach the age of 71, transfer their account balances out of the Pension Plans (however, the rules of the Pension Plans currently require that Plan Members transfer account balances by the end of the year in which they reach the age of 69). These account balances may only be transferred to certain types of investment vehicles prescribed by the Pension Benefits Act ("**Prescribed Accounts**").

16) The Pension Plans are managed and administered in accordance with the Guidelines for Capital Accumulation Plans (the "**CAP Guidelines**") published by the Joint Forum of Financial Market Regulators. The CAP Guidelines set out the expectations of Canadian regulators regarding the operation of a capital accumulation plan, regardless of the regulatory regime applicable to the plan and, among other things, ensure that participants in capital accumulation plans are provided the information and assistance that they need to make investment decisions in a capital accumulation plan.

17) The UWO RRIF Program operates in parallel with the Pension Plans. The investment alternatives available to RRIF Investors under the UWO RRIF Program are a subset of the Unit Funds available under the Pension Plans. Accordingly, investments in the UWO RRIF Program are managed the same way as Plan Members' pension assets are managed under the Pension Plans.

18) The UWO RRIF Program operates at all times in compliance with the Ruling Conditions set out in the Original Ruling and the facts and representations regarding the UWO RRIF Program set out in the Original Application continue to be true and correct in all material respects.

19) Plan Members may, on or after their withdrawal from the Pension Plans, elect to establish a registered retirement income fund (a "**UWO RRIF**") under the UWO RRIF Program. RRIF Investors may invest only in a subset of the Unit Funds that are offered to Plan Members under the Pension Plans (the "**RRIF Funds**").

20) Each UWO RRIF holds only securities of the RRIF Funds, however RRIF Investors are entitled to reallocate their investment from any particular RRIF Fund to another RRIF Fund available through the UWO RRIF Program. RRIF Investors have no right to receive the underlying securities held by the RRIF Funds or transfer the securities of the RRIF Funds out of their UWO RRIF.

21) A RRIF Investor may only contribute to his or her UWO RRIF by "rolling-over" (i) assets that were previously held for such investor's benefit in the Pension Plans, or (ii) assets that were previously held for such investor's benefit in a Prescribed Account that had previously been "rolled over" from the Pension Plans (or from another such Prescribed Account) (collectively, "**Plan Assets**").

22) In directing the allocation of their contributions among the RRIF Funds, RRIF Investors deal exclusively with their own investment advisors and employees of the UWO ("**UWO Staff**"). UWO Staff act as registrars for the UWO RRIF Program, maintaining records of RRIF Investors' investment directions, net redemptions or acquisitions of interests in the Unit Funds, interfund transfers and benefit payments. UWO Staff also provide information relating to fund performance and general principles governing the selection of funds in investment booklets, monthly newsletters, individual sessions and through a pensions website. RRIF Investors do not interact either with the Plan Trustee, the Managers or affiliates of the Managers that effect trades on behalf of the RRIF Investors.

23) Each UWO RRIF is qualified as an RRIF under the Income Tax Act and is a Prescribed Account under the Pension Benefits Act.

24) The Plan Trustee acts as custodian (the "**Custodian**") and trustee (the "**Trustee**") of each UWO RRIF as it does for the Pension Plans and the RRIF Funds.

25) The UWO RRIF Program is managed and administered in accordance with the CAP Guidelines.

26) Proposed amendments to National Instrument 45-106 – *Prospectus and Registration Exemptions* (NI 45-106) related to Capital Accumulation Plans were published by the Canadian Securities Administrators on October 21, 2005 and adopted in the form of a blanket exemption in each of the provinces and territories other than the Jurisdictions. Such proposal (the "**CAP Exemption**") contemplates both a dealer registration exemption and a prospectus exemption.

27) The UWO RRIF Program cannot rely on the CAP Exemption as, among other things, it does not comply with section 2.2(b) of the CAP Exemption in that the RRIF Funds are not subject to, and do not comply with, Part 2 of National Instrument 81-102 *Mutual Funds*.

28) In connection with the Pension Plans only, UWO makes available to Plan Members certain general information about the Pension Plans and Unit Funds and broad financial planning issues (the "**Education Program**") provided by The Financial Education Institute of Canada (the "**Education Provider**"). The Education Program has two components:

(a) Plan Members may participate in a series of workshops presented by the Education Provider that cover a broad range of topics, including specific matters relating to the Pension Plans (such as making pension contributions, options on termination of employment or retirement, overview of available asset classes under the Pension Plans, the benefits of an RRIF) but also regarding more general investment matters (such as investment basics, evaluating investment fund performance and sources of assistance with investment decisions); and

(b) Plan Members may access "The Financial Educator", a password-protected interactive website operated by the Education Provider, which provides financial planning information and resources including financial calculators, resources on choosing a financial advisor and a glossary of financial terms.

29) The Education Provider is a private, independent provider of educational services, that does not sell financial investments or provide advice regarding specific investment products. The Education Provider is compensated on a flat fee basis based on the number of participants that have access to the Education Program, not based on any trading

activity or investment choices made by Plan Members.

30) UWO has not previously made the Education Program available to RRIF Investors as paragraph (a) of the Ruling Conditions specifies that RRIF Investors "deal only with UWO in respect of their participation in the UWO RRIF and the allocation of investment of the Pension Assets" in the RRIF Funds.

31) Eligible employees of UWO participating in the Pension Plans prior to their retirement are necessarily resident in Ontario. However, subsequent to the Original Ruling and the establishment of the UWO RRIF Program, UWO has determined that some RRIF Investors now reside in Jurisdictions other than Ontario.

32) As of December 3, 2007, 16 of 324 RRIF Investors were located in Jurisdictions other than Ontario; 11 in British Columbia, two in Nova Scotia and one each in Alberta, Manitoba and New Brunswick.

33) Other than participation by RRIF Investors that were formerly resident in Ontario and have taken up residence in another Jurisdiction, the UWO RRIF Program does not operate in Jurisdictions outside Ontario.

Decisions

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 pursuant to the Legislation is that exemptive relief is granted to UWO, the Trustee, the Custodian and RRIF Investors from the prospectus and registration requirements under applicable Legislation for trading in connection with the UWO RRIF Program, provided that:

(a) RRIF Investors deal only with UWO or, in respect of the Education Program, the Education Provider, in respect of their participation in the UWO RRIF Program and the allocation of the investment of the assets in the RRIF Funds;

(b) each of the Trustee and the Custodian is a trust corporation registered as required, under the applicable legislation of each of the Jurisdictions;

(c) RRIF Investors do not invest any money in the UWO RRIF Program other than assets from the Pension Plans;

(d) the RRIF Funds are managed and administered in substantially the same way as the Unit Funds; and

(e) each Manager is registered as an advisor under the Act or is exempt from registration under Ontario securities legislation,

provided that this Decision shall terminate on the later of December 31, 2011 and the date that is six months after the coming into force of a national or multilateral instrument of the Decision Makers that concerns prospectus and registration exemptions relating to pension plans, deferred profit sharing plans, retirement savings plans or other similar capital accumulation plans maintained by the sponsor of the plan for its employees.

“Kevin J. Kelly”
Commissioner
Ontario Securities Commission

“Margot Howard”
Commissioner
Ontario Securities Commission

2.1.6 AldeaVision Solutions Inc.

Headnote

National Policy 11-203 Process For Exemptive Relief Applications in Multiple Jurisdictions - Application by an issuer for a decision that it is not a reporting issuer - issuer has no publicly-held securities - exemptive relief sought granted.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., s. 1(10)(b).

(Translation)

May 23, 2008

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

AND

IN THE MATTER OF
THE PROCESS FOR EXEMPTIVE RELIEF
APPLICATIONS IN MULTIPLE JURISDICTIONS

AND

IN THE MATTER OF
ALDEAVISION SOLUTIONS INC.
(the "Filer")

DECISION

Background

The securities regulatory authority or regulator of the Jurisdiction (the "Decision Maker") has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the "Legislation") that the Filer is not a reporting issuer in each of the Jurisdictions (the "Exemptive Relief Sought").

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions (for a coordinated review application):

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

(b) the decision is the decision of the principal regulator and evidences the decision of each other Decision Maker.

Interpretation

Terms defined in *Regulation 14-101 respecting Definitions* (and elsewhere, National Instrument 14-101 *Definitions*) have the same meaning if used in this decision, unless otherwise defined.

Representations

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

1. The Filer is a corporation organized under the *Canada Business Corporations Act* (the "CBCA") with its head office in St-Laurent, Quebec.

2. The Filer has an authorized share capital consisting of an unlimited number of common shares, of Class A preferred shares and of Class B preferred shares. Currently there are 3,570,000 common shares issued and outstanding (the "Common Shares").

3. The Filer is a reporting issuer in each of the Jurisdictions for over ten years. Currently, the Filer is not in default of any of its obligations under the Legislation as a reporting issuer, other than its obligation to file its annual financial statements for the years ended December 31, 2006 and December 31, 2007 and its Management Discussion and Analysis in respect of such financial statements, its interim financial statements for the periods ended January 31, 2007, June 30, 2007 and September 30, 2007 and its Management Discussion and Analysis in respect of such financial statements; all as required under the National Instrument 51-102, *Continuous Disclosure Obligations* and the related certification of such financial statements as required under Multilateral Instrument 52-109, *Certification of Disclosure in Issuers' Annual and Interim Filings*.

4. The Filer is a provider of international video transmission services.

5. On December 20, 2007, the Filer obtained an order (the "Order") from the Quebec Superior Court sanctioning a plan of arrangement and reorganization (the "Plan") pursuant to the *Companies' Creditors Arrangement Act* (the "CCAA") and the CBCA.

6. The ultimate result of the Plan and the Order was to reduce the number of shareholders of the Filer to three, namely: (i) Capital Régional et Coopératif Desjardins (155,915 Common Shares); (ii) Desjardins Capital de Développement Montréal Métropolitain, Ouest et Nord du Québec Inc. (14,085 Common Shares); and (iii) Almiria Capital Corp. (3,400,000 Common Shares).

7. The Filer's securities were delisted from the TSX Venture Exchange on January 25, 2008; therefore, no securities of the Filer are traded on a marketplace as defined in National Instrument 21-101, *Marketplace Operation*.

8. The Filer has no current intention to seek public financing by way of an offering of securities.

9. The Filer applied to voluntarily surrender its status as a reporting issuer in British Columbia under BC Instrument 11-502 *Voluntary Surrender of Reporting Issuer Status*. The Filer ceased to be a reporting issuer in British Columbia on April 9, 2008 and the cease trade order in British Columbia was revoked on April 11, 2008.

10. The Filer has applied for relief in order to cease to be a reporting issuer in all of the jurisdictions in which it is currently a reporting issuer.

11. The Filer is currently the object of a cease trade order in Manitoba, Ontario and Québec.

12. The Filer, upon the grant of the Exemptive Relief Sought, will not be a reporting issuer or the equivalent in any jurisdiction in Canada. The cease trade orders will be revoked concurrently.

Decision

Each of the Decision Makers is satisfied that the decision meets the test set out in the Legislation for the Decision Maker to make the decision.

The decision of the Decision Makers under the Legislation is that the Exemptive Relief Sought is granted.

"Marie-Christine Barrette"
Manager of Financial Disclosure Department
Autorité des marchés financiers

2.1.7 Pan African Mining Corp.

Headnote

National Policy 11-203 Process For Exemptive Relief Applications in Multiple Jurisdictions - Issuer owns mining properties indirectly; Issuer proposes to enter into arrangement with third party to spin-off non-material mining properties into new company ("Newco"); After spin off, shareholders of Issuer to receive cash from third party and shares of Newco in exchange for shares of Issuer; One mining property will become material in Newco; Newco to become reporting issuer upon closing of the arrangment; Issuer required to provide information circular to shareholders to vote on the arrangement under section 4.2(c) of NI 43-101; Information circular must contain prospectus-level disclosure under section 14.2 of Form 51-102F5.

Relief requested from requirement to include prospectus-level disclosure about the material mining property in Newco and from the requirement to file a technical report for the same property, Issuer's shareholders currently hold an indirect interest in all Newco properties and will continue to hold indirect interest following completion of the arrangement; a technical report for Newco's only material property will be filed on SEDAR five days before completion of the arrangement.

Relief requested to allow venture issuer disclosure for MD&A based on Issuer's current status as a venture issuer.

Applicable Legislative Provisions

National Instrument 43-101 Standards of Disclosure for Mineral Projects, ss. 4.2(1)(c), 9.1.
National Instrument 51-102 Continuous Disclosure Obligations, s. 13.1.
Form 51-102F5 Information Circular, s. 14.2.
Form 41-101F1 Information Required in a Prospectus, items 5.4, 8 and 35.
Securities Act, R.S.O. 1990, c. S.5, as am.

May 23, 2008

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

AND

IN THE MATTER OF
THE PROCESS FOR EXEMPTIVE RELIEF
APPLICATIONS IN MULTIPLE JURISDICTIONS

AND

IN THE MATTER OF
PAN AFRICAN MINING CORP.
(the Filer)

DECISION

Background

1 The securities regulatory authority or regulator in each of the Jurisdictions (the Decision Maker) has received an application (the Application) from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) that the Filer is exempt from:

(a) the requirement in National Instrument 43-101 *Standards of Disclosure for Mineral Projects* (NI 43-101) to file a technical report in connection with an information circular concerning the acquisition of mineral properties by a new entity formed in connection with an arrangement; and

(b) certain requirements in National Instrument 51-102 *Continuous Disclosure Obligations* (NI 51-102) to provide certain prospectus level disclosure required by Form 41-101F1 in the information circular to be prepared and mailed to the Filer's securityholders in connection with a special meeting to consider a plan of arrangement, specifically:

(i) the requirement in item 5.4 regarding disclosure of information about mining properties,

(ii) the requirements in item 8 to allow the Filer to provide management discussion and analysis for a venture issuer even though Newco (as defined below) is technically not a venture issuer, and

(iii) the requirements in item 35 to provide significant acquisition disclosure

(the Exemption Sought);

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions (for a dual application):

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

(b) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (MI 11-102) is intended to be relied upon in the Province of Alberta; and

(c) the decision is the decision of the principal regulator and evidences the decision of the securities regulatory authority or regulator in Ontario.

Interpretation

2 Terms defined in National Instrument 14-101 *Definitions* and MI 11-102 have the same meaning if used in this decision, unless otherwise defined.

Representations

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

1. the Filer was incorporated under the *Company Act* (British Columbia) on October 1, 2002;

2. the Filer is a reporting issuer in each of the Jurisdictions and in Alberta and is not in material default of any of the requirements of the securities laws of such jurisdictions;

3. the authorized share capital of the Filer consists of 100,000,000 preferred shares (Preferred Shares) and 100,000,000 common shares (Common Shares), of which, as at May 19, 2008, no Preferred Shares and 30,927,792 Common Shares were issued and outstanding;

4. the Common Shares are listed and posted for trading on the TSX Venture Exchange;

5. the Filer and its subsidiaries hold interests in certain mineral properties located in Mozambique, Botswana, Namibia and Madagascar;

6. the Filer owns shares of EnerMad Corp. and has the following subsidiaries in Madagascar:

(a) PAM Madagascar S.A.R.L.;

(b) PAM Atomique S.A.R.L.; and

(c) Pam Sakoa S.A.

(which three last mentioned companies are referred to collectively as the Madagascar Subsidiaries),

and the three last mentioned companies hold interests in certain mineral properties located in Madagascar (the Madagascar Properties);

7. the Filer has the following subsidiaries outside of Madagascar:

(a) PAM Botswana (Pty) Ltd.;

(b) PAM Minerals Namibia (Pty) Ltd.;

(c) PAM Mocambique Limitada;

(collectively, the Non-Madagascar Subsidiaries),

and Filer and the three last mentioned companies, directly or indirectly, hold interests in certain mineral properties located outside of Madagascar including joint ventures with Manica Minerals Ltd., African Eagle Resources plc and Bobcat Mining Limitada (the Non-Madagascar Properties);

8. the Filer has filed technical reports in respect of four of the Madagascar Properties;

9. the Filer's Non-Madagascar Properties have not been material to the Filer and are at very early (grassroots) stages of development, and technical reports have not yet been completed in respect of these properties;

10. on April 10, 2008, the Filer was notified by Asia Thai Mining Co., Ltd. (ATM) that ATM intended, through a wholly owned subsidiary of ATM, to make an unsolicited take-over bid at the price of $3.40 cash per Common Share;

11. the Filer and ATM began negotiations and have entered into an arrangement transaction (the Arrangement) whereby:

(a) the Filer's Non-Madagascar Subsidiaries will be 'spun off' from the Filer to a new entity (Newco) which will receive from the Filer:

(i) $2,500,000 in cash; and

(ii) all of the assets and liabilities directly related to the Filer's Non-Madagascar Subsidiaries, including all of the Filer's direct and indirect and joint venture interests in the Non-Madagascar Properties;

(b) the Offeror will acquire all of the issued and outstanding Common Shares of the Filer at a price of $4.00 per Common Share and acquire all of the Filer's outstanding warrants (the Warrants) and stock options (vested and not yet vested) (the Options) at a price equal to the difference between $4.00 and the exercise price of the respective Warrant or Option (collectively, the Cash Consideration); and

(c) in addition to the Cash Consideration, holders of Common Shares as at the closing of the Arrangement will also ultimately receive one common share of Newco (the Newco Shares) for each Common Share previously held in the Filer (the Share Consideration);

12. the Newco Shares will not be listed on any stock exchange for at least 30 days following completion of the Arrangement;

13. ATM is not a reporting issuer in any jurisdiction of Canada;

14. the Filer has called a special meeting (the Meeting) of the Pan African Securityholders (defined below), to be held on or about June 20, 2008; at the Meeting, Pan African Securityholders will be asked to vote on the Arrangement; at the Meeting, each holder of Common Shares will be entitled to one vote for each Common Share held and each holder of Options (the Pan African Optionholders) and each holder of Warrants (the Pan African Warrantholders) will be entitled to one vote for each common share of Pan African underlying such Option or Warrant;

15. under the Legislation, the Filer is required to prepare and mail a management information circular (the Pan African Circular) to Pan African Shareholders, Pan African Optionholders and Pan African Warrantholders (together, the Pan African Securityholders) not less than 21 days plus 4 business days before the Meeting;

16. the Pan African Circular will include a fairness opinion of Union Securities Ltd. in relation to the fairness, from a financial point of view, of the Arrangement to the Pan African Securityholders;

17. under NI 51-102, the Filer is required to prepare the information circular in the required form, including disclosure in respect of Newco prescribed in the form of prospectus that Newco would be eligible to use immediately prior to the sending and filing of the Pan African Circular, which is Form 41-101F1, including certain audited annual and unaudited interim financial statements of Newco and the Non-Madagascar Subsidiaries, management discussion and analysis of those annual and interim financial statements and certain mineral project and significant acquisition disclosure;

18. under NI 43-101, the Filer is required to file a technical report to support scientific or technical information on any property material to Newco contained in the Pan African Circular because Newco is issuing securities as consideration for the Non-Madagascar Subsidiaries;

19. the Filer has not yet completed any technical reports in respect of the Non-Madagascar Properties because they are not material to the Filer, but some may be considered material for Newco;

20. the Pan African Securityholders currently hold an indirect interest in the Non-Madagascar Properties through their ownership in securities of Pan African; following completion of the Arrangement, the Pan African Securityholders will still own an indirect interest in the Non-Madagascar Properties through their ownership of the Newco Shares;

21. section 35 of Form 41-101F1 requires the inclusion of financial statements of the Non-Madagascar Subsidiaries;

22. the Filer will include the following information in the Pan African Circular:

    (a) audited financial statements for Newco and the Non-Madagascar Subsidiaries, on a combined basis, as at September 30, 2007 with comparative figures to September 30, 2006 and related management discussion and analysis as required for a venture issuer, and

    (b) unaudited financial statements of Newco and the Non-Madagascar Subsidiaries, on a combined basis, as at March 31, 2008 with comparative figures to March 31, 2007 and related management discussion and analysis as required for a venture issuer;

23. the Filer will, and will cause Newco to, file on SEDAR at least five business days before closing of the Arrangement a technical report as required by section 4.1 of NI 43-101 in respect of one of the diamond properties in Botswana, which will be considered a material property of Newco.

Decision

4 Each of the Decision Makers is satisfied that the decision meets the test set out in the Legislation for the Decision Maker to make the decision.

The decisions of the Decision Makers under the Legislation is that the Exemption Sought is granted.

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

2.1.8 Desjardins Global Asset Management Inc. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – Relief granted to permit portfolio managers, on behalf of certain funds, to purchase and sell mortgages from and to affiliates of the portfolio manager – Section 7.2 of National Instrument 81-107 Independent Review Committee for Investment funds causes prior relief to expire on November 1, 2007 – New relief now issued on revised conditions which contemplate IRC approval. Relief also granted to permit alternative reporting of related party transactions.

Applicable Legislative Provisions

Securities Act (Ontario), ss. 117(1)(a), 117(1)(c), 118(2), 121(2)(a)(ii).
Ontario Regulation 1015 General Regulation, s. 115(6).

May 14, 2008

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

AND

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

AND

IN THE MATTER OF
DESJARDINS GLOBAL ASSET MANAGEMENT INC.
(the Filer)

MRRS DECISION DOCUMENT

Background

The local securities regulatory authority or regulator (the **Decision Maker**) in each of the Jurisdictions has received an application from the Filers for a decision under the securities legislation of the Jurisdictions (the **Legislation**) for an exemption from:

(a) the prohibition contained in the Legislation of each of the Jurisdictions, except British Columbia, against an investment counsel or any partner, officer or associate of an investment counsel purchasing or selling any security in which they have a beneficial interest from or to any portfolio managed or supervised by the investment counsel (the **Related Party Relief)**; and

(b) the obligation to file monthly reports in respect of such related party transactions (the **Reporting Relief**),

((a) and (c) are collectively the **Requested Relief**).

Definitions

Defined terms contained in National Instrument 14-101 *Definitions* (**NI 14-101**) have the same meaning in this Decision unless they are otherwise defined in this Decision. The following additional terms shall have the following meanings:

"Manager" means Fédération des caisses Desjardins du Québec;

"NI 81-106" means National Instrument 81-106 *Investment Fund Continuous Disclosure*;

"NI 81-107" means National Instrument 81-107 *Independent Review Committee for Investment Funds*; and

"Related Party" means Desjardins Trust Inc.

Representations

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

1. The Filer is the portfolio manager of Desjardins Short-Term Income Fund (the **Fund**). Fédération des caisses Desjardins du Québec is the manager of the Fund and Desjardins Trust Inc. is the trustee of the Fund.

2. The Fund has an investment objective that permits the Fund to invest in mortgages.

3. The Fund is an open-end mutual fund, organized as a trust, and is a reporting issuer under the Legislation of each of the Jurisdictions.

4. The Filer is a "management company" or equivalent under the Legislation, and is registered under the Legislation as needed in connection with the services or advice provided to the Fund.

5. The Manager has appointed an independent review committee (**IRC**) under NI 81-107 for the Fund.

6. The Manager has appointed the Filer to provide portfolio management and investment advisory services to the Fund. As portfolio manager of the Fund, the Filer is a "responsible person" as defined in the Legislation.

7. The Related Party is an associate or affiliate of the Fund's manager and portfolio manager. The Fund may purchase mortgages for its portfolio from the Related Party.

8. The Related Party and the Manager have agreed to repurchase, or cause to be repurchased, from the Fund any mortgage the Fund has purchased from them that is in default or is not a valid first mortgage.

9. Neither the Related Party, nor any of its directors, officers or employees participates in the formulation of investment decisions made on behalf of, or advice given to, the Fund by the Filer. In all circumstances, the decisions to purchase mortgages for the Fund's portfolio from the Related Party are made based on the judgement of responsible persons uninfluenced by considerations other than the best interests of the Fund.

10. The Filer and the Related Party are "affiliates" within the meaning of the Legislation and accordingly, the Filer is deemed to own securities beneficially owned by the Related Party.

11. The Filer is prohibited under the Legislation from purchasing or selling on behalf of the Fund, the securities of any issuer from or to its own account. Accordingly, the Fund is prohibited from purchasing mortgages from, or selling mortgages to, the Related Party, as such mortgages are deemed to be beneficially owned by the Filer.

12. NI 81-107 provides an exemption from the inter-fund self-dealing investment prohibitions, as defined under NI 81-107, to permit trades in securities between funds. NI 81-107 does not, however, provide an exemption for principal trading of the type contemplated by the Requested Relief.

13. The provisions of National Policy Statement No. 29 – Mutual Funds Investing in Mortgages (**NP 29**) set out guidelines relating to the acquisition of mortgages by a mutual fund from lending institutions with whom such fund does not deal at arm's length and provide certain protections to the investing public. The Filer acquired mortgages from the Related Party on behalf of the Fund in accordance with NP 29. The Filer will only acquire mortgages from the Related Party in accordance with NP 29 under the Requested Relief.

14. The IRC of the Fund will consider the policies and procedures of the Filer and will provide its approval on whether the proposed transactions in mortgages achieve a fair and reasonable result for the Fund in accordance with section 5.2(2) of NI-81-107.

15. To the extent that a Fund is purchasing mortgages from, or selling mortgages to, the Related Party, this fact is set out, and will continue to be set out, in the annual information form of the Fund.

16. The Legislation requires the filing of a report by the Filer with respect to each transaction in mortgages between the Fund and the Related Party and with respect to each transaction in mortgages effected by the Filer in respect of which the Related Party receives a fee either from the Filer or from the other party to the transaction or from both.

17. Such report is to be filed within 30 days after the end of the month in which the transaction occurs, disclosing the issuer of the securities purchased or sold, the class or designation of the securities, the amount and number of securities and the consideration paid, together with the name of any related person receiving a fee on the transaction, the name of the person or company that paid the fee and the amount of the fee paid.

18. NI 81-106 requires the Fund to prepare and file annual and interim management reports of fund performance that include a discussion of transactions involving related parties to the Fund. When discussing portfolio transactions with related parties, NI 81-106 requires the Fund to include the dollar amount of commission, spread, or any other fee paid to a related party in connection with a portfolio transaction.

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 granted, provided that

(1) With respect to the Related Party Relief:

(a) the purchase or sale is consistent with, or is necessary to meet, the investment objective of the Fund;

(b) the IRC of the Fund has approved the transaction in accordance with section 5.2(2) of NI 81-107;

(c) the Manager of the Fund complies with section 5.1 of NI 81-107;

(d) the Manager of the Fund and the IRC of the Fund comply with section 5.4 of NI 81-107 for any standing instructions the IRC provides in connection with the transactions;

(e) the Fund keeps the written records required by section 6.1(2)(g) of NI 81-107; and

(f) the mortgages are acquired from the Related Party or sold to the Related Party in accordance with NP 29 (or any successor policy or instrument) and disclosed in accordance with NP 29 (or any successor policy or instrument).

(2) With respect to the Reporting Relief:

(a) the annual and interim management reports of fund performance for the Fund disclose

(i) the name of the Related Party,

(ii) the amount of fees paid to each Related Party, and

(iii) the person or company who paid the fees if they were not paid by the Fund; and

(b) the records of portfolio transactions maintained by the Fund include, separately for every portfolio transaction effected by the Fund through a Related Party,

(i) the name of the Related Party,

(ii) the amount of fees paid to the Related Party, and

(iii) the person or company who paid the fees.

“Lawrence E. Ritchie”

“David L. Knight”

2.1.9 Jones Heward Investment Counsel Inc. et al. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – Relief granted to permit portfolio managers, on behalf of certain funds, to purchase and sell mortgages from and to affiliates of the portfolio manager – Section 7.2 of National Instrument 81-107 Independent Review Committee for Investment funds causes prior relief to expire on November 1, 2007 – New relief now issued on revised conditions which contemplate IRC approval. Relief also granted to permit alternative reporting of related party transactions.

Applicable Legislative Provisions

Securities Act (Ontario), ss. 117(1)(a), 117(1)(c), 121(2)(a)(ii).
Ontario Regulation 1015 General Regulation, s. 115(6).

May 14, 2008

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN,
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
JONES HEWARD INVESTMENT COUNSEL INC.,
I.G. INVESTMENT MANAGEMENT, LTD. AND
MACKENZIE FINANCIAL CORPORATION
(the Filers)

MRRS DECISION DOCUMENT

Background

The local securities regulatory authority or regulator (the **Decision Maker**) in each of the Jurisdictions has received an application from the Filers for a decision under the securities legislation of the Jurisdictions (the **Legislation**) for an exemption from:

(a) the prohibition contained in the Legislation against a portfolio manager knowingly causing an investment portfolio managed by it to buy or sell securities of any issuer from or to the account of a responsible person, any associate of the responsible person or the portfolio manager in connection with the purchase and sale of mortgages between a Related Party (as defined below) and the Funds (as defined below);

(b) the prohibition contained in the Legislation of each of the Jurisdictions, except British Columbia and Quebec, against an investment counsel or any partner, officer or associate of an investment counsel purchasing or selling any security in which they have a beneficial interest from or to any portfolio managed or supervised by the investment counsel; ((a) and (b) are collectively the **Related Party Relief**) and

(c) the obligation contained in the Legislation of each of the Jurisdictions, except Quebec, to file monthly reports in respect of such related party transactions (the **Reporting Relief**),

((a) ,(b), and (c) are collectively the **Requested Relief**).

Definitions

Defined terms contained in National Instrument 14-101 *Definitions* (NI 14-101) have the same meaning in this Decision unless they are otherwise defined in this Decision. The following additional terms shall have the following meanings:

"Manager" means each of BMO Investments Inc., BMO Nesbitt Burns Inc., BMO Harris Investment Management Inc., I.G. Investment Management, Ltd. and Mackenzie Financial Corporation;

"NI 81-106" means National Instrument 81-106 *Investment Fund Continuous Disclosure*;

"NI 81-107" means National Instrument 81-107 *Independent Review Committee for Investment Funds*; and

"Related Party" means each of Bank of Montreal and/or MCAP Financial Corporation, Investors Group Trust Co. Ltd. and its affiliates and M.R.S. Trust Company.

Representations

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

1. The Filers are the portfolio managers of the funds listed on Schedule A (the **Funds**). The manager and trustee (if applicable) of each Fund is also listed on Schedule A.

2. Each Manager is the manager of a Fund that has an investment objective that permits the Fund to invest in mortgages. The Funds, other than BMO Short-Term Income Class and Investors Mortgage and Short Term Income Fund, were established under the laws of Ontario. BMO Short-Term Income Class is a class of a corporation established under the laws of Canada and Investors Mortgage and Short Term Income Fund is a trust established under the laws of Manitoba.

3. Each Fund is an open-end mutual fund, organized as either a trust or a class of a corporation, and is a reporting issuer in each province and territory of Canada, other than BMO Harris Canadian Bond Income Portfolio, BMO Harris Canadian Total Return Bond Portfolio and BMO Harris Canadian Corporate Bond Portfolio, which are not reporting issuers in any of the territories.

4. Each of the Filers and/or the Managers of the Funds is a "management company" or equivalent under the Legislation, and is registered under the Legislation as needed in connection with the services or advice provided to a Fund.

5. Each Manager has appointed an independent review committee (**IRC**) under NI 81-107 for each of its Funds.

6. Each Manager has appointed the Filer referenced in Schedule A to provide portfolio management and investment advisory services to the applicable Fund. As portfolio manager of such Fund, each Filer is a "responsible person" as defined in the Legislation.

7. Each Related Party is an associate or affiliate of a Fund's manager, portfolio manager or trustee. Each of the Funds may purchase the mortgages for their portfolios from such Related Party, as set forth on Schedule A.

8. Bank of Montreal and/or MCAP Financial Corporation have agreed to repurchase from their applicable Funds any mortgage that is in default or is not a valid first mortgage. I.G. Investment Management Ltd. (or its affiliates) and M.R.S. Trust Company have agreed to repurchase from their applicable Funds any mortgage that is not a valid first mortgage.

9. Neither the Related Party, nor any of its directors, officers or employees participates in the formulation of investment decisions made on behalf of, or advice given to, the applicable Fund by the Filer, and in circumstances where the Related Party holds mortgages beneficially on behalf of the Filer, no director, officer or employee actively involved in the formulation of investment decisions for the Fund by the Filer is involved in the mortgage business of the Related Party. In all circumstances, the decisions to purchase mortgages for a Fund's portfolio from a Related Party are made based on the judgement of responsible persons uninfluenced by considerations other than the best interests of the Fund.

10. Each Filer and its Related Party are "affiliates" within the meaning of the Legislation and accordingly, the Filer is deemed to own securities beneficially owned by the Related Party.

11. Each Filer is prohibited under the Legislation from purchasing or selling on behalf of the Fund, the securities of any issuer from or to its own account. Accordingly, each Fund is prohibited from purchasing mortgages from, or selling mortgages to, its Related Party, as such mortgages are deemed to be beneficially owned by the Filer.

12. Jones Heward Investment Counsel Inc. and Mackenzie Financial Corporation each believe it received the Requested Relief previously for certain Funds (the Prior Relief). Section 7.2 of NI 81-107 terminated the Prior Relief.

13. NI 81-107 provides an exemption from the inter-fund self-dealing investment prohibitions, as defined under NI 81-107, to permit trades in securities between funds. NI 81-107 does not, however, provide an exemption for principal trading of the type contemplated by the Requested Relief.

14. The provisions of National Policy Statement No. 29 – Mutual Funds Investing in Mortgages (**NP 29**) set out guidelines relating to the acquisition of mortgages by a mutual fund from lending institutions with whom such fund does not deal at arm's length and provide certain protections to the investing public. The Filers acquired mortgages from the Related Parties on behalf of the Funds in accordance with NP 29. The Filers will only acquire mortgages from the Related Parties in accordance with NP 29 under the Requested Relief.

15. The IRC of each Fund will consider the policies and procedures of the applicable Filer and will provide its approval on whether the proposed transactions in mortgages achieve a fair and reasonable result for the Fund in accordance with section 5.2(2) of NI-81-107.

16. To the extent that a Fund is purchasing mortgages from, or selling mortgages to, a Related Party, this fact is set out, and will continue to be set out, in the annual information form of the applicable Fund.

17. The Legislation requires the filing of a report by each Filer with respect to each transaction in mortgages between the applicable Fund and its Related Party and with respect to each transaction in mortgages effected by each Filer in respect of which the Related Party receives a fee either from the Filer or from the other party to the transaction or from both.

18. Such report is to be filed within 30 days after the end of the month in which the transaction occurs, disclosing the issuer of the securities purchased or sold, the class or designation of the securities, the amount and number of securities and the consideration paid, together with the name of any related person receiving a fee on the transaction, the name of the person or company that paid the fee and the amount of the fee paid.

19. NI 81-106 requires the Funds to prepare and file annual and interim management reports of fund performance that include a discussion of transactions involving related parties to the Funds. When discussing portfolio transactions with related parties, NI 81-106 requires the Funds to include the dollar amount of commission, spread, or any other fee paid to a related party in connection with a portfolio transaction.

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 granted, provided that

(1) With respect to the Related Party Relief for each Filer:

(a) the purchase or sale is consistent with, or is necessary to meet, the investment objective of the Fund;

(b) the IRC of the Fund has approved the transaction in accordance with section 5.2(2) of NI 81-107;

(c) the Manager of the Fund, complies with section 5.1 of NI 81-107;

(d) the Manager of the Fund and the IRC of the Fund comply with section 5.4 of NI 81-107 for any standing instructions the IRC provides in connection with the transactions;

(e) the Fund keeps the written records required by section 6.1(2)(g) of NI 81-107; and

(f) the mortgages are acquired from a Related Party or sold to a Related Party in accordance with NP 29 (or any successor policy or instrument) and disclosed in accordance with NP 29 (or any successor policy or instrument).

(2) With respect to the Reporting Relief for each Filer:

(a) the annual and interim management reports of fund performance for the Fund disclose

(i) the name of the Related Party,

(ii) the amount of fees paid to each Related Party, and

(iii) the person or company who paid the fees if they were not paid by the Fund; and

(b) the records of portfolio transactions maintained by the Fund include, separately for every portfolio transaction effected by the Fund through a Related Party,

(i) the name of the Related Party,

(ii) the amount of fees paid to the Related Party, and

(iii) the person or company who paid the fees.

“Lawrence E. Ritchie”

“David L. Knight”

SCHEDULE "A"

List of Managers, Funds, Portfolio Managers, Trustees and Related Parties

Manager	Funds	Portfolio Manager	Trustee	Related Party
BMO Investments Inc.	• BMO Mortgage and Short Term Income Fund • BMO Diversified Income Fund • BMO Short-Term Income Class	Jones Heward Investment Counsel Inc.	BMO Investments Inc.	Bank of Montreal and/or MCAP Financial Corporation
BMO Nesbitt Burns Inc.	• BMO Nesbitt Burns Bond Fund • BMO Nesbitt Burns Balanced Fund	Jones Heward Investment Counsel Inc.	officers and/or directors of BMO Nesbitt Burns Inc.	Bank of Montreal and/or MCAP Financial Corporation
BMO Harris Investment Management Inc.	• BMO Harris Canadian Bond Income Portfolio • BMO Harris Canadian Total Return Bond Portfolio • BMO Harris Canadian Corporate Bond Portfolio	Jones Heward Investment Counsel Inc.	BMO Trust Company	Bank of Montreal and/or MCAP Financial Corporation
I.G. Investment Management, Ltd.	• Investors Mortgage and Short Term Income Fund	I.G. Investment Management, Ltd.	I.G. Investment Management, Ltd.	Investors Group Trust Co. Ltd. and its affiliates
Mackenzie Financial Corporation	• Mackenzie Sentinel Short-Term Income Fund	Mackenzie Financial Corporation	Mackenzie Financial Corporation	M.R.S. Trust Company and/or Investors Group Trust Co. Ltd. and its affiliates

2.2 Orders

2.2.1 Banc of America Securities LLC et al. - s. 147 of the Act and s. 6.1 of Rule 13-502 Fees

Headnote

Relief from section 6.5 of OSC Rule 45-501 Ontario Prospectus Exemptions - Relief granted from s. 6.5 for forward-looking information in offering memoranda provided to accredited investors in connection with private placements by foreign issuer - such private placements are generally small part of larger distributions of securities by foreign issuers outside Canada pursuant to foreign offering documents - relief subject to conditions - Relief also granted from section 4.1 of OSC Rule 13-502 Fees.

Applicable Legislative Provisions

Securities Act (Ontario), s. 147.
OSC Rule 13-502 Fees, s. 4.1.
OSC Rule 45-501 Ontario Prospectus Exemptions, s. 6.5.

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

AND

IN THE MATTER OF
BANC OF AMERICA SECURITIES LLC
BARCLAYS CAPITAL INC.
CITIGROUP GLOBAL MARKETS INC.
COWEN AND COMPANY, LLC
DEUTSCHE BANK SECURITIES INC.
GOLDMAN, SACHS & CO.
J.P. MORGAN SECURITIES INC.
LEHMAN BROTHERS CANADA INC.
MACQUARIE CAPITAL MARKETS CANADA LTD.
MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED
MORGAN STANLEY & CO. INCORPORATED
AND
UBS SECURITIES LLC

ORDER
(Section 147 of the Act
and
Section 6.1 of Rule 13-502 Fees)

WHEREAS effective December 31, 2007 Ontario Securities Commission Rule 45-501 – *Ontario Prospectus Exemptions* ("**Rule 45-501**") was amended to, among other things, require that an offering memorandum used in Ontario which contains forward-looking information comply with certain new provisions of National Instrument 51-102 – *Continuous Disclosure Obligations* ("**NI 51-102**");

AND UPON the application (the "**Application**") of the dealers listed on Schedule "A" hereto (collectively, the "**Applicants**") each applying for itself and its affiliated dealers shown beside its name in Schedule "B" hereto (the Applicants and their affiliated dealers collectively referred to herein as the "**Dealers**") to the Ontario Securities Commission (the "**Commission**") for an order pursuant to Section 147 of the Securities Act, R.S.O. 1990, c. S.5, as amended (the "**Act**") to provide that Section 6.5 of Rule 45-501 shall not be applicable to an offering memorandum of a non-Canadian issuer that is not a reporting issuer in Ontario (each, a "**Foreign Issuer**") provided to a prospective purchaser in Ontario by the Applicants

AND UPON the Application of the Applicants to the Director for an exemption pursuant to Section 6.1 of OSC Rule 13-502 – *Fees* ("**Rule 13-502**") to provide that Section 4.1 of Rule 13-502 shall not be applicable to the Applicants;

AND UPON the Applicants having represented to the Commission that:

1. Each of the Dealers is incorporated or otherwise organized by under the laws of the jurisdiction shown opposite its name in Schedule "B" hereto.

2. Each of the Dealers is registered with the OSC as a dealer in the category shown opposite its name in Schedule "B" hereto.

3. The Dealers offer and sell securities of Foreign Issuers on a private placement basis to purchasers in Ontario relying on the "accredited investor" prospectus exemption under Section 2.3 of National Instrument 45-106 – *Prospectus and Registration Exemptions*.

4. The offerings by private placement of securities of a Foreign Issuer (each, a "**Foreign Issuer Private Placement**") in Ontario are part of a distribution of securities of a Foreign Issuer offered primarily outside of Canada pursuant to a prospectus, offering memorandum or other offering document (each, a "**Foreign Offering Document**") prepared in accordance with the requirements of the United States or other non-Canadian jurisdictions.

5. In a Foreign Issuer Private Placement, a Foreign Offering Document is generally accompanied by a "wrapper" or is otherwise supplemented with disclosure prescribed by Ontario securities law and with disclosure of certain additional information for the benefit of Ontario investors and provided by the Dealers to Ontario prospective purchasers as a Foreign Issuer's offering memorandum within the meaning of Section 1(1) of the Act.

6. In a Foreign Issuer Private Placement, a Foreign Issuer that intends to rely on the civil liability safe harbour with respect to forward-looking statements provided by Section 21E of the U.S. Securities Exchange Act of 1934, as amended (the "**Exchange Act**") or Section 27A of the U.S. Securities Act of 1933, as amended (the "**U.S. Securities Act**"), will generally include in its Foreign Offering Document disclosure with respect to "forward-looking statements" within the meaning of Section 21E of the Exchange Act and Section 27A of the U.S. Securities Act to enable the Foreign Issuer to rely on the civil liability safe harbour provided with respect to forward-looking statements.

7. Other Foreign Issuers conducting a Foreign Issuer Private Placement that include forward looking information in their Foreign Offering Document will generally include disclosure of related material risk factors potentially affecting the forward looking information.

8. The disclosure with respect to forward looking information contained in a Foreign Offering Document used in a Foreign Issuer Private Placement in Ontario will not necessarily include all of the disclosure prescribed for offering memoranda by section 6.5 of Rule 45-501.

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

AND UPON the Commission being satisfied that it would not be prejudicial to the public interest to make this Order;

IT IS ORDERED, pursuant to section 147 of the Act, that offering memoranda delivered by or on behalf of the Dealers to prospective purchasers that are accredited investors in connection with Foreign Issuer Private Placements shall not be subject to Section 6.5 of Rule 45-501, provided that a Foreign Offering Document contains or is accompanied by either:

(a) the disclosure required in order for an issuer to rely on the safe harbour provided by Section 21E of the Exchange Act or by Section 27A of the U.S. Securities Act with respect to forward looking information, whether or not such safe harbour is applicable; or

(b) a statement that "This offering is being made by a non-Canadian issuer using disclosure documents prepared in accordance with non-Canadian securities laws. Prospective purchasers should be aware that these requirements may differ significantly from those of Ontario. The forward looking information included or incorporated by reference herein may not be accompanied by the disclosure and explanations that would be required of a Canadian issuer under Ontario securities law."

DATED at Toronto, this 16th day of May, 2008.

"Carol S. Perry"
Commissioner
Ontario Securities Commission

"Kevin J. Kelly"
Commissioner
Ontario Securities Commission

AND UPON the Director being satisfied that it would not be prejudicial to the public interest to make this Order;

IT IS ORDERED, pursuant to Section 6.1 of Rule 13-502, that the Application shall not be subject to Section 4.1 of Rule 13-502.

DATED at Toronto, this 16th day of May, 2008.

"Kelly Gorman"
Manager, Corporate Finance
Ontario Securities Commission

Schedule "A"

List of Applicants

Banc of America Securities LLC
Barclays Capital Inc.
Citigroup Global Markets Inc.
Cowen and Company, LLC
Deutsche Bank Securities Inc.
Goldman, Sachs & Co.
J.P. Morgan Securities Inc.
Lehman Brothers Canada Inc.
Macquarie Capital Markets Canada Ltd.
Merrill Lynch, Pierce, Fenner & Smith Incorporated
Morgan Stanley & Co. Incorporated
UBS Securities LLC

Schedule "B"

List of Dealers Affiliated with Applicants

	Applicant	Affiliated Dealers	Jurisdiction	OSC Registration
1.	Banc of America Securities LLC		Delaware	International Dealer
		Banc of America Securities Canada Co. / Banc d'Amerique Valeurs Mobilières du Canada	Nova Scotia	Investment Dealer
2.	Barclays Capital Inc.		Connecticut	International Dealer
		Barclays Capital Securities Limited	United Kingdom	International Dealer
		Barclays Global Investors Canada Limited	Canada	Limited Market Dealer
		Barclays Global Investors Services	United States	International Dealer
		Barclays Global Investors Services Canada Limited	Canada	Investment Dealer
3.	Citigroup Global Markets Inc.		New York	International Dealer
		Citigroup Global Markets Limited	England and Wales	International Dealer
		Citigroup Global Markets Canada Inc.	Ontario	Investment Dealer
		Citibank Canada Investment Funds Limited	Ontario	Limited Market Dealer & Mutual Fund Dealer
4.	Cowen and Company, LLC		Delaware	International Dealer
5.	Deutsche Bank Securities Inc.		Delaware	International Dealer
		Deutsche Bank Securities Limited/Deutsche Bank Valeurs Mobilières Limitée	Ontario	Broker & Investment Dealer
		Deutsche Asset Management Canada Limited/Gestion de placements Deutsche Canada Limitée	Canada	Limited Market Dealer
6.	Goldman, Sachs & Co.		New York	International Dealer & Limited Market Dealer

	Applicant	Affiliated Dealers	Jurisdiction	OSC Registration
		Goldman Sachs Canada Inc.	Ontario	Investment Dealer
		Goldman Sachs Execution & Clearing, L.P.	New York	International Dealer & Limited Market Dealer
		Goldman Sachs International	United Kingdom	International Dealer
7.	J.P. Morgan Securities Inc.		Delaware	International Dealer
		J.P. Morgan Securities Canada Inc. / J.P. Morgan Valeurs Mobilières Canada Inc.	Canada	Investment Dealer
		JPMorgan Asset Management (Canada) Inc. / Gestion d'Actif JPMorgan (Canada) Inc.	Canada	Limited Market Dealer
8.	Lehman Brothers Canada Inc.		New Brunswick	Investment Dealer
		Lehman Brothers Inc.	Delaware	International Dealer
		Lehman Brothers International (Europe)	United Kingdom	International Dealer
		Lehman Commercial Paper Incorporated	New York	International Dealer
		Neuberger Berman, LLC	Delaware	International Dealer
9.	Macquarie Capital Markets Canada Ltd./Marchés Financiers Macquarie Canada Ltée		Ontario	Investment Dealer
		Macquarie Capital (USA) Inc.	Delaware	International Dealer
10.	Merrill Lynch, Pierce, Fenner & Smith Incorporated		Delaware	International Dealer & Limited Market Dealer
		Merrill Lynch Canada Inc.	Canada	Investment Dealer
11.	Morgan Stanley & Co. Incorporated		Delaware	International Dealer & Limited Market Dealer
		Morgan Stanley & Co. International plc	United Kingdom	International Dealer
		Morgan Stanley & Co. Limited	United Kingdom	International Dealer

	Applicant	Affiliated Dealers	Jurisdiction	OSC Registration
		Morgan Stanley Canada Limited	Canada	Broker & Investment Dealer
12.	UBS Securities LLC		Delaware	International Dealer
		UBS AG	Switzerland	International Dealer
		UBS Securities Canada Inc. / UBS Valeurs Mobilières Canada Inc.	Canada	Investment Dealer

2.2.2 Sulja Bros. Building Supplies, Ltd. (Nevada) et al.

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

AND

IN THE MATTER OF
SULJA BROS. BUILDING SUPPLIES, LTD. (NEVADA),
SULJA BROS. BUILDING SUPPLIES LTD.,
KORE INTERNATIONAL MANAGEMENT INC.,
PETAR VUCICEVICH AND ANDREW DeVRIES

ORDER

WHEREAS on December 22, 2006, the Ontario Securities Commission (the "Commission") ordered pursuant to subsections 127(1) and 127(5) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") that immediately for a period of 15 days from the date thereof: (a) all trading in securities of Sulja Bros. Building Supplies, Ltd. (Nevada) ("Sulja Nevada") cease; and (b) any exemptions in Ontario securities law do not apply to the Respondents (the "Temporary Order");

AND WHEREAS on December 27, 2006, the Commission issued a Notice of Hearing and Statement of Allegations in this matter;

AND WHEREAS on January 8, 2007, the Temporary Order was extended to March 23, 2007;

AND WHEREAS on March 23, 2007, the Temporary Order was extended to July 5, 2007;

AND WHEREAS on July 5, 2007, the Temporary Order was extended to September 7, 2007;

AND WHEREAS on September 7, 2007, the Temporary Order was extended to October 31, 2007;

AND WHEREAS on October 31, 2007, the Temporary Order was extended to January 22, 2008;

AND WHEREAS on January 22, 2008, the Temporary Order was extended to March 28, 2008;

AND WHEREAS on March 28, 2008, the Temporary Order was extended to May 23, 2008;

AND WHEREAS on May 23, 2008, the Respondents, Sulja Nevada, Sulja Bros. Building Supplies Ltd. ("Sulja Ontario"), Kore International and Petar Vucicevich, consent to the continuation of the Temporary Order;

AND WHEREAS the Respondent, Andrew DeVries, did not appear, though served with notice of this Hearing;

AND WHEREAS the Commission is of the opinion that it is in the public interest to make this order in order to permit Staff to determine how to proceed in this matter within the period of this extension;

IT IS ORDERED THAT the Temporary Order is extended to June 23, 2008, and the hearing is adjourned to June 23, 2008 at 10:00 a.m.

DATED at Toronto this 23rd day of May, 2008.

"James E. A. Turner"

"Margot C. Howard"

2.2.3 AldeaVision Solutions Inc. - s. 144

Headnote

Application by an issuer for a full revocation of a cease trade order - issuer cease traded due to failure to file certain continuous disclosure documents required by Ontario securities law - issuer completed a court-approved plan of arrangement and reorganization pursuant to the CCAA and the CBCA - issuer has three shareholders - cease trade order revoked.

Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 127, 144.
Companies' Creditors Arrangement Act, R.S.C 1985, c. C-36.
Canada Business Corporations Act, R.S.C. 1985, c. C-44.

May 23, 2008

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

AND

IN THE MATTER OF
ALDEAVISION SOLUTIONS INC.

ORDER
(Section 144)

WHEREAS the securities of AldeaVision Solutions Inc. ("**AVS**") are subject to a temporary cease trade order of the Ontario Securities Commission (the "**Commission**") pursuant to paragraphs 2 and 2.1 of subsection 127(1) and subsection 127(5) of the Act, dated December 19, 2007, as extended by a further order dated December 31, 2007 pursuant to subsection 127(8) of the Act (collectively, the "**Cease Trade Order**") directing that all trading in the securities of AVS cease until the Cease Trade Order is revoked;

AND WHEREAS AVS has applied to the Commission pursuant to section 144 of the Act (the "**Application**") for an order revoking the Cease Trade Order;

AND UPON AVS having represented that:

1. AVS is a corporation incorporated under the *Canada Business Corporations Act* (the "**CBCA**") and has been a reporting issuer in all Canadian provinces (the "**Reporting Jurisdictions**") for over ten years. AVS' head office is located at 8550 Côte-de-Liesse, Saint-Laurent, Québec H4T 1H2.

2. AVS is a provider of international video transmission services.

3. AVS has an authorized share capital consisting of an unlimited number of common shares, of class A preferred shares and of class B preferred shares, of which currently there are 3,570,000 common shares issued and outstanding (the "**Common Shares**") and no class A preferred shares or class B preferred shares issued and outstanding.

4. The Common Shares were listed on the TSX Venture Exchange ("**TSXV**"). The TSXV de-listed the Common Shares on January 25, 2008 as a result of AVS' failure to meet its listing requirements.

5. Consequently, currently no securities of AVS are traded on a marketplace as defined in National Instrument 21-101 *Marketplace Operation*.

6. The Cease Trade Order was issued due to the failure of AVS to file: (i) audited annual financial statements for its financial year ended December 31, 2006; (ii) management's discussion and analysis relating to the audited annual financial statements for the year ended December 31, 2006; (iii) interim financial statements for the three-month period ended March 31, 2007; (iv) management's discussion and analysis relating to the interim financial statements for the three-month period ended March 31, 2007; (v) interim financial statements for the six-month period ended June 30, 2007; (vi) management's discussion and analysis relating to the interim financial statements for the six-month period ended June 30, 2007; (vii) interim financial statements for the nine-month period ended September 30, 2007; and (viii) management's discussion and analysis relating to the nine-month period ended September 30, 2007 (collectively, the "**Continuous Disclosure Documents**").

7. In addition to AVS' failure to file the Continuous Disclosure Documents that resulted in the imposition of the Cease Trade Order, AVS remains in default of subsequent continuous disclosure filing requirements under Ontario securities law.

8. On December 20, 2007, AVS obtained an order (the "**Order**") from the Québec Superior Court sanctioning a plan of arrangement and reorganization (the "**Plan**") pursuant to the *Companies' Creditors Arrangement Act* (Canada) and the CBCA.

9. The ultimate result of the Order and the Plan, which was completed on January 11, 2008, was to reduce the number of shareholders of AVS to three, namely: (i) Capital Régional et Coopératif Desjardins (155,915 Common Shares); (ii) Desjardins Capital de Développement Montréal Métropolitain, Ouest et Nord du Québec Inc.

(14,085 Common Shares); and (iii) Almiria Capital Corp. (3,400,000 Common Shares).

10. AVS has no securities, including debt securities, outstanding other than an aggregate of 3,570,000 Common Shares.

11. AVS applied to voluntarily surrender its status as a reporting issuer in British Columbia under BC Instrument 11-502 *Voluntary Surrender of Reporting Issuer Status*. AVS ceased to be a reporting issuer in British Columbia on April 9, 2008 and a cease trade order issued in British Columbia on the securities of the Filer was revoked on April 11, 2008.

12. AVS concurrently applied to all of the Reporting Jurisdictions (other than British Columbia) for a decision that AVS is no longer a reporting issuer or the equivalent in each of the Reporting Jurisdictions. The relief sought was granted by the Reporting Jurisdictions on the date hereof.

13. Securities of AVS are currently also subject to cease trade orders issued by the securities regulatory authorities in each of the provinces of Manitoba and Québec. AVS has concurrently applied for orders revoking those cease trade orders as well.

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

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

IT IS ORDERED pursuant to section 144 of the Act that the Cease Trade Order is revoked.

"Jo-Anne Matear"
Assistant Manager, Corporate Finance

2.2.4 XI Biofuels 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
XI BIOFUELS INC., BIOMAXX SYSTEMS INC.,
RONALD DAVID CROWE AND VERNON P. SMITH

AND

IN THE MATTER OF
XIIVA HOLDINGS INC. CARRYING ON BUSINESS
AS XIIVA HOLDINGS INC., XI ENERGY COMPANY,
XI ENERGY AND XI BIOFUELS

ORDER
(Section 127 of the Securities Act)

WHEREAS on November 22, 2007, the Ontario Securities Commission (the "Commission") issued a Temporary Order pursuant to subsections 127(1) and (5) of the *Securities Act*, R.S.O. 1990, c.S.5, as amended (the "Act") that all trading by XI Biofuels Inc. ("XI") and Biomaxx Systems Inc. ("Biomaxx") shall cease, that XI, Biomaxx, Ronald David Crowe ("Crowe") and Vernon P. Smith ("Smith") (the "XI Respondents") cease trading in all securities and that the exemptions contained in Ontario securities law do not apply to the XI Respondents (the "XI Temporary Order");

AND WHEREAS the Commission further ordered that pursuant to subsection 127(6) of the Act, the XI Temporary Order shall take effect immediately and shall expire on the fifteenth day after its making unless extended by order of the Commission;

AND WHEREAS on November 22, 2007, the Commission issued a Notice of Hearing to be held on December 7, 2007 at 10:00 a.m., to consider, among other things, the extension of the XI Temporary Order (the "XI Hearing");

AND WHEREAS on December 7, 2007, upon being advised that the XI Respondents agreed to extend the XI Temporary Order without prejudice to their ability to argue the merits of the grounds for granting the XI Temporary Order, the Commission ordered that the XI Temporary Order be extended and that the XI Hearing be adjourned to March 25, 2008;

AND WHEREAS on December 14, 2007, the Commission issued a Temporary Order (the "Xiiva Temporary Order") pursuant to subsections 127(1) and (5) of the Act that all trading in securities of Xiiva Holdings Inc. ("Xiiva"), incorrectly described at paragraph 1 of the Xiiva Temporary Order as XI Holdings Inc., shall cease and that the exemptions contained in Ontario securities law do not apply to it;

AND WHEREAS the Commission further ordered that pursuant to subsection 127(6) of the Act, the Xiiva Temporary Order shall take effect immediately and shall expire on the fifteenth day after its making unless extended by order of the Commission;

AND WHEREAS on December 14, 2007, the Commission issued a Notice of Hearing to be held on December 19, 2007 at 2:00 p.m., to consider, among other things, the extension of the Xiiva Temporary Order (the "Xiiva Hearing");

AND WHEREAS on December 19, 2007, upon being advised that Xiiva agreed to extend the Xiiva Temporary Order without prejudice to its ability to argue the merits of the grounds for granting the Xiiva Temporary Order, the Commission ordered that the Xiiva Temporary Order be extended and that the Xiiva Hearing be adjourned to March 25, 2008 and that paragraph 1 of the Xiiva Temporary Order be amended to replace the reference to "XI Holdings Inc." with "Xiiva Holdings Inc.";

AND WHEREAS the XI Respondents and the Xiiva Respondents (collectively, the "Respondents") served a notice of motion returnable on March 25, 2008 in respect of the XI Temporary Order and the Xiiva Temporary Order (collectively, the "Temporary Orders") and other matters including a constitutional question (the "Respondents' Motion");

AND WHEREAS on March 20, 2008, the Respondents served a Notice of Constitutional Question and an Amended Notice of Constitutional Question;

AND WHEREAS the 15-day notice period for the Notice of Constitutional Question under section 109 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended, had not been satisfied;

AND WHEREAS on March 25, 2008, Staff of the Commission ("Staff") and the Respondents agreed to adjourn the XI Hearing and the Xiiva Hearing for the extension of the Temporary Orders to May 5, 2008, at 10:00 a.m., or such earlier date as fixed by the Office of the Secretary, and agreed to the extension of the Temporary Orders to May 6, 2008;

AND WHEREAS on March 25, 2008, the Commission ordered that the XI Hearing and the Xiiva Hearing for the extension of the Temporary Orders and the hearing of the Respondents' Motion be adjourned to May 5, 2005;

AND WHEREAS on March 25, 2008, the Commission ordered that the Temporary Orders be extended to May 6, 2008;

AND WHEREAS on May 5, 2008, the Commission adjourned the XI Hearing and the Xiiva Hearing to extend the Temporary Orders and the hearing of the Respondents' Motion to May 22, 2008, at 2:00 p.m., on the basis that certain of the Respondents were the subject of an application for a bankruptcy order which was scheduled to be heard on May 22, 2008;

AND WHEREAS on May 5, 2008, the Commission ordered that the Temporary Orders be extended to May 23, 2008;

AND WHEREAS on May 22, 2008, counsel for Staff and counsel for the Respondents appeared before the Commission;

AND WHEREAS on May 22, 2008, counsel for the Respondents advised that a trustee in bankruptcy has been appointed with respect to some of the Respondents;

AND WHEREAS on May 22, 2008, counsel for the trustee in bankruptcy did not appear, and counsel for the other respondents requested an adjournment of the XI Hearing and the Xiiva Hearing to extend the Temporary Orders and the hearing of the Respondents' Motion to allow counsel for the trustee in bankruptcy to appear before the Commission;

AND WHEREAS the Commission requests that the trustee in bankruptcy or counsel for the trustee in bankruptcy appear before the Commission to make submissions with respect to this matter;

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

IT IS ORDERED that the Temporary Orders are extended to June 13, 2008;

AND IT IS FURTHER ORDERED that the XI Hearing and the Xiiva Hearing for the extension of the Temporary Orders and the hearing of the Respondents' Motion are adjourned to June 12, 2008 at 10:30 a.m.

Dated at Toronto this 22nd day of May, 2008.

"Patrick J. LeSage"

"Wendell S. Wigle"

"David L. Knight"

2.2.5 Adrian Samuel Leemhuis et al.

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

AND

IN THE MATTER OF
ADRIAN SAMUEL LEEMHUIS,
FUTURE GROWTH GROUP INC.,
FUTURE GROWTH FUND LIMITED,
FUTURE GROWTH GLOBAL FUND LIMITED,
FUTURE GROWTH MARKET NEUTRAL FUND LIMITED,
FUTURE GROWTH WORLD FUND, AND
ASL DIRECT INC.

ORDER

WHEREAS on April 22, 2008, the Ontario Securities Commission (the "Commission") issued a Temporary Order pursuant to section 127(5) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") that all trading in securities of and all trading of securities by Future Growth Group Inc., Future Growth Fund Limited, Future Growth Global Fund Limited, Future Growth Market Neutral Fund Limited, and Future Growth World Fund shall cease, that all trading of securities by Adrian Leemhuis shall cease and that any exemptions contained in Ontario securities law do not apply to the Respondents;

AND WHEREAS on April 22, 2008, the Commission ordered that the Temporary Order dated April 22, 2008 shall expire on the 15th day after its making unless extended by order of the Commission;

AND WHEREAS on May 1, 2008, the Commission issued a Temporary Order pursuant to section 127(5) of the Act that all trading in securities by ASL Direct Inc. shall cease and that any exemptions contained in Ontario securities law do not apply to ASL;

AND WHEREAS on May 1, 2008, the Commission ordered that the Temporary Order dated May 1, 2008 shall expire on the 15th day after its making unless extended by the Commission;

AND WHEREAS on May 2, 2008, the Commission issued an Amended Notice of Hearing to consider the extension of the Temporary Order dated April 22, 2008, and the Temporary Order dated May 1, 2008 to be held on May 6, 2008 at 2:30 p.m.;

AND WHEREAS on May 6, 2008 the Commission held a hearing and counsel for Staff and counsel for the Respondents attended before the Commission and confirmed there was no objection to adjourning until May 16, 2008, and the Commission ordered that pursuant to section 127(8) that the Temporary Order dated April 22, 2008 be extended to May 16, 2008, that the Temporary Order dated May 1, 2008 be extended to May 16, 2008 and that the hearing to consider the extension of these orders be adjourned to May 16, 2008;

AND WHEREAS Staff of the Commission confirm that they may submit requests for the Commission to make orders pursuant to s. 144 of the Act, on consent, to vary the Temporary Orders dated April 22, 2008 and May 1, 2008 to permit ASL Direct Inc. and Mr. Leemhuis to carry out unsolicited trades on behalf of clients of ASL Direct Inc.;

AND WHEREAS the Commission held a hearing on May 16, 2008 and counsel for Staff and counsel for the Respondents attended before the Commission and at that time the Commission made an order continuing the Temporary Orders dated April 22, 2008 and May 1, 2008, until May 26, 2008;

AND WHEREAS the Commission held a hearing on May 26, 2008 and counsel for Staff and counsel for the Respondents attended before 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 pursuant to section 127(8) that the Temporary Order dated April 22, 2008, extended on May 6, 2008, and on May 26, 2008 is further extended to June 17, 2008;

IT IS FURTHER ORDERED that the Temporary Order dated May 1, 2008, extended on May 6, 2008 and on May 26, 2008 is further extended to June 17, 2008; and

IT IS FURTHER ORDERED that the hearing to consider the extension of the Temporary Order dated April 22, 2008 and the Temporary Order dated May 1, 2008 is adjourned to June 16, 2008 at 10:00 a.m.

DATED at Toronto this 26th day of May, 2008.

"Wendell S. Wigle"

"Margot C. Howard"

2.2.6 Ampal-American Israel Corporation - s. 144

Headnote

Application by an issuer for a revocation of a cease trade order issued by the Commission - cease trade order issued because the issuer had failed to file certain interim financial statements and mangement's discussion and analysis as required by Ontario securities law - defaults subsequently remedied and the issuer is otherwise not in default of Ontario Securities law - cease trade order revoked.

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, CHAPTER S.5, AS AMENDED
(the "Act")

AND

IN THE MATTER OF
AMPAL-AMERICAN ISRAEL CORPORATION
(the "Applicant")

ORDER
(Section 144)

WHEREAS the securities of the Applicant are subject to an order dated December 1, 2006 by the Director made pursuant to paragraph 2 and paragraph 2.1 of subsection 127(1) of the Act (the "Cease Trade Order") directing all trading in and acquisitions of the securities of the Applicant, whether direct or indirect, cease until the Cease Trade Order is revoked by the Director;

AND WHEREAS the Applicant has made an application to the Ontario Securities Commission (the "Commission) for an order pursuant to section 144 of the Act revoking the Cease Trade Order;

AND UPON the Applicant having represented to the Commission that:

1. The Applicant is a corporation formed under the laws of New York in 1942 with its principal place of business located in New York, New York. The Applicant is subject to the reporting requirements of the United States Securities Exchange Act of 1934, as amended (the "1934 Act").

2. The Applicant is a reporting issuer under the Act.

3. The authorized capital of the Applicant consists of 100,000,000 Class A Stock ("Common Stock") with a par value of $1, of which 57,702,532 shares of Common Stock were issued and outstanding as of April 29, 2008.

4. The Common Stock of the Applicant is listed on Nasdaq Global Market System under the symbol "AMPL".

5. The Applicant's Series A and Series B Debentures are listed on the Tel-Aviv Stock Exchange.

6. No other securities of any other class or series are outstanding.

7. The number of Common Stock registered in the names of persons with addresses in Ontario and reported by Broadridge Financial Solutions, Inc. to be owned beneficially (but not of record) by shareholders resident in Ontario and the aggregate number of registered shareholders and beneficial owners (but not of record) with addresses in Ontario as at April 15, 2008 is as follows:

Total number of Common Stock in Ontario	20,754
Number of shareholders in Ontario	26

8. The number of Common Stock registered in the names of persons with addresses in Canada (outside Ontario) and reported by Broadridge Financial Solutions, Inc. to be owned beneficially (but not of record) by shareholders resident in Canada (outside Ontario) and the aggregate number of registered shareholders and beneficial owners (but not of record) with addresses in Canada (outside Ontario) as at April 15, 2008 is as follows

Total number of Common Stock in Canada	33,266
Number of shareholders in Canada	28

9. The Applicant does not believe that any of its Series A or Series B Debentures are held of record or beneficially by residents of Canada.

10. The Cease Trade Order was issued because the Applicant failed to file with the Commission within the prescribed time its interim financial statements for the nine-month period ended September 30, 2006 and management's discussion and analysis relating to the interim financial statements for the nine-month period ended September 30, 2006 (the "Continuous Disclosure Documents").

11. The Applicant failed to file its Continuous Disclosure Documents as a result of an oversight

in instructing those responsible for EDGAR filings to concurrently file the required documents with the Commission.

12. The Applicant subsequently filed with the Commission the Continuous Disclosure Documents.

13. The Applicant is not in default of any of its obligations under the Act as a reporting issuer.

14. The Applicant is a "foreign issuer (SEDAR)" as that term is defined in National Instrument 13-101 – *System for Electronic Document Analysis and Retrieval* (SEDAR) ("NI 13-101"), and has not elected to become an electronic filer in accordance with subsection 2.1(2) of NI 13-101.

15. The Applicant's securities were previously the subject of a cease trade order which was revoked by an order dated June 6, 2006. The previous cease trade order was issued because the Applicant failed to file with the Commission within the prescribed time its annual financial statements for the years ended December 31, 2003 and December 31, 2004, as well as its interim statements for the periods ended March 31, 2004, June 30, 2004, September 30, 2004, March 31, 2005, June 30, 2005 and September 30, 2005. The Applicant failed to file such documents as a result of a compliance oversight after a corporate restructuring of the Applicant.

16. To avoid defaults in future periods, the Applicant has adopted a process whereby one officer of the Applicant has been formally designated as the officer responsible for making all required filings with the Commission. The Applicant has also instructed its U.S. counsel to file with the Commission all documents it is asked by the Applicant to file with the Securities and Exchange Commission on EDGAR, unless such documents are not required to be filed with the Commission.

17. Based on preliminary information provided by the Applicant's transfer agent, residents of Canada do not directly or indirectly beneficially own more than 2% of the number of shares of Common Stock outstanding.

18. Based on preliminary information provided by the Applicant's transfer agent, residents of Canada do not directly or indirectly comprise more than 2% of the total number of security holders of the Applicant.

19. The Applicant has not in the last 12 months filed a prospectus in Canada in respect of an offering of securities in Canada or made application to list any securities on a Canadian marketplace or exchange.

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

AND UPON the Commission being satisfied that it would not be prejudicial to the public interest to revoke the Cease Trade Order;

IT IS ORDERED under section 144 of the Act that the Cease Trade Order is revoked.

DATED 27th day of May, 2008.

"Michael Brown"
Assistant Manager, Corporate Finance
Ontario Securities Commission

2.2.7 Borealis International Inc. et al. - ss. 127(1), 127(5) and 127(7)

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

AND

**IN THE MATTER OF
BOREALIS INTERNATIONAL INC.,
SYNERGY GROUP (2000) INC.,
INTEGRATED BUSINESS CONCEPTS INC.,
CANAVISTA CORPORATE SERVICES INC.,
CANAVISTA FINANCIAL CENTER INC.,
SHANE SMITH, ANDREW LLOYD, PAUL LLOYD,
VINCE VILLANTI, LARRY HALIDAY, JEAN BREAU,
JOY STATHAM, DAVID PRENTICE, LEN ZIELKE,
JOHN STEPHAN, RAY MURPHY,
ALEXANDER POOLE, DEREK GRIGOR,
EARL SWITENKY,MICHELLE DICKERSON,
DEREK DUPONT, BARTOSZ EKIERT,
ROSS MACFARLANE, BRIAN NERDAHL,
HUGO PITTOORS AND LARRY TRAVIS**

**ORDER
(Sections 127(1), (5) and (7))**

WHEREAS on November 15, 2007, the Ontario Securities Commission (the "Commission") made an order pursuant to sections 127(1) and (5) of the *Securities Act*, R.S.O. 1990, c. S.5., as amended, in respect of Borealis International Inc. ("Borealis"), Synergy Group (2000) Inc. ("Synergy"), Integrated Business Concepts Inc. ("IBC"), Canavista Corporate Services Inc. ("Canavista Corporate"), Canavista Financial Center Inc. ("Canavista Financial"), Shane Smith ("Smith"), Andrew Lloyd, Paul Lloyd, Vince Villanti ("Villanti"), Larry Haliday ("Haliday"), Jean Breau ("Breau"), Joy Statham ("Statham"), David Prentice ("Prentice"), Len Zielke ("Zielke"), John Stephan ("Stephan"), Ray Murphy ("Murphy"), Derek Grigor ("Grigor"), Earl Switenky ("Switenky") and Alexander Poole ("Poole") (the "Original Respondents") that all trading in securities by and of the Original Respondents, with the exception of Poole, cease, and that any exemptions contained in Ontario securities law do not apply to the Original Respondents, with the exception of Poole (the "Temporary Order");

AND WHEREAS the Temporary Order also provided that pursuant to clause 1 of section 127(1), the following terms and conditions were imposed on Poole's registration: Poole shall be subject to monthly supervision by his sponsoring firm which, commencing November 30, 2007, will submit monthly supervision reports to the Commission (attention: Manager, Registrant Regulation) in a form specified by the Manager, Registrant Regulation, reporting details of Poole's sales activities and dealings with clients;

AND WHEREAS on November 15, 2007, the Commission issued a Notice of Hearing and Statement of Allegations in this matter;

AND WHEREAS on November 28, 2007, the Commission ordered that the Temporary Order be continued in respect of the Original Respondents, except Borealis, Synergy, IBC, Canavista Financial, Smith, Villanti, Haliday, Breau, Paul Lloyd, Zielke, Grigor and Switenky, until May 27, 2008;

AND WHEREAS on November 28, 2007, the Commission ordered that in respect of Borealis, Synergy, IBC, Canavista Financial, Smith, Villanti, Haliday, Breau, Paul Lloyd, Zielke, Grigor and Switenky, the Temporary Order be continued until January 11, 2008;

AND WHEREAS on January 11, 2008, the Commission ordered that in respect of the Original Respondents, the Temporary Order be continued until May 27, 2008;

AND WHEREAS on May 22, 2008, the Commission issued an Amended Notice of Hearing and an Amended Statement of Allegations by which, *inter alia*, the following individuals were added as respondents: Michelle Dickerson ("Dickerson"), Derek Dupont ("Dupont"), Bartosz Ekiert ("Ekiert"), Ross Macfarlane ("Macfarlane"), Brian Nerdahl ("Nerdahl"), Hugo Pittoors ("Pitoors"), and Larry Travis ("Travis") (collectively the "New Respondents").

AND UPON HEARING submissions from Paul Lloyd, on his own behalf and on behalf of Canavista Financial, from counsel for Staff of the Commission and from counsel for Borealis, Synergy, IBC, Smith, Villanti, Haliday and Breau, and on behalf of Dickerson, no one appearing for Canavista Corporate, Andrew Lloyd, Statham, Prentice, Zielke, Stephan, Murphy, Poole, Grigor, Switenky, Dupont, Ekiert, Macfarlane, Nerdahl, Pittoors and Travis;

AND WHEREAS Paul Lloyd, on his own behalf and on behalf of Canavista Financial, and Borealis, Synergy, IBC, Smith, Villanti, Haliday and Breau consent to a continuation of the Temporary Order until June 18, 2008;

AND WHEREAS Dickerson consents to an order that trading by her in any securities shall cease and any exemptions contained in Ontario securities law shall not apply to her and to a continuation of that order until June 18, 2008;

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

IT IS ORDERED THAT:

1. trading in any securities by Dickerson, Dupont, Ekiert, Macfarlane, Nerdahl, Pittoors and Travis shall cease and any exemptions contained in Ontario securities law shall not apply to them, and this Order shall be continued until June 18, 2008 or until further order of the Commission;

2. the Temporary Order is continued until June 18, 2008 or until further order of the Commission to provide that trading in any securities of and by the

Original Respondents, including Poole, shall cease and that any exemptions contained in Ontario securities law shall not apply to the Original Respondents, including Poole;

3. this matter shall return before the Commission on June 17, 2008 at 10:00 a.m.; and

4. any websites operated by the Original Respondents and the New Respondents, including:

   - http://www.borealisfinancial.com
   - http://www.borealisglobal.com
   - http://www.borealisglobal.com/synergy.htm
   - http://www.synergygroup2000.com/Borealis.htm
   - http://www.synergygroup2000.com
   - http://www.synergywestcoast.com
   - http://www.synergygroupbc.com
   - http://synergyadvisorforums.com
   - http://www.canavista.ca
   - http://www.ibc101.com

   shall forthwith display the Temporary Order, the Orders dated November 28, 2007 and January 11, 2008 and this Order prominently and continuously on the home page until further order of the Commission.

DATED at Toronto this 27th day of May, 2008.

“Wendell S. Wigle”

“David L. Knight”

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Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 OSC Decisions, Orders and Rulings

3.1.1 David Berry - s. 21.7

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

AND

IN THE MATTER OF
A REQUEST FOR A HEARING AND REVIEW OF A DECISION OF
A HEARING PANEL OF MARKET REGULATION SERVICES INC.

AND

IN THE MATTER OF
THE UNIVERSAL MARKET INTEGRITY RULES

AND

IN THE MATTER OF
DAVID BERRY

REASONS FOR DECISION
(Section 21.7 of the Securities Act)

Hearing:	March 6, 2008		
Reasons:	May 21, 2008 (relating to the Order issued March 26, 2008)		
Panel:	Lawrence E. Ritchie	-	Vice-Chair and Chair of the Panel
	James E. A. Turner	-	Vice-Chair
Counsel:	Johanna Superina	-	For the Ontario Securities Commission
	Charles Corlett	-	For Market Regulation Services Inc.
	Linda L. Fuerst Usman Sheikh	-	For David Berry

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REASONS FOR DECISION

I. Background

A. Introduction

[1] This is an application (the "Application") brought by David Berry ("Berry") pursuant to section 21.7 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") for the Ontario Securities Commission (the "Commission") to conduct a hearing and review of a decision of Market Regulation Services Inc. ("RS"), dated November 8, 2007 (the "RS Disclosure Decision").

[2] The RS Disclosure Decision was made in the context of an RS proceeding (the "RS Proceeding") in which Berry is a respondent. The hearing on the merits was scheduled to commence on April 21, 2008. In the RS Disclosure Decision, the Chair of the RS Panel denied a motion by Berry for disclosure of:

1. all materials relating to prior investigations or reviews by RS Staff of Berry's trading practices while employed at Scotia Capital Inc. ("Scotia") (the "Other RS Files"); and

2. communications and documents relating to settlement negotiations (the "Settlement Materials") conducted by RS Staff with Scotia and Berry's former trading assistant, Marc McQuillen ("McQuillen").

[3] Berry takes the position that the Chair of the RS Panel erred in failing to order disclosure of the requested documents, and asked that the RS Disclosure Decision be set aside and that this Panel order that the requested disclosure be made.

[4] Prior to the Commission hearing, RS agreed to provide the Other RS Files to Berry. Accordingly, at the hearing before the Commission on March 6, 2008, Berry pursued only a review of the RS Disclosure Decision with respect to the Settlement Materials.

[5] Initially, RS brought a motion to quash Berry's Application (the "Motion to Quash") on the grounds that Berry's Application was premature and would fragment the RS Proceeding. Subsequently, RS withdrew the Motion to Quash, and instead, asserted the arguments regarding fragmentation and prematurity by way of a response to the Application.

[6] In light of the fact that the RS Proceeding was scheduled to commence on April 21, 2008, we issued our decision by order dated March 26, 2008 (the "Disclosure Order"). The Disclosure Order provides as follows:

1. Subject to clause 3 below, RS shall provide Berry's counsel access to the Settlement Materials and, if requested, copies thereof for purposes relating to Berry's defence in the RS Proceeding.

2. Disclosure and use of the Settlement Materials will be on the basis that:

   (a) Berry and his counsel will not use the Settlement Materials other than in connection with Berry making full answer and defence to the allegations against him in the RS Proceeding;

   (b) any use of the Settlement Materials other than in connection with Berry making full answer and defence to the allegations against him in the RS Proceeding will constitute a violation of this Order;

(c) RS shall maintain custody and control over the Settlement Materials so that copies of the Settlement Materials are not disseminated for any purpose other than as contemplated in clause 1 above;

(d) the Settlement Materials shall not be used for any collateral or ulterior purpose; and

(e) Berry and his counsel shall, promptly after the completion of the RS Proceeding and any appeals, return all copies of the Settlement Materials to RS or confirm that they have been destroyed.

3. The foregoing Order is subject to any claim by RS of solicitor-client privilege, or litigation "work product" privilege, and if asserted, the particulars of such a claim shall be set out by RS in a written list and provided to Berry's counsel with the Settlement Materials.

[7] These are our reasons for the Order.

B. The Parties

[8] Counsel for RS, Berry and Staff of the Commission ("Staff") appeared on this Application, and all of the parties provided detailed written and oral submissions.

[9] RS is recognized under section 21.1 of the Act as a self-regulatory organization ("SRO"), and it is responsible for regulating trading on the Toronto Stock Exchange and other marketplaces. RS administers and enforces the Universal Market Integrity Rules ("UMIR") on behalf of the TSX Inc. (the "TSX").

[10] Berry was employed by Scotia from 1996 to 2005 as a trader (non-retail). In 1998, he was appointed Head of Preferred Trading, responsible for trading Scotia's proprietary book of preferred shares under the umbrella of Scotia's institutional equities business.

[11] The only investment dealer that Berry has ever worked for is Scotia. All of Berry's experience as a trader of preferred shares and knowledge of the securities industry rules was acquired from his training at, and work as an employee of, Scotia.

C. Chronology of Events

1. The RS Proceeding Against Berry

[12] In May 2005, a trade desk review (the "Trade Desk Review") was conducted by RS Staff which raised questions regarding various short positions held in Berry's inventory account for the Preferred Share Trading Desk. At that time, Berry was employed at Scotia as the Head of Preferred Trading. After the Trade Desk Review, RS initiated an investigation into the conduct of Scotia, Berry and McQuillen. McQuillen was a fully licensed agency trader who was Berry's assistant on the Preferred Desk at the relevant time.

[13] An RS Proceeding was commenced against Berry by a Notice of Hearing and appended Statement of Allegations on February 20, 2007. An Amended Notice of Hearing was issued by RS on June 12, 2007.

[14] In the Statement of Allegations, RS alleges that Berry solicited client orders during the distribution of new issues by Scotia contrary to UMIR 7.7(5) and conducted off-marketplace trades contrary to UMIR 6.4.

[15] Specifically, in paragraphs 1 and 2 of the Statement of Allegations, RS makes the following allegations with respect to Berry:

RS alleges that between April 4, 2002 and April 18, 2005, [Berry]:

(i) engaged in conduct which resulted in [Scotia] contravening UMIR 7.7(5) (pre-May 2005 version) on 39 occasions; and

(ii) engaged in conduct which resulted in [Scotia] contravening UMIR 6.4 on 15 occasions.

UMIR came into effect on April 1, 2002. Effective January 2004, UMIR was amended to add Section 10.3(4) which provides that an individual employed by a Participant contravening UMIR may be found liable for the conduct and sanctioned accordingly. As a result, from and after January 30, 2004, Berry can be found personally liable for causing [Scotia] to solicit the client orders and conduct the off-marketplace trades referred to herein. In respect of the solicitations, 11 took place after January 30, 2004. In respect of the off-marketplace trades, 10 took place after January 30, 2004.

[16] The allegations relate to conduct by Berry and McQuillen, and are summarized at paragraphs 10 and 11 of the Statement of Allegations as follows:

> In the period April 4, 2002 to April 18, 2005 (the "Relevant Period"), Berry and McQuillen engaged in a pattern of trading […] which consisted of Berry and McQuillen:
>
> (i) soliciting client orders during the distribution of new issues by [Scotia] contrary to UMIR 7.7(5) (as it existed prior to May 2005); and
>
> (ii) conducting off-marketplace trades that were not printed on a marketplace or recognized exchange, contrary to UMIR 6.4.
>
> The Trading involved 16 new issues of preferred shares and 20 different clients.

2. The Settlement Agreements with Scotia and McQuillen

[17] The Trade Desk Review and subsequent investigation also involved the conduct of Scotia and McQuillen in the trades referred to above.

[18] On February 20, 2007, RS gave public notice that an RS Hearing Panel would consider separate settlement agreements between:

1. RS and Scotia on February 26, 2007; and
2. RS and McQuillen on February 28, 2007.

[19] The settlement agreements with Scotia and McQuillen were approved by RS Panels on February 26, 2007 and February 28, 2007, respectively (see: *Offer of Settlement in the Matter of Scotia Capital Inc.*, Market Regulation Services Inc., DN 2007-001, dated February 26, 2007; and *Offer of Settlement in the Matter of Marc McQuillen*, Market Regulation Services Inc., DN 2007-002, dated February 28, 2007).

[20] According to RS (as set out in its factum), during the settlement negotiations, Berry was kept apprised of the discussions and had knowledge of the following facts:

1. offers to settle with a uniform statement of allegations were sent to counsel for Berry, McQuillen and Scotia and were identified as "without prejudice" offers;
2. settlement negotiations between RS, Scotia, McQuillen and Berry took place with a view to establish an identical form of statement of allegations; it was only the matter of sanctions that varied among the respondents; and
3. Berry had all versions of the statement of allegations that accompanied the offers of settlement that were sent to Scotia and McQuillen, which enabled him to track all changes made by RS during the settlement discussions with the parties.

[21] Berry takes the position that he was not provided with notes made by RS enforcement counsel regarding the settlement discussions with counsel for Scotia and McQuillen. According to Berry, these notes may contain information regarding Berry's relationship with Scotia.

[22] In response, RS takes the position that Berry was given full disclosure of the results of the negotiations with Scotia and McQuillen through the provision of uniform drafts of the statement of allegations that were appended to the respective offers of settlement and the final settlement agreements that were entered into with Scotia and McQuillen.

[23] The settlements for McQuillen and Scotia were not identical. The McQuillen settlement agreement includes the following admitted facts that relate to Berry:

(a) Berry's supervisor during the period 1999 to October 2002 has stated that he was aware of certain aspects of the Trading (as described in paragraph 22 of the Statement of Allegations), as follows, but he did not appreciate that it resulted in clients receiving secondary market shares in the new issue:

i. Berry and/or McQuillen took orders from clients for shares in a new issue during the selling period and filled these orders through sales from the 08 account when the new issue began trading on the TSX.

ii. In some instances, the 08 account would receive an allocation of new issue shares but ultimately incur a short position in the shares of the new issue through sales with clients.

iii. In other cases, a swap transaction with a client's existing position was involved.

(b) The supervisor has stated that he was not aware of instances in which the 08 account sold short shares in the new issue to clients without taking an allocation in the new issue.

[24] In addition, at paragraph 22 of his factum, Berry highlights the following from the evidentiary record:

(a) Scotia agreed that between April 2002 and October 2003, it was liable under UMIR Rule 10.3(1) for contraventions by its former employees, Berry and McQuillen, of UMIR 7.7(5) (pre-May 2005 version) and UMIR 6.4. Scotia agreed to a fine of $571,167 and $67,000 in costs;

(b) McQuillen agreed that between June 2004 and April 2005, he engaged in conduct that resulted in Scotia contravening UMIR 7.7(5) (pre-May 2005 version) and UMIR 6.4. McQuillen was fined $25,000;

(c) RS Staff expressly indicated in the RS Discipline Notices related to Scotia that it was not seeking to hold Scotia liable for any contravention of Scotia's trading supervision obligations under UMIR Part 7.1 in respect of the purported conduct of its employees, Berry and McQuillen, and offered no explanation for this decision;

(d) None of the admitted facts in the Statement of Allegations against Scotia refer to any of Scotia's supervisory obligations, responsibility to appropriately train and educate its employees, or deficiencies relating thereto;

(e) Scotia's fine of $571,167 represented only what it acknowledged was the financial benefit to it on account of the impugned trades; and

(f) Ms. Maureen Jensen (Vice-President, RS, Eastern Region) subsequently commented in several news media reports that she was "pleased that Scotia Capital recognized in this settlement that, even though supervision was not an issue, it would not be appropriate to retain profits generated by the wrongdoing of its employees."

3. Berry's Reply

[25] Berry filed a reply to RS's Notice of Hearing and Statement of Allegations on March 14, 2007 (the "Reply"). The Reply sets out Berry's position and the defences that he will rely on in the RS Proceeding.

[26] Berry pleads in his Reply that, at all times, Scotia was:

1. responsible for supervising his trading and educating him about securities regulatory requirements;

2. directly aware of Berry's trading practices in general, and of the very trades at issue; and

3. expressly advised Berry that the impugned trading was not considered improper.

[27] The position taken in Berry's Reply is that his conduct did not result in Scotia contravening UMIR, but alternatively, that if breaches of UMIR occurred, they were the result of Scotia's own compliance failures (the "Scotia Defence").

[28] For instance, Berry points out in paragraph 9 of his Reply that Scotia was responsible for supervising and educating Berry regarding securities regulatory requirements such as UMIR pursuant to UMIR 7.1 and UMIR Policy 7.1 – Trading Supervision Obligations, which includes the obligation to:

> Ensure that employees responsible for trading in securities are appropriately registered and trained and that they are knowledgeable about the Trading Requirements that apply to their responsibilities. Persons with supervisory responsibility must ensure that employees under their supervision are appropriately registered and trained. The Participant should provide a continuing training and education program to ensure that its employees remain informed of and knowledgeable about changes to the rules and regulations that apply to their responsibilities.

[29] In addition, Berry also explains in his Reply that his trading was fully open and disclosed to Scotia and that trade tickets for the trades were prepared and submitted to Scotia for processing and compliance review. Accordingly, Scotia was aware of Berry's trades and solicitations. Specifically, on this point, Berry's Reply states at paragraphs 10, 13 and 14:

> 10. […] Berry was assured by his supervisors that due to the large volume of trading that he was responsible for and the percentage of overall profits that his trading activities generated, Scotia was monitoring his trading closely for regulatory compliance and would alert him if his trading was in breach of any industry rules.
>
> […]
>
> 13. […] Berry's supervisor at Scotia knew that from time to time Berry sold new issues short to clients from his inventory account without those trades being executed on an exchange. The supervisor did not consider that to be improper. He so advised Berry. Berry was entitled to, and did, rely upon Scotia for such direction.
>
> 14. At no time prior to the RS trade desk review in the spring of 2005 did Scotia ever advise Berry that it considered that his trading in new issue shares may contravene UMIR or the TSX Rules, that such trading was inconsistent with industry practice, or that it may be in any other way improper.

[30] Berry's Reply also emphasizes that all his clients were sophisticated institutions, not retail investors. These clients were neither misled, nor were their interests unfairly disregarded. In particular, Berry states in paragraphs 15 and 16 of his Reply that:

> 15. [His clients] were aware that Berry may take a short position in the stock after listing. The clients received the shares at precisely the price that they bargained for. None ever requested a prospectus, nor would they have acted any differently if they had received one.
>
> 16. At all times Berry's purpose in selling short to clients from his inventory account was to support the new issue by having the ability to go long in the stock after trading commenced.

[31] These allegations are in addition to others pleaded in the Reply.

4. Disclosure in the RS Proceeding

[32] On April 4, 2007, RS provided Berry with 19 binders of documents representing RS's disclosure in the RS Proceeding.

[33] On April 19, 2007, Berry's counsel wrote to RS requesting further disclosure. With respect to the Settlement Materials, the April 19, 2007 letter states that RS has failed to provide disclosure of:

> All communications with counsel for each of McQuillen and Scotia for the purpose of the settlement discussions now concluded between RS and each of them […]
>
> […] In particular, it appears that RS has not produced records of all communications with McQuillen, Scotia and their respective counsel, including notes and memoranda made by RS staff of such telephone calls, meetings, etc. […]

[34] By letter dated April 20, 2007, RS advised Berry's counsel of RS's position with respect to the Settlement Materials. Specifically, RS took the position that:

> […] settlement communications are conducted on a without prejudice basis. Our position with respect to those communications in relation to [McQuillen] and [Scotia], is twofold. First, any such communications are irrelevant to the case against [Berry]. Second, such communications are the subject of privilege;
>
> […]
>
> You refer in the body of your letter to communications between RS Staff and McQuillen and [Scotia]. Any such communications forming part of our investigation have been disclosed (with the exception of privileged discussions for the reasons described above).

5. Berry's Motion for Further Disclosure Before RS

[35] Further exchanges of correspondence on the issue of disclosure of the Settlement Materials (among other things) did not resolve the issue. Berry filed a Notice of Motion for further disclosure dated October 15, 2007, returnable November 2, 2007 (the "Motion for Further Disclosure"). In addition to requesting disclosure of the Settlement Materials, Berry's Motion for Further Disclosure also addressed the disclosure of the Other RS Files; however, as stated above, disclosure of the Other RS Files was resolved prior to the hearing of the Application before the Commission.

[36] With respect to the Settlement Materials, in his Motion for Further Disclosure, Berry sought:

> All materials provided by or exchanged between RS Staff and each of [Scotia] and [McQuillen], but not limited to, settlement negotiations with RS Staff.

[37] Berry's Motion for Further Disclosure was brought on the grounds that disclosure is necessary to permit Berry to make full answer and defence in the RS Proceeding. Berry argued that RS must disclose any document or other materials (including the Settlement Materials) if they are relevant; that is, they may be of some use or have a reasonable possibility of assisting Berry to rebut the allegations, advance any possible defence, or make any tactical or other decision that could affect the conduct of the RS Proceeding. In particular, Berry requests disclosure of the Settlement Materials to permit him to:

> […] make tactical decisions, including, (i) deciding which individuals to interview, (ii) making decisions about who to call as witnesses, (iii) determining a strategy for impeachment of witnesses; and (iv) other strategic choices;
>
> […]
>
> [address] aggravating, mitigating and other factors, if the Allegations are ultimately proven true, for the purposes of lessening any sanction.

[38] Berry's factum also clarified at paragraph 23 that Berry requested disclosure of the Settlement Materials on the basis that:

(a) Berry reasonably anticipates that McQuillen and representatives of Scotia will be key witnesses at the hearing;

(b) All communications between Scotia and RS, and McQuillen and RS, including those relating to settlement, are clearly relevant to the Scotia Defence pleaded by Berry; and

(c) Information in these documents may inform decisions made by Berry concerning the conduct of his defence, including the identification of witnesses and the conduct of cross-examination.

6. The RS Disclosure Decision

[39] On November 8, 2007, the RS Disclosure Decision was issued, dismissing Berry's Motion for Further Disclosure.

[40] At the outset of his decision, the Chair of the RS Panel stated that:

> […] both parties agree that RS has a duty to disclose all relevant facts to the Respondent. In any case, the law on this point is well settled, and I see no need to elaborate on this. What is disputed, however, is the relevance of certain documents, and whether or not the rules of disclosure require their production. That is the issue now before me. (*RS Disclosure Decision*, dated November 8, 2007 (unreported) at 1.)

[41] In canvassing the issue, the Chair of the RS Panel stated:

> Disclosure obligations are high. Fairness demands this, and the case law is clear on the point. *Stinchcombe*, [1991] 3 S.C.R. 326, is now regularly followed, but while the rule is clear, its application may, at times be difficult. For instance, as was pointed out by the British Columbia Securities Commission in *Fernback*, [2004] B.C.S.C.D. No. 809, October 29, 2004, "it is not possible to rule definitively that any category of documents is or is not disclosable. It depends on their content." (*RS Disclosure Decision*, *supra* at 3.)

[42] With respect to the Settlement Materials, the Chair of the RS Panel observed that Berry sought disclosure of all the files relevant to the Scotia and McQuillen settlement agreements and noted:

> […] the Respondent would like to be enlightened about information relating to the 2005 Scotia/[McQuillen] Investigation Material which RS Staff considered privileged. His position is that "[a]ny privileged documents exchanged by Scotia or [McQuillen] with RS Staff must be listed in the Undisclosed Documents List (Schedule A) along with the privilege asserted. Otherwise the document must be delivered. (*RS Disclosure Decision*, *supra* at 4 and 5.)

[43] The RS Disclosure Decision also sets out the general principle that settlement communications are not usually disclosed:

> RS submits that what was *not* provided to the Respondent were settlement communications between the parties which are privileged. I accept that assurance, and I agree that, according to well-established principles (as stated, for instance, in Sopinka, Lederman and Bryant, *The Law of Evidence in Canada*, 2nd ed., Butterworths, 1999, pp. 807 & ff) such communications need not be disclosed. (*RS Disclosure Decision*, *supra* at 5.)

[44] The Chair of the RS Panel came to the following conclusion:

> Insofar as the Scotia/McQuillen materials are concerned, for reasons stated before, I do not consider them relevant. This will not, of course, prevent the Respondent from his right to fully cross-examine any witness about the possible benefits derived from a settlement agreement and which may have a bearing on his or her testimony. The results of the settlement agreements with Scotia and McQuillan are known to the Respondent. Whether or not discussions which preceded them can be brought out at the hearing will be a matter for the hearing panel. (*RS Disclosure Decision*, *supra* at 6.)

[45] In his reasons, the Chair of the RS Panel did not refer to Berry's Reply, and in particular, the position Berry takes in his defence that Scotia had greater knowledge of, and involvement in, the impugned activities than is suggested in the settlement agreements.

D. Berry's Application Before the Commission

[46] On November 26, 2007, Berry filed his Application before the Commission for a hearing and review of the RS Disclosure Decision pursuant to section 21.7 of the Act.

[47] The Application pertains to the disclosure of the following documents:

1. all materials relating to any investigation or review of Berry's trading practices by RS other than the RS investigation of Berry's trading practices between May 2, 2005 and February 2007;

2. all investigation reports prepared by RS Staff in connection with the 2005 RS Investigation;

3. all materials relating to settlement negotiations between RS Staff and each of McQuillen and Scotia; and

4. unredacted copies of any contracts and/or agreements between TSX and RS relating to the provision of market regulation services by RS.

[48] As stated earlier in these Reasons, Berry no longer seeks access to the materials referred to in items 2 and 4 listed above. In addition, RS provided Berry with the materials requested in item 1 above. Therefore, only the disclosure of the Settlement Materials is currently at issue.

[49] With respect to the Settlement Materials, in his Application Berry takes the position that the RS Disclosure Decision should be set aside for the following reasons:

1. RS failed to compel the disclosure of the Settlement Materials, which are highly relevant to the Scotia Defence pleaded in Berry's Reply. Disclosure is necessary to permit Berry to make full answer and defence;

2. RS erred in law by applying an incorrect and unduly onerous standard of disclosure;

3. RS erred in law in holding that privilege attached to the Settlement Materials;

4. RS further erred in holding that, even if privilege did apply, it should not be set aside in order to permit Berry to make full answer and defence.

[50] According to Berry, RS's refusal to provide disclosure of the Settlement Materials is unfair to Berry and is contrary to the principles of natural justice.

[51] RS and Staff of the Commission submit that there is no reason to interfere with the RS Decision and, in any event, that the Request for Hearing and Review is premature.

II. The Issues

[52] The following issues arise from the Application and the responses thereto:

(a) What is the Commission's role under section 21.7 of the Act and what approach should be taken by the Commission when asked to review a preliminary decision of an SRO, in the context of an ongoing SRO proceeding?

(b) Are there good and sufficient reasons to set aside the RS Disclosure Decision in response to the Application?

(i) In particular, are the Settlement Materials relevant to the RS Proceeding?

(ii) Are the Settlement Materials privileged?

(iii) Are there compelling reasons to override any asserted privilege to ensure fairness to Berry in all of the circumstances?

III. Analysis

A. What is the Commission's Role under Section 21.7 of the Act and What Approach Should be Taken by the Commission when Asked to Review a Preliminary Decision of an SRO, in the Context of an Ongoing SRO Proceeding?

1. Legislative Authority

[53] A hearing and review of a decision of an SRO such as RS is governed by section 21.7 of the Act. That section provides as follows:

> **Review of decisions**
>
> 21.7 (1) The Executive Director or a person or company directly affected by, or by the administration of, a direction, decision, order or ruling made under a by-law, rule, regulation, policy, procedure, interpretation or practice of a recognized stock exchange, recognized self-regulatory organization, recognized quotation and trade reporting system or recognized clearing agency may apply to the Commission for a hearing and review of the direction, decision, order or ruling.
>
> **Procedure**
>
> (2) *Section 8 applies* to the hearing and review of the direction, decision, order or ruling in the same manner as it applies to a hearing and review of a decision of the Director. [Emphasis added]

[54] Subsection 8(3) of the Act sets out the Commission's powers on review as follows: "Upon a hearing and review, the Commission may by order confirm the decision under review or make such other decision as the Commission considers proper."

2. The Approach to be Taken by the Commission

[55] All of the parties agreed that in exercising its powers of review, the Commission exercises original jurisdiction (as opposed to a limited appellate jurisdiction) and is free to substitute its judgment for that of the SRO. (*Re Investment Dealers Assn. of Canada* (2007), 30 O.S.C.B. 4739 at paras. 29 and 30.)

[56] As stated in the recent Commission decision in *Re Investment Dealers Assn. of Canada*:

> In this regard, such a hearing and review may be considered broader in scope than an appeal, which is usually limited to determining whether there has been an error in law or whether a rule of natural justice has been contravened. (*Re Investment Dealers Assn. of Canada*, *supra* at para. 31.)

[57] Berry's written submissions emphasize that pursuant to sections 21.7 and 8(3) of the Act, the Commission has supervisory jurisdiction over SROs such as RS, and that the Commission has the power to review, confirm or make other decisions. As a result, in exercising its jurisdiction under these sections, the Commission is free to substitute its judgment for that of the SRO. Berry's written submissions point out that the Commission's review powers are broader in scope than an appeal, which is restricted to determining whether there has been an error in law or whether a rule of natural justice has been contravened.

[58] On the other hand, RS and Staff submit that in practice, the Commission should take a "restrained approach", whereby the Commission should not substitute its own view just because it might have reached a different conclusion on the particular facts at issue, and will only interfere in very limited circumstances. (*Re Investment Dealers Assn. of Canada*, *supra* at para. 33.) Statements made in a number of cases support this principle. For example, in *Re Shambleau* (2002), 25 O.S.C.B. 1850 at 1852

and in *Security Trading Inc. and the Toronto Stock Exchange* (1994), 17 O.S.C.B. 6097 at 6105, the Commission emphasized that the fact that the Commission might disagree or render a different decision on the facts is an insufficient reason to substitute its decision for that of the Board or Exchange. (See also: *Re Malting* (1986) 9 O.S.C.B. 3565 at 3587, and *Re Boulieris* (2004), 27 O.S.C.B. 1597 at para. 31.)

[59] These cases suggest that the Commission should only interfere with a decision of an SRO if one of the following grounds is present:

1. the SRO has proceeded on an incorrect principle;

2. the SRO has erred in law;

3. the SRO has overlooked some material evidence;

4. new and compelling evidence is presented to the Commission that was not presented to the SRO; or

5. the SRO's perception of the public interest conflicts with that of the Commission.

(*Re Investment Dealers Assn. of Canada*, *supra* at para. 32.)

[60] Berry argues that while deference is often afforded to factual determinations made by an SRO, the Commission will nevertheless intervene if the SRO acts unfairly. We note that the Commission has indicated that it would intervene in respect of an SRO's decision if the SRO's discretion was not exercised fairly; for example, where the Commission finds there was no evidence upon which the SRO's conclusions could be supported. (*Security Trading Inc. and the Toronto Stock Exchange*, *supra* at 6105.)

[61] In this case, Berry submits that little deference should be afforded to any findings of fact by RS, for a number of reasons including that the Commission has the expertise to make findings of fact regarding disclosure.

[62] In our view, the positions of RS and Berry are both correct. Although the statute provides the Commission with broad powers of review, the Commission has repeatedly emphasized the "restrained approach" urged upon us by Staff and RS. Such restraint is desirable to ensure that SROs have adequate control and direction over their own processes and procedures, and that they are not unduly hampered by interruptions caused by parties seeking a "second opinion" in the midst of an ongoing SRO regulatory proceeding. On the other hand, when approaching matters such as the one before us, the Commission can, and should, as Berry has submitted, consider the impact the reviewed decision has on the fairness to the applicant and whether the Commission's intervention would facilitate rather than interfere with the SRO process.

[63] We also agree with Berry that the nature and characteristics of the specific issue in dispute is relevant to this analysis. It is true that an RS Panel ought to be master of its own process and procedures, in a manner similar to this Commission in regard to its own proceedings. However, RS does not have unique or special expertise or jurisdiction with respect to disclosure issues and it is appropriate for the Commission to exercise its oversight powers to ensure procedural fairness in the RS Proceeding. Assessments and reviews of those matters should be measured against practices and principles articulated in law. In situations where the decision under review deals specifically with an issue squarely within an SRO's expertise or jurisdiction, higher deference should be accorded to the SRO.

B. Are There Good and Sufficient Reasons to Set Aside the RS Disclosure Decision in Response to the Application?

[64] The relevant issue before the Chair of the RS Panel related to disclosure of the Settlement Materials. As the Chair of the RS Panel noted, "RS has a duty to disclose all relevant facts to the Respondent. […] What is disputed, however, is the relevance of certain documents, and whether or not rules of disclosure require their production."

[65] Full, fair and timely disclosure is key to ensuring procedural fairness to respondents in regulatory enforcement proceedings. As stated in *Re Ironside*, [2005] A.S.C.D. No. 910 at para. 29:

> Allegations of inadequate disclosure, when raised, strike at one of the core principles of natural justice – ensuring that a respondent has an adequate opportunity to be heard. In the securities regulatory context, that includes knowing the case to be met and being able to make full answer and defence.

[66] It is no longer disputed that in disciplinary proceedings where the consequences of the outcome can be severe to a respondent, such as those before RS, principles of natural justice and fairness require a high standard of disclosure akin to that required in criminal trials. Accordingly, principles articulated by the Supreme Court of Canada in *R. v. Stinchcombe*, [1991] 3 S.C.R. 326 ("*Stinchcombe*"), have been applied in securities regulatory proceedings. (See for example: Re Fernback, [2004]

B.C.S.C.D. No. 966; *Ontario (Securities Commission) v. Shambleau*, [2003] O.J. No. 4089 (Ont. Div. Crt.); *Re Ironside*, *supra*; and *Deloitte & Touche LLP v. Ontario (Securities Commission)*, [2002] S.C.J. No. 62.)

[67] It is important that a high duty of procedural fairness be accorded to a respondent in disciplinary and other enforcement proceedings where the allegations are serious and the outcome has significant consequences for an individual. In his dissent in *Howe v. Institute of Chartered Accountants of Ontario*, 19 O.R. (3d) 483, Laskin, J.A. emphasized at 495:

> Discipline proceedings are near the judicial end of the spectrum of administrative decision-making. Therefore they call for disclosure that exceeds the minimum requirements of s. 8 of the Statutory Powers Procedure Act and that approaches the kind of disclosure applicable in court proceedings. To use Dickson J.'s phrase in *Kane v. Board of Governors of the University of British Columbia*, *supra*, at p. 1113, discipline proceedings require a "high standard of justice". The reason is obvious. Discipline proceedings may have serious consequences on a person's livelihood, reputation and professional career. For some professionals, a finding of professional misconduct is more serious than a criminal conviction: see *Re Emerson and Law Society of Upper Canada* (1983), 44 O.R. (2d) 729 at p. 744, 5 D.L.R (4th) 294 (H.C.J.).

[68] Laskin, J.A.'s opinion in *Howe* is often referred to when considering the standard of disclosure in regulatory enforcement proceedings. (See for example: *Ontario (Securities Commission) v. Shambleau*, *supra*, and *Re Glendale Securities Inc.* (1995), 18 O.S.C.B. 5975.) It is clear from the case law, and agreed upon by all parties in their submissions, that a "*Stinchcombe*"-like standard is applicable to disciplinary and other regulatory enforcement proceedings.

[69] In *R. v. Taillefer*, [2003] 3 S.C.R. 307, the Supreme Court of Canada summarized the *Stinchcombe* standard as originally articulated by the Court and as interpreted and applied in subsequent decisions at paras. 59-60:

> After a period during which the rules governing the Crown's duty to disclose evidence were gradually developed by the provincial appeal courts in recent decades, those rules were clarified and consolidated by this Court in *Stinchcombe*. The rules may be summarized in a few statements. The Crown must disclose all relevant information to the accused, whether inculpatory or exculpatory, subject to the exercise of the Crown's discretion to refuse to disclose information that is privileged or plainly irrelevant. Relevance must be assessed in relation both to the charge itself and to the reasonably possible defences. The relevant information must be disclosed whether or not the Crown intends to introduce it in evidence, before election or plea (p. 343). Moreover, all statements obtained from persons who have provided relevant information to the authorities should be produced notwithstanding that they are not proposed as Crown witnesses (p. 345). This Court has also defined the concept of "relevance" broadly, in *R. v. Egger*, [1993] 2 S.C.R. 451, at p. 467:
>
> > One measure of the relevance of information in the Crown's hands is its usefulness to the defence: if it is of some use, it is relevant and should be disclosed – *Stinchcombe* [at page 345]. This requires a determination by the reviewing judge that production of the information can reasonably be used by the accused either in meeting the case for the Crown, advancing a defence or otherwise in making a decision which may affect the conduct of the defence such as, for example, whether to call evidence.
>
> As the courts have defined it, the concept of relevance favours the disclosure of evidence. Little information will be exempt from the duty that is imposed on the prosecution to disclose evidence. As this Court said in [*R. v. Dixon*, [1998] 1 S.C.R. 244], 'the threshold requirement for disclosure is set quite low.... The Crown's duty to disclose is therefore triggered whenever there is a reasonable possibility of the information being useful to the accused in making full answer and defence.' (para. 21; see also *R. v. Chaplin*, [1995] 1 S.C.R. 727, at paras. 26-27). 'While the Crown must err on the side of inclusion, it need not produce what is clearly irrelevant' (*Stinchcombe* [at page 339]).

[70] In *Re Ironside*, the Alberta Securities Commission noted that the low threshold for relevance affords a broad right to disclosure and encompasses information that "may appear to have only limited value to the issues for determination" in the proceeding (at para. 35). For instance, documents which might appear irrelevant to staff may have considerable relevance for the purposes of defending allegations when viewed in light of other information possessed by the respondent. (*Re Fernback*, *supra* at para. 35.) Relevant information for the purposes of making full answer and defence includes material that the respondents could use to rebut the case presented by staff, material they could use to advance a defence, and material that may assist them in making tactical decisions. (See *Deloitte & Touche LLP v. Ontario (Securities Commission)*, [2002] O.J. No. 2350 (Ont. C.A.) ("*Deloitte CA*") at para. 40.)

[71] In *Deloitte CA*, the Court further noted that relevance is to be considered by reference to the allegations against the respondent, such that "relevance occurs where the nature of the allegations and the contents of the material in possession of Staff intersect" (at para. 44).

[72] Practically, the determination of relevance in the context of a criminal proceeding is made by reference to the allegations set out in the information or indictment; and, in a Commission proceeding commenced pursuant to section 127 of the Act, it is made by reference to Staff's statement of allegations and the issues raised by it. In the context of civil litigation in Ontario, a defendant's statement of defence can also clearly raise issues that relate to relevance. As is the case in civil proceedings, relevance in RS proceedings can be more readily assessed by reference to the issues raised in both RS's statement of allegations *and* the respondent's reply, and due regard to those documents should be had when assessing relevance for disclosure purposes.

1. Relevance of Settlement Materials

[73] Berry submits that the Chair of the RS Panel erred in law by not applying the *Stinchcombe* standard correctly and by concluding that the Settlement Materials were not relevant. He argues that had the Chair of the RS Panel turned his mind to the allegations and his pleadings, the Settlement Materials would clearly have been found relevant. RS agrees with Berry's counsel that *Stinchcombe* was the correct standard, but argues that the Chair of the RS Panel met the standard in concluding that the requested materials were not relevant in light of the pleadings.

[74] RS's Statement of Allegations claims that Berry engaged in a pattern of trading over a three-year period that resulted in Scotia violating UMIR. The basis upon which Berry is personally liable is set out in paragraph 2 of the Statement of Allegations:

> UMIR came into effect on April 1, 2002. Effective January 30, 2004, UMIR was amended to add Section 10.3(4) which provides that an individual employed by a Participant who engages in conduct resulting in the Participant contravening UMIR may be found liable for the conduct and sanctioned accordingly. *As a result, from and after January 30, 2004, Berry can be found personally liable for causing Scotia Capital to solicit the client orders and conduct the off-marketplace trades referred to herein.* In respect of the solicitations, 11 took place after January 30, 2004. In respect of the off-marketplace trades, 10 took place after January 30, 2004. [Emphasis added.]

[75] In Berry's Reply to the Statement of Allegations, Berry claimed that the contraventions of UMIR were actually a result of Scotia's own compliance failures. The Reply outlined Berry's position that the trading at issue was conducted in a manner that was consistent with his training and experience with Scotia, that any knowledge he had of securities regulations would have been solely acquired from Scotia, and that Scotia had obligations under UMIR 7.1 to supervise and educate him about regulatory requirements. Further, Berry pleaded that Scotia was monitoring his trading and knew of the very trades at issue. He claimed that he was never advised that his trading contravened UMIR, but rather relied on his supervisor's advice that his trading practices were not improper.

[76] Based on the Statement of Allegations and Berry's Reply, it is clear that issues about Scotia's knowledge of Berry's trading and what Berry was advised about its propriety will be raised in the RS Proceeding. Berry's position that the breaches of UMIR resulted from Scotia's failure to properly supervise him would also raise issues about the adequacy of Scotia's supervision and training of Berry and how closely Scotia was monitoring compliance with UMIR.

[77] On the basis of the allegations, Berry submits that he could only be held liable if it was found that he *caused* Scotia to breach UMIR. Since section 10.3(4) enables an individual to be held responsible for contraventions of UMIR in place of the employing firm, the nature of the provision allows the firm to shift blame onto the individual. Specifically, section 10.3(4) of the UMIR states:

> Any officer or employee of a Participant or Access Person or any individual holding a similar position with a Participant or Access Person who engages in conduct that results in the Participant or Access Person contravening a Requirement may be found liable by the Market Regulator for the conduct and be subject to any penalty or remedy as if such person was the Participant or Access Person.

[78] A central question therefore in the RS Proceeding, directly raised by the "pleadings", is whether it was Berry's conduct that caused Scotia to breach UMIR, or whether there was some other cause.

[79] Berry further submits that the Settlement Materials are relevant and necessary for him to make full answer and defence, in light of the following:

- The RS Discipline Notices accompanying the settlement agreement between RS and Scotia explicitly states that proceedings in respect of Scotia's supervision of Berry and McQuillen were not taken by RS. There is no information, however, that addresses why Scotia was not held responsible for failing to supervise Berry under UMIR.

- The agreed facts in the settlement agreement entered into between RS and Scotia do not refer to Scotia's supervisory obligations, and the agreed sanctions represent a simple disgorgement of financial benefits

obtained by Scotia through Berry's trading. The penalties do not seem to reflect any liability for the trading that occurred after UMIR 10.3(4) came into effect, when Berry could be held personally liable for the contraventions.

- McQuillen's settlement agreement had a provision not mentioned in the settlement agreement between RS and Scotia regarding some knowledge of supervisors at Scotia of the trading conducted by McQuillen and Berry.

- There were comments in the news media by RS expressing that Scotia's supervisory obligations were not at issue. It further indicated that the types of trades engaged by McQuillen were known by Scotia and his supervisor.

[80] RS submits that the materials sought by Berry are not relevant because they are not necessary for Berry to make full answer and defence. It is claimed that the "fruits of the investigation" have already been disclosed, including any information regarding what Scotia and McQuillen told RS about the allegations against Berry and against themselves. Berry was provided with drafts of the offers of settlement and all the versions of the accompanying statement of allegations. The only information not disclosed regarding the settlement agreements were the notes made by RS enforcement counsel during their discussions with counsel for Scotia and McQuillen.

[81] RS further submits that the issues raised by Berry with respect to Scotia's supervisory obligations would not absolve him of any liability, but at best may mitigate any sanctions that might be imposed. Further, RS submits that Berry admitted to the trades at issue, and Scotia and McQuillen are not necessary to prove the allegations. RS also submits that if they were not called as witnesses at the hearing, then their settlement communications with RS could not possibly be relevant and this would also eliminate any issues of credibility.

[82] It is apparent that Scotia's role and knowledge of the trading at issue were at least considered by RS, but there is no additional information as to why there was no reference to those issues in the settlement agreements. It is reasonable to expect that those types of issues and facts would have been discussed during the negotiation discussions between RS and Scotia and between RS and McQuillen in reaching a settlement. It is also possible that there may be issues of credibility as to their positions.

[83] Counsel for Berry submits that employees of Scotia will be witnesses at the hearing, and at a minimum, that Berry would be calling McQuillen as a witness if RS does not. Further, Berry's purpose in seeking disclosure of the Settlement Materials is to assess the positions that Scotia and McQuillen advanced in their settlement discussions with RS. This would assist Berry in making decisions about whether to call representatives of Scotia to testify. For example, the changes to settlement documents proposed by Scotia that RS did not accept in the final agreement would be outside what was already disclosed regarding the offers of settlement.

[84] In our view, any information given by Scotia and McQuillen to RS about the allegations against Berry and against themselves will be relevant to Berry's defence. We accept, at the very least, that the communications between RS and Scotia and McQuillen may be helpful to Berry in making strategic and informed decisions regarding which witnesses to call and how to conduct his defence.

[85] The Chair of the RS Panel concluded that the Settlement Materials were not relevant; however, he made no reference to Berry's Reply or how it related to the nature of the allegations. We recognize that critical issues in the RS Proceeding will include whether Berry caused Scotia's violation of UMIR and if Berry did so, whether it was a result of Scotia's failure to fulfill its supervisory obligations. Given the nature of UMIR 10.3(4) and the fact that an individual can be held personally liable under that provision, any discussions of the parties with RS relating to the violations would be relevant. Even if the Settlement Materials are not clearly relevant, at the very least, we are of the view that they are not "plainly irrelevant", as emphasized in *Taillefer*, *supra* at 59. Further, to paraphrase the words of the Supreme Court in *Eggers*, *supra* at 467, we are satisfied that the information requested can reasonably be used by Berry to meet the case RS presents, advance his defence, or to otherwise make decisions which may affect the conduct of his defence.

[86] As stated above, disclosure goes to the root of fairness to a respondent, and a failure to provide the respondent with relevant information and material in advance of the commencement of the proceeding, could undermine the fairness of the RS Proceeding.

[87] Having reached that conclusion, the issue that remains to be considered is whether there is any valid reason why the Settlement Materials should not be disclosed to Berry.

2. Settlement Privilege

[88] Communications in the course of negotiations toward a settlement are generally privileged and protected from disclosure and admissibility into evidence. As stated by Sopinka et al. in *The Law of Evidence in Canada*:

> It has long been recognized as a policy interest worth fostering that parties be encouraged to resolve their private disputes without recourse to litigation, or, if an action has been commenced, encouraged to effect a compromise without resort to trial…
>
> In furthering these objectives, the courts have protected from disclosure communications, whether written or oral, made with a view to reconciliation or settlement. In the absence of such protection, few parties would initiate settlement negotiations for fear that any concession they would be prepared to offer could be used to their detriment if no settlement agreement was forthcoming… (John Sopinka, Sidney N. Lederman, and Alan W. Bryant, *The Law of Evidence in Canada* (2nd edition) (Markham: Butterworths, 1999) at 807 and 808.)

[89] Such a privilege, however, is not absolute and it is often set aside to address other concerns such as procedural fairness. Berry's position is that in this case, the right to make full answer and defence requires that disclosure of the Settlement Materials be made notwithstanding the general principle that such material is privileged.

[90] A number of decisions in the criminal, civil and administrative contexts have made exceptions to settlement privilege in certain circumstances. Generally, courts will attempt to balance all of the interests at stake. This may include balancing the right of an accused to a fair hearing or the right to make full answer and defence, with the encouragement of settlement. In this balancing approach, all of the relevant circumstances must be considered.

[91] A relevant circumstance considered by courts and tribunals is whether a plea bargain or settlement information relates to an individual who would likely be an important witness at the hearing of the matter. Berry's counsel relied on a number of criminal cases. While a number of these cases were decided in their own particular, and perhaps unique, factual circumstances, the underlying approach is informative.

[92] In the context of a criminal proceeding, the Court in *R. v. Bernardo*, [1994] O.J. No. 1718 (Ont. Gen. Div.), set aside settlement privilege attached to plea negotiations with the Crown in order to allow the accused to make full answer and defence. In that case, the accused was charged with murder and sought disclosure of the Crown's files regarding the plea negotiations with Karla Homolka, who had pleaded guilty to manslaughter for her participation in the same crimes. It was anticipated that Homolka would be a key witness in Bernardo's trial and the accused submitted that the information requested was necessary for his defence:

> […] those discussions form an integral part of her decision to supply the Crown with information and to testify as she is expected to do at the accused's trial. Further that they are entitled to cross-examine her not only on the agreement arrived at, but the discussions that led up to the agreement so that the jury will be in a position to assess her credibility by having a complete and thorough knowledge of discussions that may have motivated her to enter into that agreement. (*R. v. Bernardo*, *supra* at para. 6.)

[93] In *R. v. Delorme*, [2005] N.W.T.J. No. 51 (N.W.T. Sup. Ct.), another criminal case, the accused was one of four individuals originally charged with murder. The accused sought production of documents relating to the negotiations of the three other accused who had pleaded guilty and negotiated plea bargains with the Crown. The Court in that case ordered disclosure of the information relating to the plea negotiations of the two witnesses who were likely to testify on the basis that the information would be potentially useful for testing the credibility of those witnesses and their motivations for entering into the plea bargain. On the other hand, the documents relating to the individual whom there was no intention to call as a witness remained privileged. The Court also viewed it important that the protected information had some potential to provide the accused with added information not already or otherwise available to the defence, or had some potential impeachment value. (*R. v. Delorme*, *supra* at para. 46.)

[94] In the securities context, the Commission in *Re Glendale Securities Inc.*, *supra*, came to a similar conclusion in ordering disclosure of settlement discussions between a respondent and Commission staff. The fact that the witness in question was a respondent who settled and that this respondent was expected to be a critical witness against the remaining respondents who did not settle, was an important consideration in concluding that the balance favoured disclosure. The Commission stated in that decision:

> […] it was a fair inference that this may well be a case where someone who was vulnerable to a significant penalty was attempting to obtain immunity or a lesser penalty by trying to shift the blame to someone else, that this clearly would be important to Mr. Parr's credibility, and that Mr. Parr, from the material produced by the Commission staff to the Respondents, appears to be a critical witness to [Staff's] case. (*Re Glendale Securities Inc.*, *supra* at 5980.)

[95] In *Glendale*, *supra*, in the Commission's view, it was possible that credibility might be at issue. Accordingly, what took place in settlement discussions might be relevant, and fairness required allowing the respondent to test the evidence by cross-examination. Quoting from *R. v. Ross*, [1995] O.J. No. 2582 (Ont. Gen. Div.), the Commission accepted that:

> If the disputed material may prove the defendant's innocence or avoid a miscarriage of justice, then the balance comes down resoundingly in favour of disclosing it. (*Re Glendale Securities Inc.*, *supra* at 5983.)

[96] Further, courts and tribunals have found that the policy rationale behind settlement privilege may not apply in circumstances where the individual who entered into a settlement is a key witness in proceedings related to a third party, and the witness is no longer at risk of prejudice from disclosure of the privileged information. For example, in *R. v. Bernardo*, *supra*, while it was recognized that there is a public interest in protecting plea negotiations between an accused and the Crown to encourage full, frank and private negotiations and to encourage the resolution of cases, the privilege is usually applied so that the information disclosed will not be used against the person who has entered into the plea bargain. The Court in that case made a distinction where the information being sought was for use in the defence of another person:

> […] Although I readily accept the Crown's position that a privilege ought to exist in the sense that the information should not be used against her in a subsequent prosecution, I do not conclude that the "privilege" ought to extend when that person, i.e. Ms. Homolka, is not an accused nor is at any risk of prejudice. In this circumstance, it is intended that she testify on behalf of the Crown, putting another at penal risk.
>
> Assuming that a privilege does attach to these negotiations, that privilege ought not to extend to an agreement that requires the person to be a witness against another when, as here, she will be a witness for the Crown. (*R. v. Bernardo*, *supra* at paras. 17-18.)

[97] The Court in *R. v. Delorme* also considered it important that the party who successfully negotiated the plea bargain was no longer at risk of prejudice from the disclosure (at para. 30).

[98] In *R. v. Murray* (2000), W.C.B.J. 514773 (Ont. S.C.J.) (QL) ("*Murray*"), the Court considered whether solicitor-client privilege should be set aside. This was another case arising from the Bernardo prosecution where his first counsel was charged with obstruction of justice as a result of his conduct in that case. At the time of the trial, Bernardo had already been convicted of murder and had failed in his appeals. The Court therefore concluded that any prejudice Bernardo might suffer by way of invasion of his privilege would be "largely theoretical". On the other hand:

> […] Mr. Murray's ability to defend himself on this serious charge is threatened and indeed his very liberty is at stake. There is no doubt that Mr. Bernardo's privilege must give way to the overwhelming importance of Mr. Murray's right to full answer and defence. (*R. v. Murray*, *supra* at 3.)

[99] Even though solicitor-client privilege is considered the "highest privilege recognized by the courts", the Court found that this right was not absolute and in certain circumstances must yield to another person's right to make full answer and defence.

[100] Berry's counsel also submits that there is a lower expectation of privacy in regulatory proceedings such that the right to make full answer and defence outweighs a witness' right to keep details regarding the settlement agreement confidential. As support for this proposition, it is submitted that settlement agreements in connection with regulatory proceedings are usually made public once they are approved, whereas in civil proceedings, terms of settlement are generally not made public.

3. Are there Compelling Reasons to Override any Asserted Privilege to Ensure Fairness to Berry in all the Circumstances?

[101] We find that the principles described above, as articulated in these cases are relevant to the case before us. Although we recognize that this is an administrative proceeding, we accept that broad principles from the criminal context assist in our analysis. In these circumstances, Scotia and McQuillen entered into settlement agreements with RS and are likely to be witnesses against Berry in connection with the same conduct. As stated in the Statement of Allegations at paragraph 3, "[o]nly Scotia can be found liable for conduct occurring prior to January 30, 2004 which resulted in a breach of UMIR 6.4 or 7.7(5)". The effect is that after January 30, 2004, Berry and McQuillen can be held personally liable for causing the conduct contravening UMIR pursuant to UMIR 10.3(4). Essentially, blame shifted from Scotia to Berry and McQuillen. The positions advanced by Scotia in the negotiations are necessarily at issue, and concerns of credibility and motivation for entering into a settlement agreement cannot be ignored. In these circumstances where Berry intends to challenge the allegations against him, such information may be helpful in preparing his cross-examination or conducting his defence.

[102] RS submits that *Bernardo* was a case where Homolka was agreeing to be a witness against Bernardo in exchange for her testimony and was negotiating a deal based on the strength of that testimony. In our view, while the circumstances here may be different, we find that the allegations against Berry are so closely tied to the substance of the settlement agreements

(the allegations are almost identical) that, on balance, any settlement privilege must give way to Berry's right to make full answer and defence.

[103] RS also submits that the circumstances of this case do not justify overriding the strong policy rationale behind settlement privilege. RS submits, for example, that it could cause a chilling effect on the ability of RS to conclude settlements with multiple respondents. Although we recognize that there is a strong public interest in protecting settlement privilege, we also accept that the underlying policy considerations are not necessarily the same for proceedings involving third parties. The settlement agreements are already concluded between RS and Scotia, and RS and McQuillen. There is no evidence before us that Scotia or McQuillen would be prejudiced in subsequent proceedings by disclosure, especially since Berry was ordered to use the Settlement Materials only for the purposes of the RS Proceeding and no other proceeding. We agree with the Court in *Murray*, *supra*, that any prejudice to Scotia or McQuillen would be "largely theoretical" and must yield to the overwhelming importance of Berry's right to a fair hearing and a proper opportunity to defend himself.

[104] It should also be noted that the test for disclosure is not whether the information or documents would be ultimately admissible at a trial, but whether they are relevant (or even, not clearly irrelevant):

> Whether they would be admissible during the course of a trial is a matter upon which I choose not to speculate at this point. But whether or not they are admissible in evidence is not necessarily determinative of whether or not that information is relevant […]
>
> Whilst I agree with all of [the] submissions by the Crown, I am of the view that those inherent weaknesses and frailties of the information not to preclude the defence from having access to them in pursuit of their right to make full answer and defence. Even if it never becomes evidence, it is relevant. (*R. v. Bernardo*, *supra* at paras. 8, 11 and 14.)

[105] We accept that although there may be information produced that may not be admissible in the RS Proceeding, this information might still be helpful in informing Berry of the best strategy to be taken in the defence of the allegations against him.

C. Is the Application Premature?

1. Prematurity and Fragmentation

[106] RS and Staff both made submissions with respect to prematurity and fragmentation. In fact, RS initially brought a motion to quash Berry's Application on the grounds that it was premature and would fragment the proceeding, as the RS Panel has not had an opportunity to properly and effectively perform its function, and the Application could potentially protract and delay the hearing process. Subsequently however, RS asserted these submissions by way of a response to the Application.

[107] The general legal principles regarding prematurity are set out in *Ontario College of Art et al. v. Ontario Human Rights Commission* (1992), 11 O.R. (3d) 798 (Div. Ct.) at 799-800:

> [A court has] a discretion to exercise in matters of this nature. It can refuse to hear the merits of such an application if it considers it appropriate to do so. Where the application is brought prematurely, as alleged by the Attorney General in these proceedings, it has been the approach of the Court to quash the application, absent the showing of exceptional or extraordinary circumstances demonstrating that the application must be heard: see *Latif v. Ontario (Hospital Resources Commission)* (an unreported decision of this court of March 11, 1992; leave to appeal was denied on June 8, 1992 by the Ontario Court of Appeal) and *Hancock v. Ontario (Human Rights Commission*) (an unreported decision of this court of November 10, 1992).
>
> These decisions follow a long line of authority which has indicated the need to avoid a piecemeal approach to judicial review of administrative action. The board of inquiry in this case has jurisdiction to entertain and determine any of the issues that have been so ably advanced …
>
> For some time now the Divisional Court has, as I have indicated, taken the position that it should not fragment proceedings before administrative tribunals. Fragmentation causes both delay and distracting interruptions in administrative proceedings. It is preferable, therefore, to allow such matters to run their full course before the tribunal and then consider all legal issues arising from the proceedings at their conclusion.

[108] The Divisional Court in *Coady v. Law Society of Upper Canada* (2003), O.A.C. 51 (Div. Ct.) further stated:

> When litigants before administrative tribunals seek the court's intervention in the midst of the litigation, the court is reluctant to do so except in very extraordinary circumstances. Experience has shown that the best course is to permit the hearings to be completed and then review the entire mater. Many apparent problems

> disappear in the light of further evidence, sometimes the result makes the application unnecessary. (*Coady v. Law Society of Upper Canada*, *supra* at paras. 9-11.)

[109] The Commission has recognized these concerns. The recent Commission decision of *Re TSX Inc.* (2007), 30 O.S.C.B. 8917, noted that premature attempts to review tribunal decisions are rejected because the interruption would hinder the first instance tribunal from properly and effectively performing its function (at para. 181).

[110] Nonetheless, the Court of Appeal has recognized:

> [The general rule] is not absolute and should not be applied rigidly if there is a prospect of real unfairness through, for example, the denial of natural justice. In these circumstances, which will arise infrequently, the courts will intervene before completion of an administrative hearing and prior to the exhaustion of all alternative remedies. (*Liquor Control Board of Ontario v. Lifford Wine Agencies Ltd.*, *supra* at para. 43.)

[111] For example, this exception may be invoked in circumstances where the information sought by a party is so material to the central issue before the tribunal that non-disclosure taints the very fairness of the hearing itself. In *LCBO*, *supra*, the Court stated:

> [The] evidence sought to be introduced by [the respondent] through [the investigator] is "material" to the central issue on the stay motion, that is, whether improper interference with the evidence of the LCBO witnesses occurred. In the view of the Divisional Court, the effect of the Board's decision to deny [the respondent] the opportunity to explore this evidence impaired the fairness of the hearing on the stay motion, thereby resulting in a denial of natural justice. (*LCBO*, *supra* at para. 37.)

[112] Further, in *Waxman v. Ontario (Racing Commission)*, [2006] O.J. No. 4226 (Ont. Div. Ct.) at para. 11, it was stated:

> […] if the hearing presently scheduled for Monday next were to commence without proper disclosure having been made in a timely way, it would be irretrievably tainted with unfairness from the outset. It does not offend this court's policy of not fragmenting proceedings before administrative tribunals to act to prevent a hearing already tainted from beginning without correcting the unfairness.

[113] As counsel for Berry submits, the relief sought is necessary now to enable Berry and his counsel to prepare for the RS hearing. In *People First of Ontario v. Ontario (Niagara Regional Coroner)* (1992), 87 D.L.R. (4th) 765 (Ont. C.A.) at 768, the Court of Appeal noted that refusing disclosure before the hearing would be unfair because it would prevent effective participation at the hearing. The Court of Appeal emphasized that while it is generally undesirable to interrupt a proceeding with applications for judicial review, in some cases, correcting an error already made at an earlier time would actually advance the hearing and its resolution.

[114] It is not premature for a reviewing court or tribunal to address an appeal/review of a lower decision when the appeal/review of the lower decision would avoid delay and promote the advancement of the proceeding on a timely basis.

[115] While we are always concerned about fragmenting proceedings, we do not see granting this Application at this time as causing delay. In fact, in these circumstances, we are of the view that the effect is the opposite (i.e. to avoid delay and promote advancement of the proceeding on a timely basis).

[116] RS submits that it is too early to tell whether the disclosure requested is material to the RS Proceeding and this should be left for determination by the RS Panel at the RS Proceeding. According to RS, the Chair of the RS Panel simply concluded that the settlement communications should not be disclosed based on privilege but that their relevance could be assessed in the context of the RS Proceeding. Staff also takes the position that a review of the RS Disclosure Decision would be premature and would fragment the RS Proceeding. At paragraph 19 of their factum, Staff emphasized that:

> It is too early to tell whether the evidence is sufficiently important to the fairness of the hearing. The RS Panel is best suited to determine whether natural justice demands disclosure of the Settlement Communications in the context of the hearing. The RS Panel ought to be given the chance to rule on the relevance in the context of the case presented by RS.

[117] For the reasons stated above and on the basis of the Statement of Allegations, Berry's Reply and his counsel's representation that the issue of Scotia's conduct and discussions about its conduct are central to the RS Proceeding, we are satisfied that the Settlement Materials should be disclosed to Berry so that he can decide whether they are relevant to his defence. In our view, it is paramount that the disclosure of the Settlement Materials be dealt with now so that the RS Proceeding can proceed expeditiously. In our view, all of the pertinent information is before us and there would be no benefit or advantage to referring the matter back to the RS Panel for disposition at the commencement of the hearing on the merits. To the contrary, doing so would potentially delay the RS Proceeding.

[118] We are mindful that we should not cause further delay, fragment the RS Proceeding or open the floodgates to applications to override settlement privilege. However, this case relates to a very narrow range of information and documents and is based on unique allegations and positions of the parties.

2. The Importance of the SRO Regime

[119] As stated in *Re TSX* (2007), 30 O.S.C.B. 8917, "the recognition of SROs by the Commission is designed to utilize the expertise of SROs in achieving the goals of the Act, and this is important to the integrity of the securities regulation scheme as a whole" (at para. 199).

[120] In addition, section 2.1 of the Act states that, "[the] Commission should, subject to an appropriate system of supervision, use the enforcement capability and regulatory expertise of recognized self-regulatory organizations".

[121] The functioning of the SRO regime should not be interfered with lightly. As explained by the Commission in *Re TSX*:

> Clearly, SROs have an essential role to play in the regulation of the capital markets. Consequently, the mandate of SROs and the manner in which they pursue it, should be respected and supported. SROs are often best suited to deal with the issues put before them, and unnecessary appeals and motions to other tribunals should not be permitted to bypass the SRO jurisdiction. (*Re TSX*, *supra* at para. 205.)

[122] Notwithstanding the importance of recognizing the jurisdiction of SROs and avoiding undue interference with the SRO process, in some circumstances it may be preferable for the Commission to intervene in order to avoid delay and ensure that fairness is obtained.

[123] The present case is one such example. In our view, it is appropriate for the Commission to address the Application to review the RS Disclosure Decision at this time. The hearing on the merits for the RS Proceeding is scheduled to commence on April 21, 2008, and it is essential that Berry be able to make full answer and defence. As a result, dealing with the RS Disclosure Decision now is not premature and will not fragment the RS Proceeding. Instead, dealing with an issue that affects the fairness of the RS Proceeding in advance of the commencement of the hearing will prevent delay and the need for Berry to bring further disclosure motions before the RS Hearing Panel, which could delay the RS Proceeding as a whole.

IV. Conclusion

[124] Given the nature of the allegations and the positions of the parties, we have concluded that the Settlement Materials are relevant to Berry's defence.

[125] Although settlement privilege generally applies to settlement discussions, the concerns that normally arise around disclosing settlement discussions are absent here, as the settlement agreements between RS and Scotia, and RS and McQuillen, have already been approved and there is little risk of future prejudice to Scotia and McQuillen in the context of the RS Proceeding. The issues in the RS Proceeding are closely linked to the settlement information sought by Berry and non-disclosure could potentially have a significant impact on Berry's ability to prepare his case and make full answer and defence. After balancing the benefits to be gained from the protection of such information from disclosure, with Berry's right to a fair hearing and the opportunity to make full answer and defence, we conclude that the circumstances of this case warrant setting aside the settlement privilege and granting Berry's Application.

[126] Where one individual enters into a settlement agreement and subsequently becomes a witness against another in relation to the same conduct, issues of credibility may arise. We are not saying that disclosure must always be ordered of settlement discussions when a respondent who enters into a settlement agreement subsequently becomes a witness against another. Rather, we believe that this case is an exceptional one that focuses on a very narrow issue under UMIR 10.3(4) where an employee can be held personally liable for contraventions he has caused to his employer. We find that in this unique circumstance, settlement discussions pertaining to the employer are relevant to the key issues facing the employee.

[127] As stated above, we recognize the concern that applications such as this should not be dealt with prematurely and that generally we should not interrupt proceedings of SROs or interfere with the adjudicative function of RS. As noted above, however, the RS Proceeding has not yet commenced and our review of the RS Disclosure Decision will not raise concerns of prematurity or fragmentation. Rather, it is essential that Berry be able to make full answer and defence, and dealing with the RS Disclosure Decision in advance of the commencement of the RS Proceeding will prevent delay of the RS Proceeding as a whole.

[128] Notwithstanding our ruling, it is still open to RS to assert solicitor-client privilege, or litigation privilege, where appropriate, for the communications between each party and their counsel.

[129] Given that third parties are affected, the Disclosure Order restricts Berry to use the Settlement Materials only for the purposes of the RS Proceeding. The Settlement Materials may not be used for any other purposes, for example, in civil proceedings. In order to ensure compliance with the Disclosure Order, the Settlement Materials must be returned to RS or be destroyed by Berry upon the conclusion of the RS Proceeding and any appeals.

[130] Accordingly, for these reasons, we granted the Application and issued the Disclosure Order.

Dated at Toronto on this 21st day of May, 2008.

"Lawrence E. Ritchie"
Lawrence E. Ritchie

"James E. A. Turner"
James E. A. Turner

3.1.2 GMP Investment Management L.P. - s. 26(3)

IN THE MATTER OF
GMP INVESTMENT MANAGEMENT L.P.

OPPORTUNITY TO BE HEARD BY THE DIRECTOR
UNDER SUBSECTION 26(3) OF THE SECURITIES ACT

Date: May 26, 2008

Director: Marrianne Bridge, CA
Manager, Compliance
Ontario Securities Commission

Submissions:

Isabelita Chichioco	-	for Ontario Securities Commission staff
Krista Coburn Goodmans LLP	-	for GMP Investment Management L.P.

Overview

By letter dated April 22, 2008, staff advised GMP Investment Management L.P. (GMP) that it was deficient in meeting the minimum capital requirements in Regulation 107(3) under the *Securities Act* (Ontario) (Act) by $154,054 based on annual audited financial statements as at December 31, 2007. The capital deficiency was rectified as at March 31, 2008.

As a direct consequence of the capital deficiency, staff recommended to the Director that terms and conditions be imposed on GMP's registration for a minimum period of six months. The terms and conditions require the filing of monthly year-to-date unaudited financial statements (including a balance sheet and an income statement prepared in accordance with generally accepted accounting principles) and monthly capital calculations.

Prior to a decision being made by the Director, GMP had the option to oppose staff's recommendation for terms and conditions by requesting an opportunity to be heard under section 26(3) of the Act. GMP had two options – it could either be heard through written submissions or through a personal appearance before the Director. By letter dated May 6, 2008, Goodmans LLP (on behalf GMP) requested an opportunity to be heard through written submissions.

This is the Director's decision based on staff's and GMP's written submissions.

Submissions

Staff submissions

Staff submits that maintaining adequate minimum capital by registrants is one of the most serious regulatory requirements in the Act. Financial solvency is one of the essential components of a portfolio adviser's continued suitability for registration. A capital deficiency, particularly a large capital deficiency such as in this case, raises potential serious regulatory concerns and needs to be addressed in a serious fashion.

For these reasons, staff uniformly recommends terms and conditions when registrants are capital deficient. It does this notwithstanding the wide variety of reasons provided by registrants for capital deficiencies including inadvertence/oversight, changes in staffing (either at the registrant or its auditors), misclassifications of accounts, or errors. Only in extremely rare circumstances would staff consider not recommending terms and conditions. Staff argues that these circumstances are not present in this case.

Submissions on behalf of GMP

GMP was registered as a portfolio adviser and limited market dealer in December 2007. It was capitalized with a non-interest bearing inter-company loan from an affiliate. The loan had no specified term. The capital deficiency of $154,054 arose as a result of the reclassification of the loan to a current liability in GMP's annual audited financial statements as at December 31, 2007. As at December 31, 2007, the amount of the loan was $157,761. The loan was repaid in February 2008 following a sale by GMP of its securities.

GMP argues that for internal purposes, GMP viewed the loan as long-term financing. It also argues that GMP was in a "pre-operation" period as at December 31, 2007 and that it was not actively engaged in providing advisory services to clients until early April 2008.

Decision and reasons

My decision is to impose the recommended terms and conditions on the registration of GMP for a minimum six month period. These terms and conditions are as follows:

> GMP Investment Management L.P. shall file on a monthly basis with the Compliance team of the Ontario Securities Commission, attention Financial Analyst, starting with the month ending May 31, 2008 the following information:
>
> (1) year-to-date unaudited financial statements including a balance sheet and an income statement, both prepared in accordance with generally accepted accounting principles; and
>
> (2) month end calculation of minimum required capital;
>
> no later than three weeks after each month end.

I concur with staff's argument that the rare and unusual circumstances that would result in terms and conditions not being imposed following a capital deficiency (in this case a significant capital deficiency) do not exist in this case. As a relatively new registrant, I would have expected GMP to be particularly careful to ensure that it was meeting the requirements of its registration, particularly the capital requirements.

I was also concerned with GMP's argument that, notwithstanding that GMP (with the concurrence of its auditors) recorded the loan as a current liability in its annual audited financial statements, GMP "viewed the [affiliate] loan as a long-term financing". Despite GMP's view of the loan, it was shown as a current liability in GMP's annual audited financial statements and the result was the large capital deficiency that is the subject of this decision and reasons.

May 26, 2008

"Marrianne Bridge"

3.1.3 Claymore Investments, Inc. - s. 26(3)

IN THE MATTER OF
CLAYMORE INVESTMENTS, INC.

OPPORTUNITY TO BE HEARD BY THE DIRECTOR
UNDER SUBSECTION 26(3) OF THE SECURITIES ACT

Date: May 26, 2008

Director: Marrianne Bridge, CA
Manager, Compliance
Ontario Securities Commission

Submissions:	Isabelita Chichioco	-	For Ontario Securities Commission staff
	Andrew Aziz Osler, Hoskin & Harcourt LLP	-	For Claymore Investments, Inc.

Overview

By letter dated April 22, 2008, staff advised Claymore Investments, Inc. that it was deficient in meeting the minimum capital requirements in Regulation 107(3) under the *Securities Act* (Ontario) (Act) by $206,843 based on annual audited financial statements as at December 31, 2007. The capital deficiency was rectified early in January 2008.

As a direct consequence of the capital deficiency, staff recommended that terms and conditions be imposed on Claymore's registration for a minimum period of six months. The terms and conditions require the filing of monthly year-to-date unaudited financial statements (including a balance sheet and an income statement prepared in accordance with generally accepted accounting principles) and monthly capital calculations.

Prior to a decision being made by the Director, Claymore had the option to oppose staff's recommendation for terms and conditions by requesting an opportunity to be heard under section 26(3) of the Act. Claymore had two options – it could either be heard through written submissions or through a personal appearance before the Director. By letter dated May 6, 2008, Osler, Hoskin & Harcourt LLP (on behalf of Claymore) requested an opportunity to be heard through written submissions.

This is the Director's decision based on staff's and Claymore's written submissions.

Submissions

Staff submissions

Maintaining adequate minimum capital by registrants is one of the most serious regulatory requirements in the Act. Financial solvency is one of the essential components of an adviser's continued suitability for registration. Capital deficiencies, particularly large capital deficiencies as in this case, raise serious potential regulatory concerns and need to be addressed in a serious fashion.

For these reasons, staff generally recommend terms and conditions on registrants that are capital deficient. Staff does this notwithstanding the variety of reasons registrants provide for capital deficiencies including inadvertence/oversight, change in staffing at the registrant or its auditors, misclassification of accounts, or errors. In staff's opinion, maintaining adequate minimum capital is a serious regulatory obligation for registrants and only in extremely rare circumstances would staff consider not imposing terms and conditions. Staff argues that those circumstances are not present in this case.

Staff further submits that Claymore was well aware of the capital deficiency since the capital deficiency is described in note 9 to its 2007 annual audited financial statements. The note also described a capital deficiency as at December 31, 2006. Terms and conditions were imposed by staff as a result of the December 31, 2006 capital deficiency. Those terms and conditions were removed in December 2007.

Claymore submissions

Claymore argues that the capital deficiency "does not represent a real on-going deficiency in capital". Claymore is wholly owned by Claymore Group, Inc., a financial services and asset management company based in the United States. Claymore Group, Inc. and its affiliates also have two United States registered investment advisers and one United States registered broker dealer.

Claymore Group supports Claymore and provides it with the necessary capital to support its business and development. Since Claymore's registration with the OSC in 2005, Claymore Group has funded it as required and has subordinated its loan position as required.

The December 31, 2007 capital deficiency arose because Claymore received a large invoice for services immediately prior to year end when it was practically impossible to remedy. Claymore Group wired funds to Claymore to rectify the capital deficiency after the close of business on December 31. These funds were received by Claymore on the first business day of January 2008.

Claymore has procedures in place to regularly monitor its capital position. If capital is required, Claymore Group transfers funds to Claymore.

Claymore argues that imposing terms and conditions for the 2007 capital deficiency seems a disproportionate response when measured against the facts described above. Claymore also argues that in circumstances where there is no ongoing capital concern, a monthly filing requirement is burdensome as opposed to some less frequent filing requirement.

Claymore further argues that it has always been concerned about and diligent in its undertaking and discharging its responsibilities as a registrant and is taking these matters very seriously. In the circumstances of this case, the capital deficiency was inadvertent and the timing of the events made it practically impossible to remedy for the December 31, 2007 balance sheet date.

As a result, Claymore requests that the terms and conditions not be imposed on Claymore's registration.

Decision and reasons

My decision is to impose the recommended terms and conditions on the registration of Claymore Investments, Inc. for a minimum six month period. These terms and conditions are as follows:

> Claymore Investments, Inc. shall file on a monthly basis with the Compliance team of the Ontario Securities Commission, attention Financial Analyst, starting with the month ending May 31, 2008 the following information:
>
> (1) year-to-date unaudited financial statements including a balance sheet and an income statement, both prepared in accordance with generally accepted accounting principles; and
>
> (2) month end calculation of minimum required capital;
>
> no later than three weeks after each month end.

Since Claymore was capital deficient in both 2007 and 2006 (which represent two of the three years since it was registered), I do not agree with Claymore's arguments about its concern with and diligence in discharging its registrant obligations. Many of our registrants are organized in a similar manner to Claymore and rely on funding from a parent company or other related entity to finance their ongoing operations and fund capital shortages as needed. As well, Claymore was on terms and conditions for six months in 2008 and should have developed strong policies and procedures for ensuring that it met its capital requirements at all times. As a result, I agree with staff that the rare and unusual circumstances that would justify not imposing terms and conditions are not present in this case.

As an aside, normally staff recommends the imposition of terms and conditions for a minimum period of twelve months in these circumstances because it is the second "strike" – i.e. it is the second consecutive year that Claymore is capital deficient. In my view, a six month period is sufficient given Claymore's immediate response to, and resolution of, the capital deficiency once it was identified.

May 26, 2008

"Marrianne Bridge"

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Chapter 4

Cease Trading Orders

4.1.1 Temporary, Permanent & Rescinding Issuer Cease Trading Orders

Company Name	Date of Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/Revoke
JPY Holdings Ltd.	16 May 08	28 May 08	28 May 08	
Exmin Resources Inc.	16 May 08	28 May 08		30 May 08
Buffalo Gold Ltd.	16 May 08	28 May 08		30 May 08
Ampal American Israel Corporation	21 Nov 06	1 Dec 06	1 Dec 06	27 May 08
Shift Networks Inc.	28 May 08	9 June 08		
Omnitech Consultant Group Inc.	28 May 08	9 June 08		
Banff Rock Mountain Resort Limited Partnership	12 May 08	23 May 08	23 May 08	

4.2.1 Temporary, Permanent & Rescinding Management Cease Trading Orders

Company Name	Date of Order or Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/ Expire	Date of Issuer Temporary Order
Onco Petroleum Inc.	09 May 08	22 May 08	22 May 08		

4.2.2 Outstanding Management & Insider Cease Trading Orders

Company Name	Date of Order or Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/ Expire	Date of Issuer Temporary Order
Argus Corporation Limited	25 May 04	03 June 04	03 Jun 04		
CoolBrands International Inc.	30 Nov 06	13 Dec 06	13 Dec 06		
Fareport Capital Inc.	13 July 07	26 Jul7 07	26 July 07		
Hip Interactive Corp.	04 July 05	15 July 05	15 July 05		
SunOpta Inc.	20 Feb 08	04 Mar 08	04 Mar 08		
HMZ Metals Inc.	09 Apr 08	22 Apr 08	22 Apr 08		
Warwick Communications Inc.	02 May 08	15 May 08	15 May 08		
Onepak, Inc.	05 May 08	16 May 08	16 May 08		
PharmEng International Inc.	07 May 08	20 May 08	20 May 08		
Onco Petroleum Inc.	09 May 08	22 May 08	22 May 08		

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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 45-501F1

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
05/13/2008	29	1389414 Alberta Ltd. - Preferred Shares	98,756.00	98,756.00
05/02/2008	1	2170116 Ontario Inc. - Debentures	150,000.00	150,000.00
02/28/2008	4	4465792 Canada Inc. - Common Shares	135,000.00	900,000.00
02/29/2008	24	4465792 Canada Inc. - Common Shares	502,000.00	2,108,000.00
12/29/2006 to 12/28/2007	64	Addenda Bond Pooled Fund - Units	311,593,035.00	25,461,123.41
12/29/2006 to 12/21/2007	54	Addenda Corporate Bond Pooled Fund - Units	792,077,302.00	80,138,374.23
07/27/2007	13	Addenda Global Bond Pooled Fund - Units	16,025,354.00	1,673,532.82
09/14/2007	14	Addenda Global Bond 2 Pooled Fund - Units	1,573,039.00	157,303.93
01/05/2007 to 11/30/2007	26	Addenda Long Term Corporate Bond Pooled Fund - Units	140,533,131.00	13,979,267.87
01/05/2007 to 12/21/2007	14	Addenda Long Term Government Bond Pooled Fund - Units	119,504,899.00	11,462,342.05
09/14/2007 to 11/20/2007	246	Addenda Money Market 2 Pooled Fund - Units	58,262,085.00	5,826,208.40
01/03/2007 to 12/31/2007	92	Addenda Money Market Pooled Fund - Units	885,033,531.00	88,500,325.40
05/09/2008	11	Amanta Resources Ltd. - Units	300,000.00	2,000,000.00
04/25/2008	1	Anderson Gold Corporation - Debenture	500,000.00	1.00
05/12/2008	57	Avalanche Minerals Ltd. - Units	1,837,461.20	18,374,612.00
05/08/2008	47	Avion Resources Corp. - Receipts	30,050,000.00	60,100,000.00
05/06/2008	1	Bancorp Balanced Mortgage Fund Ltd. - Preferred Shares	35,000.00	35,000.00
05/12/2008	9	Belmore Energy Inc. - Common Shares	242,000.00	968,000.00
03/27/2008 to 04/04/2008	2	Better ATM Services, Inc. - Common Shares	58,595.74	90,000.00
05/16/2008	2	Bison Gold Exploration Inc. - Flow-Through Shares	500,000.00	2,300,001.00
03/31/2008	12	BorderWare Technologies Inc. - Debentures	15,835,992.37	5.00
04/30/2008	10	Brighter Minds Media Inc. - Common Shares	341,000.00	2,841,666.00

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
05/13/2008	1	BTI Photonics Systems Inc. - Debentures	5,500,000.00	NA
05/12/2008	228	Buffalo Resources Corp. - Units	11,000,000.00	11,000,000.00
05/08/2008 to 05/09/2008	24	CareVest Blended Mortgage Investment Corporation - Preferred Shares	820,834.00	820,834.00
05/08/2008	25	CareVest First Mortgage Investment Corporation - Preferred Shares	2,439,912.00	2,439,912.00
05/13/2008	4	Champion Minerals Inc. - Units	1,500,000.00	3,000,000.00
05/12/2008 to 05/16/2008	20	Clear Vistas Community #1 Limited Partnership - Units	1,398,070.00	140,707.00
05/10/2008 to 05/16/2008	17	CMC Markets Canada Inc. - Contracts for Differences	155,490.00	17.00
05/06/2008	1	Credit Suisse - Notes	7,024,500.00	7,000,000.00
04/18/2008	3	CVC European Equity Partners V (A) L..P. - Limited Partnership Interest	585,713,700.00	2.00
01/31/2008	1	Davis-Rea Ltd. Balanced Pooled Fund - Units	50,000.00	479.40
05/09/2008	1	Earth Class Mail Corporation - Debentures	49,615.65	49,616.00
05/07/2008	1	East West Resource Corporation - Common Shares	0.00	250,000.00
05/06/2008	2	Equitable Resources, Inc. - Common Shares	1,087,794.00	16,000.00
05/08/2008	1	Fannie Mae - Common Shares	13,545,000.00	500,000.00
05/07/2008 to 05/12/2008	2	First Leaside Elite Limited Partnership - Limited Partnership Interest	99,062.08	98,766.00
05/12/2008	3	First Leaside Fund - Trust Units	235,000.00	235,000.00
05/08/2008	1	First Leaside Fund - Trust Units	20,000.00	20,000.00
05/12/2008 to 05/16/2008	30	General Motors Acceptance Corporation of Canada, Limited - Notes	10,999,454.03	10,999,454.00
04/22/2008	1	GMO Developed World Equity Investment Fund PLC - Units	108,657.01	3,485.12
04/30/2008 to 05/06/2008	1	GMO International Core Equity Fund-III - Units	10,797,844.12	268,403.71
04/24/2008 to 05/01/2008	1	GMO International Intrinsic Value Fund-II - Units	64,402.24	2,047.42
04/30/2008	1	GMO International Opportunities Equity Alloc Fund- III - Units	95,024.21	4,404.53
05/07/2008	1	Gold Bullion Development Corp - Common Shares	219,297.00	2,192,970.00
05/12/2008	328	Gracorp Capital Ltd. - Common Shares	250,920.00	278,800.00
05/16/2008	38	Greengate Power Corporation - Common Shares	1,236,276.00	824,184.00

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
05/01/2008	1	Grosvenor Global Long/Short Equity Master Fund, Ltd. - Common Shares	106,984,484.72	104,999.99
05/15/2008	96	Heart Force Medical Inc. - Common Shares	2,633,500.00	6,583,750.00
04/23/2008	1	HedgeForum Altima GSS Ltd (Altima) - Units	162,834.90	101.26
05/09/2006	53	Honda Canada Finance Inc. - Debentures	750,000,000.00	750,000.00
05/16/2008	8	Houston Lake Mining Inc. - Flow-Through Shares	168,600.00	281,000.00
05/12/2008	2	Houston Lake Mining Inc. - Flow-Through Shares	750,000.00	1,250,000.00
05/12/2008 to 05/16/2008	14	IGW Real Estate Investment Trust - Trust Units	405,772.00	375,475.00
02/15/2008	1	KKR European Fund III, Limited Partnership - Limited Partnership Interest	210,167,100.00	210,167,100.00
05/07/2008 to 05/09/2008	5	Landdrill International Inc. - Units	1,158,000.00	3,509,091.00
05/15/2008	44	Laurentian Goldfields Ltd. - Flow-Through Units	1,214,000.00	3,035,000.00
05/15/2008	37	Laurentian Goldfields Ltd. - Non-Flow Through Units	1,621,050.20	4,631,572.00
05/12/2008	1	Legg Mason, Inc - Units	278,610.00	5,550.00
05/14/2008	30	Liberty International Mineral Corporation - Units	769,583.50	1,539,167.00
04/24/2008	2	Lightspeed Venture Partners VIII, L.P. - Limited Partnership Interest	15,000,000.00	1.00
05/12/2008	22	LPI Level Platforms Inc. - Debentures	580,000.00	580,000.00
05/12/2008	22	LPI Level Platforms Inc. - Warrants	580,000.00	43,500.00
05/14/2008	2	Macquarie European Infrastructure Fund III - Limited Partnership Interest	90,299,032.00	58,280,000.00
05/15/2008	12	Mantra Mining Inc. - Units	320,500.00	400,625.00
05/15/2008	27	MegaWest Energy Corp. - Common Shares	16,053,210.00	26,750,000.00
05/08/2008	10	Microbonds Inc. - Common Shares	1,033,000.00	1,033,000.00
05/09/2008	8	Minaean International Corp. - Units	981,349.87	3,568,545.00
05/09/2008	8	Minaean International Corp. - Warrants	981,349.87	266,210.00
05/05/2008	11	Murgor Resources Inc. - Common Shares	999,999.64	2,631,578.00
05/05/2008	19	Murgor Resources Inc. - Common Shares	1,300,000.00	2,600,000.00
05/15/2008	36	Nevada Geothermal Power Inc. - Common Shares	15,000,000.00	15,000,000.00
05/09/2008	1	New World Resources N.V. - Common Shares	10,664,000.00	400,000.00
01/30/2008	1	Newport Canadian Equity Fund - Units	500.00	3.55

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
05/09/2008 to 05/15/2008	4	Newport Canadian Equity Fund - Units	260,000.00	1,675,672.00
05/14/2008	1	Newport Fixed Income Fund - Units	1,173,337.94	11,463,774.00
01/30/2008	1	Newport Global Equity Fund - Units	500.00	6.57
01/24/2008	1	Newport Yield Fund - Units	35,000.00	293.42
05/08/2008 to 05/14/2008	30	Newport Yield Fund - Units	329,149.89	2,654,288.00
05/08/2008	1	NRX Global Corp. - Debentures	1,500,000.00	1,500,000.00
05/08/2008	25	OMERS Realty Corporation - Debentures	370,988,870.00	371,000,000.00
05/08/2008	14	OMERS Realty Corporation - Debentures	199,882,000.00	200,000,000.00
04/10/2008	1	Open Access Limited - Common Shares	100,000.00	156,250.00
05/15/2008	1	Open Access Limited - Common Shares	100,000.00	156,250.00
05/14/2008	50	Oro Silver Resources Ltd. - Common Shares	4,308,517.62	6,528,057.00
05/05/2008	29	Pacific Energy Resources Ltd. - Common Shares	0.00	459,792.00
05/15/2008	23	Paramax Resources Ltd. - Common Shares	1,500,000.00	25,000,000.00
05/16/2008	2	Patrician Diamonds Inc. - Flow-Through Shares	800,000.00	8,000,000.00
05/20/2008	1	Patrician Diamonds Inc. - Units	225,000.00	2,500,000.00
05/07/2008	15	PBS Coals Corporation - Common Shares	63,910,326.48	35,115,564.00
05/08/2008	4	Petrohawk Energy Corporation - Common Shares	16,250,000.00	625,000.00
05/16/2008	14	PFC2018 Pacifc Financial Corp. - Bonds	854,000.00	382.00
05/08/2008 to 05/15/2008	25	Platinum 5 Acres and a Mule Limited Partnership - Units	1,925,000.00	77.00
05/06/2008	1	Range Resources Corporation - Common Shares	166,530.83	2,500.00
05/14/2008	4	Royal Bank of Canada - Notes	501,000.00	500.00
05/05/2008	8	Scorpio Mining Corporation - Debentures	20,000,000.00	NA
05/02/2008	4	Sextant Strategic Opportunities Hedge Fund LP - Units	187,953.40	5,970.60
05/09/2008	91	Shelter Bay Energy Inc. - Common Shares	4,861,000.00	4,861,000.00
05/01/2008	10	Shepherd Investments International Ltd. - Common Shares	24,425,000.00	2,470.59
01/31/2008	1	Southampton Ventures Inc. - Common Shares	200,000.00	266,667.00
05/16/2008	2	Sovereign Bancorp, Inc. - Common Shares	1,674,624.00	210,000.00
05/16/2008	8	Sprylogics International Corp. - Units	376,250.00	2,508,334.00

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
05/09/2008	18	Sun Red Capital Corporation - Common Shares	752,400.00	4,425,873.00
05/12/2008	15	Tenajon Resources Corp. - Flow-Through Shares	4,124,820.00	7,500,000.00
05/15/2008	111	TheraVitae Inc - Common Shares	3,076,500.00	3,076,500.00
05/07/2008	27	Unbridled Energy Corporation - Flow-Through Shares	1,793,649.00	5,435,300.00
05/07/2008	60	Unbridled Energy Corporation - Units	5,989,305.00	19,964,350.00
04/30/2008	82	Vertex Fund - Trust Units	5,748,941.25	374,398.80
05/06/2008	58	Walton AZ Silver Reef 2 Investment Corporation - Common Shares	502,710.00	162,663.00
05/06/2008	10	Walton AZ Silver Reef Limited Partnership 2 - Limited Partnership Units	1,604,351.20	156,400.00
04/10/2008	2	Well.Ca Inc. - Common Shares	1,999,998.00	1,999,998.00
05/23/2008	6	Well.Ca Inc. - Preferred Shares	425,000.00	467,034.00
05/13/2008	5	Wild Horse Farms & Bio Energy Corporation - Units	5,062,475.25	6,749,967.00
05/09/2008	7	Yale Resources Ltd. - Units	352,800.00	1,960,000.00
05/08/2008 to 05/12/2008	1	Yellowstone Resources Ltd. - Common Shares	113,200.00	616,000.00
05/02/2008	5	Yukon-Nevada Gold Corp. - Flow-Through Shares	20,100,000.00	10,050,000.00

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Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:
Canadian Energy Services L.P.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated May 22, 2008
NP 11-202 Receipt dated May 22, 2008
Offering Price and Description:
$11,500,500.00 - 1,122,000 Class A Common Limited Partnership Units Price: $10.25 per Class A Common Limited Partnership Unit
Underwriter(s) or Distributor(s):
Cormark Securities Inc.
National Bank Financial Inc.
Dundee Securities Corporation
Thomas Weisel Partners Canada Inc.
Paradigm Capital Inc.
Promoter(s):
-
Project #1270287

Issuer Name:
Comaplex Minerals Corp.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated May 22, 2008
NP 11-202 Receipt dated May 22, 2008
Offering Price and Description:
$23,310,000.00 - 4,200,000 Common Shares Price - $5.55 per Common Share
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
Promoter(s):
-
Project #1270290

Issuer Name:
Comaplex Minerals Corp.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated May 22, 2008
NP 11-202 Receipt dated May 22, 2008
Offering Price and Description:
$12,000,000.00 - 1,832,061 Flow-Through Shares Price - $6.55 per Flow-Through Share
Underwriter(s) or Distributor(s):
Haywood Securities Inc.
J.F. Mackie & Company Ltd.
Promoter(s):
-
Project #1270293

Issuer Name:
First Capital Realty Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Base Shelf Prospectus dated May 22, 2008
NP 11-202 Receipt dated May 23, 2008
Offering Price and Description:
175,913 Common Shares Issuable Only Upon Exercise of Warrants Expiring August 31, 2008 and $500,000,000.00 - 175,913 Common Shares Price: $2,842.31
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1270191

Issuer Name:
Fortress Energy Inc.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated May 26, 2008
NP 11-202 Receipt dated May 27, 2008
Offering Price and Description:
$15,000,000.00 - * Units Price - $ * per Unit
Underwriter(s) or Distributor(s):
Canacord Capital Corporation
Promoter(s):
-
Project #1271686

Issuer Name:
Gloucester Credit Card Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated May 21, 2008
NP 11-202 Receipt dated May 21, 2008
Offering Price and Description:
(1) $ * - *% Series 2008-1 Class A Notes, Expected Final Payment Date of * , 20*; (2) $ * - * % Series 2008-1 Collateral Notes, Expected Final Payment Date of * , 20*
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
TD Securities Inc.
BMO Nesbitt Burns Inc.
CIBC World Market Inc.
Scotia Capital Inc.
Promoter(s):
MBNA Canada Bank
Project #1269443

Issuer Name:
GT Canada Capital Corporation
Principal Regulator - Ontario
Type and Date:
Preliminary CPC Prospectus dated May 23, 2008
NP 11-202 Receipt dated May 26, 2008
Offering Price and Description:
$500,000.00 - 2,500,000 Common Shares Price - $0.20 per Common Share
Underwriter(s) or Distributor(s):
Blackmont Capital Inc.
Promoter(s):
-
Project #1271074

Issuer Name:
Harmony Non-traditional Pool
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectus dated May 26, 2008
NP 11-202 Receipt dated May 26, 2008
Offering Price and Description:
Embedded Series, Series F, Series T, Series V and Wrap Series Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1271401

Issuer Name:
H&R Real Estate Investment Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated May 26, 2008
NP 11-202 Receipt dated May 26, 2008
Offering Price and Description:
$250,001,250.00:
$150,000, 250.00 (7,595,000 Units)
Price - $19.75 per Unit
and
$100,000,000.00 principal amount of
6.65% Convertible Unsecured Subordinated Debentures due June 30, 2013.
Price - $1,000 per Debenture
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
RBC Dominion Securities Inc.
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
TD Securities Inc.
Canaccord Capital Corporation
Desjardins Securities Inc.
Promoter(s):
-
Project #1271274

Issuer Name:
James Bay Resources Limited
Type and Date:
Preliminary Prospectus dated May 23, 2008
Receipted on May 23, 2008
Offering Price and Description:
$ * - * Units comprised of Common Shares and Common Share Purchase Warrants
Price - $ * per Unit
Underwriter(s) or Distributor(s):
IBK Capital Corp.
Promoter(s):
Stephen Shefsky
Linear Capital Corp.
Linear Capital USA, LLC
Project #1270679

Issuer Name:
Marimba Capital Corp.
Principal Regulator - British Columbia
Type and Date:
Preliminary Prospectus dated May 22, 2008
NP 11-202 Receipt dated May 22, 2008
Offering Price and Description:
$ * - * Subscription Receipts Price: $ * per Subscription Receipt
Underwriter(s) or Distributor(s):
Dundee Securities Corporation
Cormark Securities Inc.
Macquarie Capital Markets Canada Ltd.
National Bank Financial Inc.
TD Securities Inc.
Promoter(s):
Ionic Capital Corp.
David A. Wiley
Project #1270106

Issuer Name:
Northern Rand Resource Corp.
Principal Regulator - British Columbia
Type and Date:
Preliminary Prospectus dated May 22, 2008
NP 11-202 Receipt dated May 26, 2008
Offering Price and Description:
$2,000,000.00 - 8,000,000 Common Shares Price: $0.25 per Common Share
Underwriter(s) or Distributor(s):
Haywood Securities Inc.
Promoter(s):
-
Project #1270959

Issuer Name:
Orbit Garant Drilling Inc.
Principal Regulator - Quebec
Type and Date:
Second Amended and Restated Preliminary Prospectus dated May 26, 2008
NP 11-202 Receipt dated May 27, 2008
Offering Price and Description:
$ * * Common Shares Price - $ * per Offered Share
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
RBC Dominion Securities Inc.
National Bank Financial Inc.
GMP Securities L.P.
Desjardins Securities Inc.
Promoter(s):
1684182 Ontario LP
1684182 Ontario GP, LP
1684182 Ontario Inc.
1684182 Ontario (International) LP
1684182 Ontario (International GP, LP
Project #1264308

Issuer Name:
Points International Ltd.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated May 27, 2008
NP 11-202 Receipt dated May 27, 2008
Offering Price and Description:
$48,575,093.00 - 29,439,450 Common Shares Price: $1.65 per Common Share
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
Jennings Capital Inc.
MGI Securities Inc.
Versant Partners Inc.
Promoter(s):
-
Project #1272078

Issuer Name:
Quadra Mining Ltd.
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated May 21, 2008
NP 11-202 Receipt dated May 21, 2008
Offering Price and Description:
$75,052,500.00 - 7,145,000 Common Shares Price: $24.50 per Share
Underwriter(s) or Distributor(s):
Macquarie Capital Markets Canada Ltd.
Raymond James Ltd.
BMO Nesbitt Burns Inc.
Cormark Securities Inc.
GMP Securities L.P.
Promoter(s):
-
Project #1269684

Issuer Name:
Ra Resources Ltd.
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated May 21, 2008
NP 11-202 Receipt dated May 22, 2008
Offering Price and Description:
$1,500,000 to $2,500,000 - 3,000,000 to 5,000,000 Units Price: $ 0.50 per Unit
Underwriter(s) or Distributor(s):
Research Capital Corporation
Promoter(s):
-
Project #1269487

Issuer Name:
RT Minerals Corp.
Principal Regulator - British Columbia
Type and Date:
Preliminary Prospectus dated May 27, 2008
NP 11-202 Receipt dated
Offering Price and Description:
$450,000.00 - 3,000,000 Units Price: $0.15 per Unit (each Unit being comprised of 1/2 Share and 1/2 Flow-Through Share) Minimum Subscription - $150
Underwriter(s) or Distributor(s):
Bolder Investment Partners, Ltd.
Promoter(s):
Dan Clark
Project #1272166

Issuer Name:
Saha Petroleum Ltd.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated May 23, 2008
NP 11-202 Receipt dated May 23, 2008
Offering Price and Description:
$1,500,000.00 (Minimum) - $3,500,000 (Maximum - 12,000,000 Units and 4,400,000 - Flow-Through Shares) A Combination of Units and Flow-Through Shares - Price: $0.20 per Unit and $0.25 per Flow-Through Share
Underwriter(s) or Distributor(s):
Union Securities Ltd.
Promoter(s):
Wally Pollock
Stephen Johnston
Project #1270892

Issuer Name:
Trinidad Drilling Ltd.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated May 26, 2008
NP 11-202 Receipt dated May 26, 2008
Offering Price and Description:
$150,000,003.00 - 11,029,412 Common Shares Price: $13.60 per Common Share
Underwriter(s) or Distributor(s):
Raymond James Ltd.
TD Securities Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
Haywood Securities Inc.
Wellington West Capital Markets Inc.
FirstEnergy Capital Corp.
Peters & Co. Limited
Promoter(s):
-
Project #1271529

Issuer Name:
ZoomMed inc.
Principal Regulator - Quebec
Type and Date:
Preliminary Short Form Prospectus dated May 21, 2008
NP 11-202 Receipt dated May 21, 2008
Offering Price and Description:
$ * - * Units Price - $ * per Unit
Underwriter(s) or Distributor(s):
Blackmont Capital Inc.
M Partners Inc.
Loewen, Ondaatje, McCutcheon Limited
Industrial Alliance Securities Inc.
Union Securities Ltd.
Promoter(s):
-
Project #1269359

Issuer Name:
Argex Silver Capital Inc.
Principal Regulator - Quebec
Type and Date:
Final Prospectus dated May 26, 2008
NP 11-202 Receipt dated May 27, 2008
Offering Price and Description:
Minimum of $250,000.00 - 2,500,000 Common Shares; Maximum of $400,000.00 - 4,000,000 Common Shares Price: $0.10 per share
Underwriter(s) or Distributor(s):
Jones, Gable & Company Limited
Promoter(s):
-
Project #1232368

Issuer Name:
Auric Development Corp.
Principal Regulator - British Columbia
Type and Date:
Final CPC Prospectus (TSX-V) dated May 22, 2008
NP 11-202 Receipt dated May 26, 2008
Offering Price and Description:
$200,000.00 (2,000,000 COMMON SHARES) Price: $0.10 per Common Share
Underwriter(s) or Distributor(s):
Canaccord Capital Corporation
Promoter(s):
Robert Findlay
Project #1249346

Issuer Name:
Cortex Business Solutions Inc.
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated May 21, 2008
NP 11-202 Receipt dated May 22, 2008
Offering Price and Description:
UP TO $5,000,000.00 - 25,000,000 UNITS Price: $0.20 per Unit
Underwriter(s) or Distributor(s):
Standard Securities Capital Corp.
Promoter(s):
-
Project #1249369

Issuer Name:
Invesco Trimark Retirement Payout 2023 Portfolio
Invesco Trimark Retirement Payout 2028 Portfolio
Invesco Trimark Retirement Payout 2033 Portfolio
Invesco Trimark Retirement Payout 2038 Portfolio
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated May 20, 2008
NP 11-202 Receipt dated May 21, 2008
Offering Price and Description:
Series A, Series F, Series I and Series P units
Underwriter(s) or Distributor(s):
-
Promoter(s):
AIM Funds Management Inc.
Project #1232843

Issuer Name:
Mavrix Canada Fund
Mavrix Diversified Fund
(Class A Units and Class F Units)
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated May 16, 2008 to the Simplified Prospectuses and Annual Information Forms dated June 29, 2007
NP 11-202 Receipt dated May 26, 2008
Offering Price and Description:
Class A Units and Class F Units @ Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
Mavrix Fund Management Inc.
Project #1107175

Issuer Name:
Mavrix Québec 2008 Flow Through LP
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated May 21, 2008
NP 11-202 Receipt dated May 22, 2008
Offering Price and Description:
Offering of Limited Partnership Units Maximum offering: $25,000,000.00 (2,500,000 Units) Minimum offering: $5,000,000 (500,000 Units) Minimum Subscription: 500 Units Subscription Price: $10.00 per Unit
Underwriter(s) or Distributor(s):
Canaccord Capital Corporation
CIBC World Markets Inc.
Desjardins Securities Inc.
Dundee Securities Corporation
Laurention Bank Securities Inc.
Industrial Alliance Securities Inc.
Wellington West Capital Inc.
Promoter(s):
Mavrix Quebec 2008 Ltd.
Mavrix Fund Management Inc.
Project #1259702

Issuer Name:
Middlefield Canadian Growth Class
Middlefield Equity Index Class
Middlefield U.S. Growth Class
Middlefield Income Plus Class
Middlefield Resource Class
Middlefield Uranium Focused Metals Class
Middlefield Canadian Balanced Class
Middlefield Short-Term Income Class
Middlefield Precious Metals Class
Middlefield Commodities and Agriculture Class
(Classes of Middlefield Mutual Funds Limited)
Middlefield Enhanced Yield Fund
Middlefield Money Market Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated May 26, 2008
NP 11-202 Receipt dated May 27, 2008
Offering Price and Description:
Mutual Fund Securities at Net Asset Value
Underwriter(s) or Distributor(s):
Middlefield Capital Corporation
Promoter(s):
Middlefield Fund Management Limited
Project #1249275

Issuer Name:
Morneau Sobeco Income Fund
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated May 26, 2008
NP 11-202 Receipt dated May 26, 2008
Offering Price and Description:
$153,000,000.00 - 12,750,000 Subscription Receipts each representing the right to receive one Unit Price: $12.00 per Subscription Receipt
Underwriter(s) or Distributor(s):
National Bank Financial Inc.
BMO Nesbitt Burns Inc.
TD Securities Inc.
CIBC World Markets Inc.
Scotia Capital Inc.
Raymond James Ltd.
Promoter(s):
-
Project #1265689

Issuer Name:
Shoppers Drug Mart Corporation
Principal Regulator - Ontario
Type and Date:
Final Short Form Base Shelf Prospectus dated May 22, 2008
NP 11-202 Receipt dated May 22, 2008
Offering Price and Description:
Up to $1,000,000,000.00 - Medium Term Notes (unsecured) To be unconditionally guaranteed as to principal, interest and premium, if any, by each of the Guarantors (as defined herein)
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1265812

Issuer Name:
The VenGrowth Advanced Life Sciences Fund Inc.
The VenGrowth III Investment Fund Inc.
The Vengrowth Traditional Industries Fund Inc.
Principal Regulator - Ontario
Type and Date:
Amendment #2 dated May 16, 2008 to the Prospectus dated December 7, 2007
NP 11-202 Receipt dated May 21, 2008
Offering Price and Description:
Class A Shares (Series A, B, C and F) Offering Price - Net Asset Value per Class A Share
Underwriter(s) or Distributor(s):
-
Promoter(s):
ACFO/ACAF Sponsor Corp.
Project #1173206

Issuer Name:
ZENN Motor Company Inc.
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated May 23, 2008
NP 11-202 Receipt dated May 23, 2008
Offering Price and Description:
Up to $14,006,250.00 - Up to 3,735,000 Common Shares $3.75 per Share
Underwriter(s) or Distributor(s):
Paradigm Capital Inc.
CANACCORD CAPITAL CORPORATION
Promoter(s):
-
Project #1262054

Issuer Name:
Ozcapital Ventures Inc.
Principal Jurisdiction - Alberta
Type and Date:
Preliminary Prospectus dated November 19, 2007
Withdrawn on May 22, 2008
Offering Price and Description:
$400,000.00 - 4,000,000 Common Shares Price: $0.10 per Common Share
Underwriter(s) or Distributor(s):
Northern Securities Inc.
Promoter(s):
Doug Walker
Project #1185473

Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
Consent to Suspension (Rule 33-501 - Surrender of Registration)	Macquarie North America Ltd.	Limited Market Dealer	May 21, 2008
Voluntary Surrender of Registration	Financial Architects Investments Inc.	Mutual Fund Dealer, Limited Market Dealer	May 22, 2008
New Registration	ATB Securities Inc	Investment Dealer	May 22, 2008
New Registration	Deep Securities Inc.	Limited Market Dealer	May 23, 2008
New Registration	Portfolio Strategies Securities Inc.	Investment Dealer	May 26, 2008

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Chapter 13

SRO Notices and Disciplinary Proceedings

13.1.1 Recognition of the Investment Industry Regulatory Organization of Canada (IIROC) – Notice of Approval

RECOGNITION OF THE INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA (IIROC)

NOTICE OF APPROVAL

The Investment Dealers Association of Canada (IDA) and Market Regulation Services Inc. (RS) have agreed to combine their regulatory activities into a single organization known as the Investment Industry Regulatory Organization of Canada (IIROC). Effective June 1, 2008, the Ontario Securities Commission; British Columbia Securities Commission; Alberta Securities Commission; Saskatchewan Financial Services Commission; Manitoba Securities Commission; Autorité des marchés financiers; Nova Scotia Securities Commission; New Brunswick Securities Commission; Financial Services Regulation Division, Department of Government Services, Consumer & Commercial Affairs Branch (Newfoundland and Labrador); and Securities Office, Consumer, Corporate and Insurance Services Division, Office of the Attorney General (Prince Edward Island) (the Recognizing Regulators) recognized IIROC as a self-regulatory organization (SRO). Both the IDA and/or RS are currently recognized as an SRO in certain of these jurisdictions.

On February 8, 2008, we published the IIROC application for recognition for comment. Three comments were received. A summary of the comments and responses prepared by IIROC is attached.

The IIROC recognition has the following components:

1. **Recognition order with terms and conditions** – The Recognizing Regulators issued orders recognizing IIROC with terms and conditions based on recognition criteria. A copy of the Recognition Order is attached.

2. **Oversight program** – The Recognizing Regulators established an oversight program for IIROC under a memorandum of understanding (MOU). The MOU includes a joint rule review protocol for the review and approval of rules, and both are attached.

3. **IIROC documents** – As part of the recognition, the Recognizing Regulators have approved IIROC's By-law No. 1 and Transition Rule No. 1that adopts the existing RS and IDA rules, policies and other similar instruments, subject to incidental conforming changes made to ensure consistency, and establishes a process for hearing committees and panels. A copy of By-law No. 1 and Transition Rule No. 1 is attached. Please note that the existing IDA and RS rules, with the incidental changes are available on the OSC website (www.osc.gov.on.ca).

4. **Continued recognition of the IDA and RS** – IIROC applied to continue the recognition of the IDA and RS for up to five years, and to amend and restate their respective recognition orders to ensure their continuing authority over conduct prior to June 1, 2008. As part of the recognition of IIROC, we have approved the continued recognition of the IDA and RS. A copy of each of the amended and restated recognition orders for the IDA and RS is attached.

5. **Consequential amendments** – As part of the recognition of IIROC, we have approved amendments to the following documents to refer to IIROC, instead of RS:

   (a) Decision dated June 29, 2005 dealing with subscribers to an alternative trading system;

   (b) Recognition Order of TSX Group Inc. and TSX Inc.; and

   (c) Recognition Order of Canadian Trading and Quotation System Inc (CNQ).

   Copies of these amended orders are attached.

As part of the recognition, the Commission will also assign to IIROC certain powers and duties of the Director under the *Securities Act* (Ontario) and the *Commodity Futures Act* (Ontario) relating to registration. The assignment order will be published shortly.

We note that certain of the existing regulations, rules, orders, policies, notices or other instruments (Provisions) in the jurisdictions of the various Canadian Securities Administrators may refer to the IDA or RS or both. As circumstances permit, staff

of the relevant securities regulatory authorities will be reviewing proposed amendments to their respective Provisions as necessary to reflect the combination of the IDA and RS to form IIROC. In the meantime, references to the IDA or RS in existing Provisions may generally be treated and interpreted as references to IIROC.

May 30, 2008

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA

SUMMARY OF PUBLIC COMMENTS AND RESPONSE

Memo

To: **Canadian Securities Administrators** Date: May 28, 2008

From: IIROC

Subject: **Application for Recognition of the Investment Industry Regulatory Organization of Canada ("IIROC")**

On behalf of IIROC, I am pleased to provide the response of the Investment Dealers Association of Canada ("IDA") and Market Regulation Services Inc. ("RS") to the comment letter on the application for recognition of IIROC received from the Investment Funds Institute of Canada ("IFIC") and egX Canada Inc. ("egX") (each dated March 7, 2008), and from Alpha Trading Systems Limited Partnership ("Alpha") dated March 18, 2008.

The IDA and RS welcome the support that IFIC and egX have expressed for the creation of IIROC, and the support that Alpha has expressed for the independence, fairness and impartiality of IIROC.

With respect to the matters raised in IFIC's comment letter, we agree that collaborative dialogue with industry representatives should be a critical element of IIROC's policy development process, and look forward to continuing to engage the industry in such consultations in connection with the current initiatives identified in IFIC's letter and future IIROC policy initiatives.

We also reaffirm our belief that the creation of IIROC will simplify and streamline the self-regulatory system and enhance its quality and effectiveness, in the manner described in the egX letter.

With respect to the Alpha letter, we note at the outset that many of Alpha's comments relate to existing features of the regulatory structure that are beyond the mandate of public comment on the merger proposal. We nevertheless acknowledge that these are issues that the CSA may well wish to consider in the appropriate context apart from the merger, and we would welcome the opportunity to discuss these issues with the CSA and affected market participants as the regulatory structure in Canada evolves.

Our responses to the specific points raised by Alpha are as follows:

Corporate Governance

Jurisdiction Over Non-Members: The Alpha letter suggests that IIROC may not have jurisdiction to regulate market participants that are not members of IIROC or representatives of IIROC members (i.e., ATS subscribers and their directors, officers and employees). IIROC's jurisdiction over such market participants will be on the same contractual basis as RS's current jurisdiction over them. With respect to market participants accessing a marketplace through "DMA" (dealer-sponsored direct access), in April 2007 RS's recognizing regulators and RS published for comment a proposal to amend the ATS Rules and UMIR to extend RS's jurisdiction to include the trading conduct of individuals and firms who are provided with dealer-sponsored direct access to an exchange or ATS (other than pursuant to order execution accounts). These proposed amendments were open for public comment until July 2007, and IIROC looks forward to discussing the comments received with the CSA and to jointly determining whether changes to the original proposal are warranted in view of those comments and in consideration of international initiatives in this regard. In summary, we do not believe that membership in IIROC is a necessary condition for "consistent and effective regulation" of market participants under the ATS Rules.

Categorization of Marketplace Members: The differentiated status of exchanges and ATSs to which Alpha's letter refers – in which ATSs (but not exchanges) are subject to both dealer and market regulation by IIROC – reflects the regulatory structure established by securities legislation and the ATS rules. To the extent that any resulting "competitive advantage" accrues to exchanges, as suggested by Alpha, this is a function of that regulatory structure, and is not a result of the merger and creation of IIROC. We question whether any such competitive advantage arises, however. Marketplaces that are exchanges are also subject to additional regulatory oversight: Under the ATS Rules provincial securities commissions regulate the activities of recognized exchanges while RS regulates trading activity on such exchanges.

IIROC Board of Directors

Buy-Side Representation: The creation of IIROC is intended to be an incremental development in the evolution of the self-regulatory structure in Canada, building on the existing jurisdiction of each of the IDA and RS. Buy-side entities are not currently members of either SRO, and will not be members of IIROC. The structure we adopted for the IIROC Board balances Non-Independent Directors (i.e., directors who are associated with IIROC members) and Independent Directors; we do not see what would be gained by creating a third category of buy-side directors that are neither associated with members nor considered

independent. However, buy-side representation on the Board is very important to IIROC, as evidenced by the actual slate of initial directors. In addition, buy-side entities will have the opportunity to participate in IIROC's policy development process through advisory committees. Finally, to take the view that individuals associated with buy-side entities are not "independent", as advocated by Alpha, would reduce the pool of qualified Independent Directors without any corresponding public interest benefit.

TSX Representation: TSX's governance rights in IIROC were the subject of extensive negotiation between IIROC and TSX, and subsequent correspondence and discussion between IIROC and the CSA, leading up to the publication of our application. TSX is agreeing to relinquish its 50% ownership interest and current governance rights in RS in return for (i) the right to recommend for nomination a Marketplace Director; and (ii) representation on the Finance and Audit Committee, only for so long as TSX meets the conditions set out in the TSX Regulation Services Agreement. This resolution was essential to IIROC attaining the "independence, fairness and impartiality" reflected in its governance structure which Alpha acknowledges and supports.

We also considered the option of providing representation on the IIROC Board to other marketplaces that achieve a threshold Market Share. The IIROC Board balances the number of Independent and non-Independent Directors, as well as the number of Dealer Directors and Marketplace Directors. For each new Marketplace Director, maintaining this balance would require the addition of a Dealer Director and *two* Independent Directors, increasing the size of the Board by *four* members. We believe that we should try to keep the Board to a more manageable size. We can, in practice, deal with the situation posited by Alpha and are committed to revisiting the issue in the event that this hypothetical situation becomes a reality.

Market Share Calculation: We acknowledge and agree with Alpha's drafting note and have amended the definition of Market Share in IIROC's By-law No. 1 by adding the underlined text below:

> "**Market Share**" means the proportion of trading activity of any particular Marketplace of the trading activity of all Marketplaces with respect to exchange-traded securities <u>other than derivatives</u> and foreign exchange-traded securities other than derivatives calculated as to one-third by trading value, one-third by trading volume and one-third by number of trades, all in the immediately preceding calendar year calculated in accordance with guidelines approved by the Board. In the event of a dispute as to the calculation, and following consideration by management and the Board of IIROC, the matter will be reported to the relevant members of the Canadian Securities Administrators (or any successor thereof).

Fees

Marketplace Member Fees: We believe that the principle that IIROC operate on a cost-recovery basis is sound. Alpha's letter expresses a concern that IIROC's fee model for Marketplace Members will implement this principle in such a manner as to allow "differentiated fees for the same trade depending upon the marketplace where such a trade is executed". We understand the concern and agree that regulatory cost structures should not dictate decisions regarding trading venues. We would note that any proposal for UMIR regulation fees will be published for public comment and subject to the approval of the recognizing regulators. Alpha will therefore have the opportunity to review future fee model proposals and raise any concerns it might have in that context.

TSX Technology Services Agreement: The services provided to IIROC by TSX under the Technology Services Agreement will be provided on a cost plus 15% basis (as is currently the case). The draft agreement has been provided to the CSA in advance of the merger for their review, and the pricing arrangement is also subject to CSA review. The provision of the above-noted services on this basis should be distinguished from IIROC's provision of UMIR regulation services to TSX and its affiliated marketplaces. We do not agree that these arrangements result in "lower regulatory fees" for TSX. With respect to making the agreement public, we believe that CSA oversight of IIROC's technology arrangements with TSX should provide an adequate check as to the manner in which potential conflicts of interest are being addressed.

Regulation Services Agreements

Each Regulation Services Agreement ("RSA") that IIROC enters into with a marketplace reflects the unique business and trading model of that marketplace. This information, as well as many of the terms of the RSA itself, may constitute confidential business information of the marketplace, or confidential regulatory information of IIROC relating to the regulatory program for that marketplace. IIROC will continue RS's current practice of posting on its website a summary of each RSA describing the market regulation services that RS provides to the marketplace. In addition, all RSAs are filed with the CSA and subject to their regulatory oversight.

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

AND

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

AND

IN THE MATTER OF
INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA (IIROC)

RECOGNITION ORDER
(Subsection 21.1(1) of the Act and Subsection 16(1) of the CFA)

The Investment Dealers Association of Canada (the IDA) has been recognized by the Alberta Securities Commission, British Columbia Securities Commission, Manitoba Securities Commission, Nova Scotia Securities Commission, Ontario Securities Commission, Saskatchewan Financial Services Commission, the Financial Services Regulation Division, Department of Government Services, Consumer & Commercial Affairs Branch (Newfoundland and Labrador) and the Autorité des marchés financiers (Québec), and has applied to the New Brunswick Securities Commission for recognition (together with the Securities Office, Consumer, Corporate and Insurance Services Division, Office of the Attorney General (Prince Edward Island), the Recognizing Regulators) as a self-regulatory organization or self-regulatory body pursuant to applicable legislation.

Market Regulation Services Inc. (RS) has been recognized by the Autorité des marchés financiers (Québec) and the Alberta Securities Commission, British Columbia Securities Commission, Manitoba Securities Commission and Ontario Securities Commission as a self-regulatory organization or self-regulatory body pursuant to applicable securities legislation.

The IDA and RS have agreed to combine their operations into IIROC.

IIROC will, among other things:

a. regulate investment dealers, including alternative trading systems (ATSs) and futures commission merchants (Dealer Members);

b. if retained by an ATS pursuant to National Instrument 23-101 *Trading Rules,* regulate the ATS as a Marketplace Member (defined below) and the subscribers of the ATS;

c. establish, administer and monitor its rules, policies and other similar instruments (Rules);

d. enforce compliance with its Rules by Dealer Members and others subject to its jurisdiction;

e. provide services to exchanges and quotation and trade reporting systems (QTRSs) (together with ATSs, Marketplace Members) that choose to retain it as a regulation services provider, as that term is defined under National Instrument 21-101 *Marketplace Operation*;

f. if retained by an exchange or QTRS, administer, monitor and/or enforce rules pursuant to a regulation services agreement between IIROC and that exchange or QTRS (RSA);

g. conduct certain functions delegated to it by Recognizing Regulators, including registration functions; and

h. perform investigation and enforcement functions on behalf of the IDA and RS for as long as each of the IDA and RS continues to be recognized by the Commission as a self-regulatory organization or a self-regulatory body.

On April 30, 2008, the Board of IIROC adopted the rules and policies of RS and the regulatory By-laws, Regulations, Forms and Policies of the IDA that were in force and effect at that time, subject to incidental conforming changes made to ensure consistency, and the Hearing Committees and Hearing Panels Rule as the Rules.

On April 30, 2008, the Board of IIROC adopted the market integrity notices issued by RS and all regulatory notices, bulletins, directives and guidance provided by the IDA that were in effect at that time.

IIROC has applied to the Ontario Securities Commission (Commission) and the other Recognizing Regulators for recognition as a self-regulatory organization pursuant to subsection 21.1(1) of the Act and subsection 16(1) of the CFA.

Based on the application filed on behalf of IIROC with the Recognizing Regulators with such changes as have been agreed to by the Recognizing Regulators, which includes the Rules, and subject to the representations and undertakings made by IIROC, the Commission is satisfied that recognizing IIROC will not be prejudicial to the public interest.

The Commission recognizes IIROC as a self-regulatory organization pursuant to subsection 21.1(1) of the Act and subsection 16(1) of the CFA on the terms and conditions set out in the appendix to this recognition order and the applicable provisions of the Memorandum of Understanding between the Recognizing Regulators, as amended from time to time (MOU).

Dated this 16th day of May, 2008, effective June 1, 2008.

“W. David Wilson”

“James E.A. Turner”

APPENDIX A

TERMS AND CONDITIONS

1. Recognition Criteria

IIROC must continue to meet the criteria attached at Schedule 1.

2. Notice and/or Approval of Changes

a. IIROC must promptly file in writing with Commission staff any material change to the information set out in the application letter dated December 21, 2007.

b. Prior Commission approval is required for any changes to the following:

(i) the corporate governance structure of IIROC, as reflected in IIROC's By-law No. 1 (By-law No. 1);

(ii) letters patent of IIROC, and any supplementary letters patent; and

(iii) the assignment, transfer, delegation or sub-contracting of the performance of all or a substantial part of its regulatory functions or responsibilities as a self-regulatory organization.

c. Prior Commission approval is required for material changes to the following:

(i) the fee model;

(ii) the functions IIROC performs;

(iii) IIROC's organizational structure;

(iv) the activities, responsibilities, and authority of the District Councils; and

(v) the Regulation Services Agreement between IIROC and any Marketplace Member.

d. IIROC must not, without providing the Commission at least twelve months prior written notice and complying with any terms and conditions the Commission may impose in the public interest, complete any transaction that would result in IIROC:

(i) ceasing to perform its services;

(ii) discontinuing, suspending or winding-up all or a significant portion of its operations; or

(iii) disposing of all or substantially all of its assets.

e. IIROC will:

(i) provide the Commission with three months prior written notice of any intended material change to its agreement with an information technology service provider regarding its critical technology systems; and

(ii) not terminate its agreement with an information technology service provider providing critical technology systems without providing the Commission prior written notice and complying with any terms and conditions the Commission may impose in the public interest.

f. IIROC will comply with the process for filing and obtaining Commission approval for by-laws, Rules and any amendments to by-laws or Rules as outlined in Appendix A of the MOU, as amended from time to time.

g. IIROC must advise the Commission in writing immediately upon being notified by any of the Recognizing Regulators that IIROC is not in compliance with one or more of the terms and conditions of recognition of IIROC in any jurisdiction or with the reporting requirements set out in the MOU.

3. Governance

a. IIROC must:

(i) ensure that at least 50% of its board of directors (Board), other than the President of IIROC, are independent directors as defined in By-law No. 1;

(ii) ensure that one of the directors represents an exchange or ATS that is not affiliated with a marketplace

(A) that retains IIROC, and

(B) has at least a 40% Market Share as defined in By-law No. 1 (Market Share); and

(iii) review the corporate governance structure, including the composition of the Board,

(A) within two years after the date of recognition and periodically thereafter, or

(B) at the request of the Commission,

to ensure that there is a proper balance between, and effective representation of, the public interest and the interests of marketplaces, dealers and other entities desiring access to the services provided by IIROC.

b. IIROC must report to Commission staff in writing the results of the corporate governance review referred to in subparagraph (a)(iii) upon completion.

c. The Code of Business Ethics and Conduct and the written policy about managing potential conflicts of interests of members of IIROC's Board must be filed with the Recognizing Regulators within one year after the date of this Recognition Order.

4. Fees

a. IIROC must develop an integrated fee model and submit it for approval with the Commission within two years of the date of the recognition order.

b. IIROC must report in writing on a quarterly basis for the first two years of operations on the status of the development of the fee model.

5. Due Process

Subject to applicable law and the Rules and by-laws of IIROC, before rendering a decision that affects the rights of a person or company in relation to membership, registration or enforcement matters, IIROC must provide that person or company an opportunity to be heard.

6. Financial Viability

a. IIROC must operate on a not-for-profit basis.

b. IIROC will immediately report to Commission staff if it cannot meet its expected expenses for the next quarter. In addition, IIROC must provide Commission staff with an action plan detailing the steps to be taken to remedy its financial condition.

7. Integration of Functions

a. IIROC must report in writing within six months of the date of the recognition order its plan and timelines for the integration of functions relating to policy, surveillance, compliance, investigations, enforcement and membership.

b. IIROC must report in writing on a quarterly basis for the first two years of operations on the status of the integration of its functions.

8. Performance of Regulatory Functions

a. IIROC must set Rules governing its members and others subject to its jurisdiction.

b. IIROC must administer and monitor compliance with the Rules and securities laws by members and others subject to its jurisdiction and enforce compliance with the Rules by Dealer Members, including ATSs, and others subject to its jurisdiction. In addition, IIROC will provide notice to the Commission of any violations of securities legislation of which it becomes aware.

c. If retained by an exchange or QTRS, IIROC must administer, monitor and/or enforce rules pursuant to an RSA.

d. IIROC must, subject to applicable legislation, collect, use and disclose personal information only to the extent reasonably necessary to carry out its regulatory activities and mandate.

e. IIROC must ensure that it is accessible for contact by the public for purposes relating to the performance of its functions as a self-regulatory organization/body.

f. IIROC must publish concurrently in English and French each document issued to the public at large or generally to any class of members and must provide the document to Commission staff immediately upon publication.

g. IIROC must adopt policies and procedures designed to ensure that confidential information about its operations or those of any Dealer Member, Marketplace Member or marketplace participant is maintained in confidence and not shared inappropriately with other persons, and must use all reasonable efforts to comply with these policies and procedures.

9. Use of Fines and Settlements

All fines collected by IIROC and all payments made under settlement agreements entered into with IIROC may be used only as follows:

a. as approved by the Corporate Governance Committee,

(i) for the development of systems or other non-recurring capital expenditures that are necessary to address emerging regulatory issues resulting from changing market conditions and are directly related to protecting investors and the integrity of the capital markets;

(ii) for the education of securities market participants and members of the public about or research into investing, financial matters or the operation or regulation of securities markets;

(iii) to contribute to a non-profit, tax-exempt organization, the purposes of which include protection of investors, or those described in paragraph (a)(ii); or

b. for reasonable costs associated with the administration of IIROC's hearing panels.

10. Disciplinary Matters

a. Subject to paragraph (b), IIROC must

(i) promptly notify the Commission, the public and the news media of:

(A) the specifics relating to each disciplinary or settlement hearing once the hearing date is set, and

(B) the terms of each settlement and the disposition of each disciplinary action once the terms or disposition is determined; and

(ii) ensure that disciplinary and settlement hearings are open to the public and news media.

b. Despite paragraph (a), IIROC may, on its own initiative or on request, order a closed-door hearing or prohibit the publication or release of information or documents if it determines that it is required for the protection of confidential matters. IIROC must establish written criteria for making a determination of confidentiality.

11. Capacity and Integrity of Systems

a. IIROC must

(i) ensure that each of IIROC's critical systems, including its technology systems, has

(A) appropriate internal controls to ensure integrity and security of information; and

(B) has reasonable and sufficient capacity, and backup to enable IIROC to properly carry on its business; and

(ii) have controls to manage the risks associated with its operations, including an annual review of its contingency and business continuity plans.

b. IIROC must promptly report to the Commission:

(i) any material failures in the controls described in paragraphs (a)(i) and (ii) above; and

(ii) any outage in IIROC's critical technology systems or backup systems,

and provide a description of the actions taken or to be taken to rectify the situation.

c. IIROC will on a reasonably frequent basis, and in any event, at least annually:

(i) make reasonable current and future capacity estimates for its critical systems;

(ii) conduct capacity stress tests to determine the ability of its critical systems to perform its regulation functions in an accurate, timely and efficient manner;

(iii) review and keep current the development and testing methodology of those systems; and

(iv) review the vulnerability of those systems to internal and external threats including physical hazards and natural disasters.

d. IIROC must cause to be performed an independent review, in accordance with established audit procedures and standards, of its controls for ensuring that it is in compliance with paragraph (c) above, and conduct a review by its Board of the report containing the recommendations and conclusions of the independent review. This term and condition will not apply if:

(i) the information technology provider retained by IIROC is required, either by law or otherwise, to conduct an annual independent review; and

(ii) IIROC's Board obtains and reviews annually a copy of the independent review report of its information technology provider to ensure that it has controls in place to address the matters outlined in paragraph (c) above.

e. Upon completion of the Board review, IIROC must provide the Commission with a copy of the report prepared under paragraph (d).

f. IIROC shall periodically benchmark surveillance systems and services provided by its information technology providers against comparable systems and services available from other third party technology providers and provide the Commissions with a report summarizing the process undertaken and the conclusions reached.

12. Ongoing Reporting Requirements

a. IIROC must provide the Commission with all information required in Schedule 2 of this Recognition Order.

b. IIROC must provide Commission staff within 30 days of the commencement of each fiscal year with a copy of its financial budget for that year, together with the underlying assumptions, that has been approved by its Board.

c. IIROC must file annual audited financial statements with Commission staff, accompanied by the report of an independent auditor, within 90 days after the end of each fiscal year.

d. IIROC must file with Commission staff quarterly financial statements for each of the first three financial quarters within 60 days after the end of each financial quarter.

e. IIROC must file its annual report with Commission staff upon completion.

f. IIROC must annually self-assess IIROC's performance of its regulatory responsibilities and report thereon to the Board and the Commission staff, together with any recommendations for improvements. The annual self-assessment must contain information as specified by Commission staff from time to time and include the following information:

(i) an assessment of how IIROC is meeting its regulatory mandate, including an assessment against the recognition criteria and the terms and conditions of the Recognition Order;

(ii) an assessment against its strategic plan;

(iii) a description of trends seen as a result of compliance reviews conducted and complaints received and IIROC's plan to deal with any issues;

(iv) whether IIROC is meeting its benchmarks and if not, why not; and

(v) a description and update on significant projects undertaken by IIROC.

IIROC must file the self-assessment with the Commission within 90 days of its fiscal year-end.

g. IIROC must give the Commission staff notice as soon as practicable of new directors.

h. IIROC must provide to the Commission, in addition to the information specifically required in this Recognition Order and the MOU, any information the Commission may reasonably require from time to time.

SCHEDULE 1

CRITERIA FOR RECOGNITION

1. Governance

a. The governance structure and arrangements must ensure:

(i) effective oversight of the entity;

(ii) fair, meaningful and diverse representation on the governing body (Board) and any committees of the Board, including a reasonable proportion of independent directors;

(iii) a proper balance among the interests of the different persons or companies subject to regulation by IIROC; and

(iv) each director or officer is a fit and proper person.

2. Public Interest

IIROC must regulate to serve the public interest in protecting investors and market integrity. It must articulate and ensure it meets a clear public interest mandate for its regulatory functions.

3. Conflicts of Interest

IIROC must effectively identify and manage conflicts of interest.

4. Fees

a. All fees imposed by IIROC must be equitably allocated. Fees must not have the effect of creating unreasonable barriers to access.

b. The process for setting fees must be fair and transparent.

c. IIROC must operate on a cost-recovery basis.

5. Access

a. IIROC must have reasonable written criteria that permit all persons or companies that satisfy the criteria to access IIROC's regulatory services.

b. The access criteria and the process for obtaining access should be fair and transparent.

6. Financial Viability

IIROC must have sufficient financial resources for the proper performance of its functions and to meet its responsibilities.

7. Capacity to Perform Regulatory Functions

a. IIROC must maintain its capacity to effectively and efficiently perform its regulatory functions, which include governing the conduct of persons or companies subject to its regulation and monitoring and enforcing applicable requirements.

b. IIROC must maintain in each jurisdiction where it has an office

(i) sufficient financial, technological, human and other resources; and

(ii) appropriate organizational structures and adequate technological systems

to efficiently, effectively and in a timely manner perform its regulatory functions and responsibilities.

8. Capacity and Integrity of Systems

IIROC must maintain controls to ensure capacity, integrity requirements and security of its technology systems.

9. Rules

a. IIROC must establish and maintain Rules that:

(i) are necessary or appropriate to govern and regulate all aspects of its functions and responsibilities as a self-regulatory entity;

(ii) are designed to:

(A) ensure compliance with securities laws,

(B) prevent fraudulent and manipulative acts and practices,

(C) promote just and equitable principles of trade and the duty to act fairly, honestly and in good faith,

(D) foster cooperation and coordination with entities engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in, securities,

(E) foster fair, equitable and ethical business standards and practices,

(F) promote the protection of investors, and

(G) provide for appropriate discipline of those whose conduct it regulates;

(iii) do not impose any burden or constraint on competition or innovation that is not necessary or appropriate in furtherance of IIROC's regulatory objectives;

(iv) do not impose costs or restrictions on the activities of market participants that are disproportionate to the goals of the regulatory objectives sought to be realized; and

(v) are not contrary to the public interest.

10. Disciplinary Matters

The process for discipline must be fair and transparent.

11. Information Sharing and Regulatory Cooperation

To assist other regulatory authorities in regulatory matters, IIROC must share information and cooperate with:

(a) the Commission and any other securities regulatory authority, whether domestic or foreign;

(b) exchanges;

(c) self-regulatory organizations;

(d) clearing agencies;

(e) financial intelligence or law enforcement agencies or authorities; and

(f) investor protection or compensation funds, whether domestic or foreign.

This assistance includes the collection and sharing of information and other forms of assistance for the purpose of market surveillance, investigations, enforcement litigation, investor protection and compensation and for any other regulatory purpose and is subject to applicable laws related to information sharing and protection of personal information.

12. Other Criteria – Québec

Constituting documents, by-laws and operating rules of IIROC should allow that the power to make decisions relating to the supervision of its activities in Québec will be exercised mainly by persons residing in Québec.

SCHEDULE 2

REPORTING REQUIREMENTS

IIROC will provide the information and reports outlined in this Schedule to the Recognizing Regulators of all jurisdictions in which a Member that is the subject of a report or notification is registered, unless otherwise specified.

1. General

a. Prompt notice of any material violations of securities legislation of which IIROC becomes aware in the ordinary course operation of its business.

b. Prompt notice of actual or apparent misconduct or non-compliance by Members and their Approved Persons or Participants and others where investors, clients, creditors, Members, the Canadian Investor Protection Fund (CIPF) or IIROC may reasonably be expected to suffer serious damage as a consequence thereof, including but not limited to:

(i) where the solvency of a Member is at risk;

(ii) where fraud is present; or

(iii) where serious deficiencies in supervision or internal controls exist.

IIROC will include the party's name, the misconduct or deficiency, and its proposed response to ensure that the situations are resolved.

2. Financial Compliance

a. Prompt notification of situations that would reasonably be expected to raise concerns about a Member's continued viability, including but not limited to, capital deficiency and any condition which, in the opinion of IIROC, could give rise to payments being made out of CIPF, including any condition which, alone or together with other conditions, could, if appropriate corrective action is not taken, reasonably be expected to:

(i) inhibit the Member from promptly completing securities transactions, promptly segregating clients' securities as required or promptly discharging its responsibilities to clients, other Members or creditors;

(ii) result in material financial loss to the Member and its clients; or

(iii) result in material misstatement of the Member's financial statements.

IIROC will include the Member's name, the circumstances that gave rise to the situation, and its proposed response to ensure the identified situations are resolved.

b. Prompt notice following the taking of any action with respect to a Member in financial difficulty, including a description of the circumstances of the failure or the cause of the financial difficulty, and a summary of the actions taken.

c. At the beginning of each calendar year, an examination plan summarizing the scheduled financial compliance examinations for the upcoming year, set out on a quarterly basis and by IIROC office. The examination plan should explain the selection method used in determining the Members that are subject to an examination.

d. On a quarterly basis, notification of any material changes to Financial Compliance's processes or scope of its work, including material changes to its risk assessment model. Such notification may be provided verbally at the quarterly conference calls of staff of IIROC and the Recognizing Regulators.

3. Business Conduct Compliance

a. At the beginning of each calendar year, an examination plan summarizing the scheduled business conduct compliance examinations for the upcoming year, set out on a quarterly basis. The examination plan should explain the selection method used in determining the Member's office(s) that are subject to an examination and the resources that will be dedicated to reviews of branch offices. The examination plan should also

include for head office examinations the name of the Dealer Member and the address, and for branch office examinations that IIROC reasonably expects to complete the name of the Dealer Member and the address.

b. On a quarterly basis, a comparison of IIROC's Dealer Member business conduct compliance examination results to the examination plan by IIROC office. This comparison will include an explanation of any variances of actual results compared to the examination plan, and an action plan to ensure that the variances are resolved.

c. On a quarterly basis, a progress report on all examinations that were in progress as of or started since the last report by each IIROC office. This report will include:

(i) the name of the Dealer Member;

(ii) whether the examination involved a head office or branch;

(iii) the start and expected completion dates of the field work;

(iv) the status of the examination;

(v) whether a report has been issued and, if so, the issue date;

(vi) a summary of the material deficiencies noted during the examination;

(vii) identification of any repeated deficiencies; and

(viii) the follow up actions planned by IIROC to ensure that the identified problems will be resolved.

d. On a quarterly basis, notification of any material changes to Business Conduct Compliance's processes or scope of its work, including material changes to its risk assessment model. Such notification may be provided verbally at the quarterly conference calls of staff of IIROC and the Recognizing Regulators.

4. Trade Desk Review

a. At the beginning of each calendar year, a plan summarizing the scheduled trade desk reviews for the upcoming year, set out on a quarterly basis, including the name of the Dealer Member. The plan should explain the selection method used in determining the Members that are subject to a trade desk review.

b. On a quarterly basis, a comparison of IIROC's trade desk review results to the plan by IIROC office. This comparison will include an explanation of any variances of actual results compared to the plan, and an action plan to ensure that the variances are resolved.

c. On a quarterly basis, a progress report on all trade desk reviews that were in progress as of or started since the last report by each IIROC office. This report will include:

(i) the name of the Dealer Member;

(ii) the start and expected completion dates of the field work;

(iii) the status of the review;

(iv) whether a report has been issued and, if so, the issue date;

(v) a summary of the material deficiencies noted during the review;

(vi) identification of any repeated deficiencies; and

(viii) the follow up actions planned by IIROC to ensure that the identified problems will be resolved.

d. On a quarterly basis, notification of any material changes to trade desk review processes or scope. Such notification may be provided orally at the quarterly conference calls of staff of IIROC and the Recognizing Regulators.

5. Membership

a. Immediate notice of the admission of a new Member. In each case, IIROC will include the Member's name and any terms and conditions that are imposed on the Member.

b. Immediate notice of Members whose membership will be suspended or terminated. In each case, IIROC will include:

(i) The Member's name; and

(ii) The reasons for the proposed suspension or termination.

c. Immediate notice of receipt from a Member its intention to resign.

d. The notice required by this section may be provided by IIROC issuing a public notice containing the information, provided that such public notice will be issued immediately after the decision is made for admission, suspension and termination of membership and immediately after receipt of a notice of intention to resign, as the case maybe.

6. Registration

a. A quarterly report summarizing any terms and conditions imposed on Approved Persons, containing:

(i) the name of the Dealer Member and Approved Person on whom the terms and conditions were imposed;

(ii) the date terms and conditions were imposed;

(iii) the terms and conditions; and

(iv) a description of the reasons for the decision to impose terms and conditions.

b. A quarterly report summarizing all exemptions granted to individuals for proficiency requirements and full-time employment requirements under IIROC Rules and applicable securities legislation, and the reasons for granting the exemptions. This report should not include non-discretionary exemptions set out in IIROC Rules that were previously approved by the Recognizing Regulators.

7. Marketplace Regulation Exemptions

A quarterly report summarizing all exemptions granted during the period to marketplace participants pursuant to IIROC's Marketplace Regulation Rules, containing the information set out below:

a. the name of the marketplace participant;

b. type of exemption;

c. date of the exemption; and

d. a description of IIROC staff's reason for the decision to approve the exemption.

8. Investigations and Enforcement

a. Ad Hoc Reporting

(i) Information concerning all investigations which led to disciplinary or settlement proceedings, to be sent promptly after the disposition of the disciplinary or settlement proceedings and containing the following information:

(A) any discipline imposed,

(B) the terms of any settlement proposal accepted, and

(C) any written decisions and reasons.

b. Monthly Reporting

(i) A summary of all new investigations by IIROC offices, which will:

(A) indicate the date an investigation started,

(B) indicate whether the investigation concerns primarily Member Regulation matters, Marketplace Regulation matters or has significant elements of both,

(C) include name of the complainant for complaints that resulted in investigations,

(D) indicate whether the file was referred by another department of IIROC and the name of the department,

(E) identify:

a. for Member Regulation cases, the Dealer Member and relevant Approved Person(s), or

b. for Marketplace Regulation cases, the marketplace participant,

(F) summarize the misconduct alleged, and highlight any securities act violations of which IIROC becomes aware in the course of the investigation, and

(G) identify the name(s) of IIROC staff assigned to the investigation.

(ii) A summary of all closed investigations which did not lead to disciplinary or settlement proceedings by IIROC offices, which will:

(A) indicate the dates an investigation was started and closed,

(B) include detailed information concerning the investigation,

(C) identify:

a. for Member Regulation cases, the Dealer Member and relevant Approved Person(s), or

b. for Marketplace Regulation cases, the marketplace participant, and

(D) include a copy of the final investigation report and recommendations.

c. Quarterly Reporting

(i) A quarterly report summarizing client complaints based upon ComSet data, including:

(A) a graphical report setting out the number of open client complaints and the relative age of the client complaints as of each quarter and on an annual basis, and

(B) the relative age of closed client complaints, closed in the quarter and on an annualized basis.

(ii) Summary statistics by IIROC offices regarding the current caseload for each of complaints, investigations and prosecutions, separated between Member and Marketplace Regulation cases and within Marketplace Regulation cases, separately for each exchange, quotation and trade reporting system and alternative trading system, including:

(A) the number of files outstanding at the beginning and at the end of the period, by operating department,

(B) the number of new files opened during the period, by operating department,

(C) the number of files transferred between sections during the period, by operating department, and

(D) the number of files referred and closed during the period.

(iii) An ageing report by IIROC offices as at quarter end for files that remain open at the end of the quarter, which identifies the length of time a file has been open in each operating department.

d. Annual Reporting

(i) A summary of all complaints and the disposition thereof, together with an analysis of any emerging problems or trends;

(ii) A summary of all investigations and the disposition thereof, together with an analysis of any emerging problems or trends;

(iii) A summary of all prosecutions and the disposition thereof, together with an analysis of any emerging problems or trends;

(iv) an analysis of market surveillance files that includes a discussion of any emerging problems or trends;

(v) enforcement-related policy changes;

(vi) enforcement-related functional and administrative changes; and

(vii) ongoing initiatives which are enforcement-related, but not case specific.

MEMORANDUM OF UNDERSTANDING REGARDING
OVERSIGHT OF INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA AMONG:

BRITISH COLUMBIA SECURITIES COMMISSION
ALBERTA SECURITIES COMMISSION
SASKATCHEWAN FINANCIAL SERVICES COMMISSION
MANITOBA SECURITIES COMMISSION
ONTARIO SECURITIES COMMISSION
AUTORITÉ DES MARCHÉS FINANCIERS
NEWFOUNDLAND AND LABRADOR, SECURITIES DIVISION,
DEPARTMENT OF GOVERNMENT SERVICES AND LANDS
NOVA SCOTIA SECURITIES COMMISSION
NEW BRUNSWICK SECURITIES COMMISSION

(each a Recognizing Regulator, collectively Parties)

The Parties agree as follows:

1. Underlying Principles

a. Recognition

Investment Industry Regulatory Organization of Canada (IIROC) is recognized as a self-regulatory organization under applicable legislation by each of the Recognizing Regulators and is a regulation services provider pursuant to National Instrument 23-101 *Trading Rules*.

b. Oversight Program

To ensure effective oversight of IIROC's performance of its self-regulatory activities and regulation services, the Parties to this Memorandum of Understanding (MOU) have developed an oversight program (the Oversight Program) which includes:

(i) reviewing information filed by IIROC, as set out in section 4;

(ii) reviewing and approving new and amended rules, policies and other similar instruments (Rules) and by-laws of IIROC, as set out in Appendix "A"; and

(iii) performing periodic reviews of IIROC's self-regulatory activities and regulation services.

The purpose of the Oversight Program is to ensure that IIROC is acting in accordance with its public interest mandate, specifically by complying with its terms and conditions of recognition.

c. Previous Memoranda of Understanding

This MOU supersedes the letter agreement dated June 5, 2001 between the Investment Dealers Association of Canada (IDA) and the recognizing regulators of the IDA regarding the coordination of oversight of the IDA by the Canadian Securities Administrators and the Memorandum of Understanding Regarding Oversight of Market Regulation Services Inc. (RS) dated May 1, 2002 among the recognizing regulators of RS.

2. Definitions

"Approved Person" has the meaning attributed to that term in IIROC's Rules, as amended from time to time.

"Member" has the meaning attributed to that term in IIROC's By-law No. 1, as amended from time to time.

"Principal Regulator" means the Recognizing Regulator that is designated as such from time to time by consensus of all the Recognizing Regulators.

3. General Provisions

a. Oversight Committee

An oversight committee will be established (the Oversight Committee) which will act as a forum and venue for the discussion of issues, concerns and proposals related to the oversight of IIROC.

The Oversight Committee will include staff representatives from each of the Recognizing Regulators.

The Oversight Committee will provide to the CSA Chairs an annual written report that will include a summary of all oversight activities during the previous period.

b. Staff Contact

The Principal Regulator will provide IIROC with key staff contacts in each jurisdiction for the purposes of matters arising under this MOU or relating to oversight in general.

c. Status Meetings

The Principal Regulator will organize quarterly conference calls and an annual in-person meeting of the Oversight Committee and IIROC staff. The purpose is to discuss matters relating to the oversight of IIROC, issues relating to the regulation of IIROC's Members and other matters that are of interest to the Recognizing Regulators and IIROC. The Principal Regulator is also responsible for taking minutes of these calls and in-person meetings.

4. Review of Information Filed

Any comments of the staff of the Recognizing Regulators on information filed by IIROC will be sent to the Principal Regulator. The Principal Regulator will request that IIROC respond to comments raised by the Recognizing Regulators and forward any response to the Recognizing Regulators.

5. Review of By-laws and Rules

The Recognizing Regulators have developed a Joint Rule Review Protocol (the Protocol) for coordinating the review and approval of IIROC by-laws and Rules, as sets out in Appendix "A".

6. Oversight Reviews

a. Coordination of Oversight Reviews

(i) The Recognizing Regulators will use their best efforts to carry out reviews of IIROC offices at least once every three years. A Recognizing Regulator may choose to participate in the review of an IIROC office depending on the functions carried out in that office, or may choose to rely on another Recognizing Regulator for the review of an IIROC office. In cases where a Recognizing Regulator chooses not to review the IIROC office in its jurisdiction, the other Recognizing Regulators may conduct a review of that IIROC office. Those Recognizing Regulators who participate in a review are considered to be "Reviewing Regulators" for the purpose of oversight reviews.

(ii) The Reviewing Regulators agree to coordinate their reviews of IIROC's offices by conducting their reviews at the same time and evaluating IIROC using a uniform review program and uniform performance benchmarks.

(iii) The Principal Regulator will develop a review program in consultation with the Reviewing Regulators.

(iv) For each IIROC office, a Reviewing Regulator will be designated as the Responsible Regulator who has overall responsibility for the review of that office. In particular, the Responsible Regulator will ensure that the review is appropriately staffed, will draft the review report for that office taking into account findings and comments of the Reviewing Regulators of that office, and will report on the status and results of the review of that office.

(v) The Principal Regulator will also arrange periodic conference calls of the Reviewing Regulators during the course of a review, the purpose of which is to discuss the findings at different IIROC offices and to ensure consistent recommendations for similar findings.

b. Review of Draft Reports and Issuance of Final Reports and Follow-Up Plans

At the conclusion of a review, staff of the Principal Regulator and the Reviewing Regulators will use their best efforts to follow the procedures set out below, taking into account language translation needs, when applicable:

(i) Each Responsible Regulator will provide to all Reviewing Regulators a draft report on the results of the review of its IIROC office. The Reviewing Regulators will agree in advance on the date on which the draft reports should be completed.

(ii) The Principal Regulator will review the draft reports for consistency of findings and recommendations and provide any needed comments to the Responsible Regulators within 10 business days of receipt of all the draft reports.

(iii) The Responsible Regulators will review the comments and make appropriate revisions to their reports, taking into consideration comments from the relevant Reviewing Regulators, and forward their revised draft reports to the Principal Regulator within 10 business days of receipt of the Principal Regulator's comments.

(iv) Within 10 business days of receipt of all the revised draft reports, the Principal Regulator will forward the draft reports on each office to IIROC for it to confirm factual accuracy.

(v) IIROC will review the draft reports for factual accuracy and respond to all the Reviewing Regulators with comments within 15 business days of receipt of the draft reports.

(vi) The Responsible Regulators will consider IIROC's comments and revise their reports as necessary, and will forward a copy of their final reports to the Principal Regulator within 20 business days of receiving IIROC's comments.

(vii) The Principal Regulator will combine the final reports on each IIROC office into a consolidated report and prepare an executive summary to the consolidated report. The Principal Regulator will forward the consolidated report to the Reviewing Regulators for their review within 20 business days of receipt of all the final reports.

(viii) The Reviewing Regulators will provide to the Principal Regulator any comments on the consolidated report within 10 business days of receipt of the consolidated report.

(ix) The Principal Regulator will review the comments, make any appropriate changes to the consolidated report, and forward the consolidated report to IIROC for a formal response with copies to the Reviewing Regulators, within 10 business days of receipt of the Reviewing Regulators' comments.

(x) IIROC will use its best efforts to respond to the consolidated report within 20 business days of receipt of the report. A copy of its response will be sent to all the Reviewing Regulators.

(xi) The Responsible Regulator will review IIROC's response, develop a follow-up plan for the applicable IIROC office, and forward its follow-up plan to the Principal Regulator, within 20 business days of receipt of IIROC's response.

(xii) The Principal Regulator will provide the final consolidated report, together with IIROC's response and the follow-up plan for each IIROC office, to the CSA Chairs and IIROC once each Reviewing Regulator has obtained the necessary internal approval.

c. Interim Reviews

Although the Principal Regulator will co-ordinate periodic reviews as described above, each Recognizing Regulator retains the ability to perform a review of IIROC to deal with significant and/or local issues that require immediate attention and that would be best dealt with through a review of an IIROC office. The Recognizing Regulator desiring to perform an interim review of IIROC will provide prior notice of the interim review to the Oversight Committee.

7. Appendix

Appendix "A" to this MOU is an integral part of this MOU.

8. Amendments to and Withdrawal from this MOU

This MOU may be amended from time to time as mutually agreed upon by the Recognizing Regulators. Any amendments must be in writing and approved by the duly authorized representatives of each Recognizing Regulator.

Each Recognizing Regulator can, at any time, withdraw from this MOU on at least 90 days written notice to the Principal Regulator and to each Recognizing Regulator.

9. Effective Date

This MOU comes into effect on June 1, 2008 in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia and Saskatchewan, and on September 1, 2008 in Ontario. In Quebec, this MOU comes into effect on the date it is signed by the AMF and by the Minister responsible for Canadian Intergovernmental Affairs or by a person authorized by the Minister.

British Columbia Securities Commission

Per: _____

Title: _____

Alberta Securities Commission

Per: _____

Title: _____

Saskatchewan Financial Services Commission

Per: _____

Title: _____

Manitoba Securities Commission

Per: _____

Title: _____

Ontario Securities Commission

Per: _____

Title: _____

Autorité des marchés financiers

Per: _____

Title: _____

Minister Responsible for Canadian Intergovernmental Affairs

Per: _____

Title: _____

Newfoundland and Labrador, Securities Division, Department of Government Services and Lands

Per: _____

Title: _____

Nova Scotia Securities Commission

Per: _____

Title: _____

New Brunswick Securities Commission

Per: _____

Title: _____

APPENDIX A

JOINT RULE REVIEW PROTOCOL FOR IIROC

1. Scope and Purpose

a. "Rules" includes any new rule or amendment to a rule, policy or other similar instrument.

b. Any new or amended by-law will follow the process for rule review and approval set out in this Protocol.

c. The Recognizing Regulators have entered into this Protocol to establish uniform procedures for their review and approval of Rules proposed by IIROC.

2. Classification of Rules

a. Classification of Rules by IIROC

IIROC will classify each proposed Rule as a "Housekeeping" Rule or a "Public Comment" Rule and will provide notice of classification in the materials filed with each Recognizing Regulator.

b. Criteria for Classification of Rules

(i) A "Housekeeping" Rule is a proposed Rule that has no material impact on investors, issuers, members, registrants or the capital markets in any province or territory of Canada and that:

(A) corrects spelling, punctuation, typographical or grammatical mistakes or inaccurate cross-referencing;

(B) makes stylistic or formatting changes to headings or paragraph numbers;

(C) makes other necessary changes of an editorial nature (such as standardization of terminology);

(D) establishes or changes a due, fee or other charge imposed by IIROC pursuant to a Rule or fee model that has been previously approved by the Recognizing Regulators;

(E) changes the routine internal processes, practice, or administration of IIROC; or

(F) is reasonably necessary to conform IIROC's Rules to applicable securities legislation, statutory or legal requirements; and

(ii) A "Public Comment" Rule is any proposed Rule that is not a Housekeeping Rule.

c. Disagreements Regarding Classification

(i) If staff of a Recognizing Regulator believe that a proposed Rule is incorrectly classified as a Housekeeping Rule, they will, within 10 days of the date of filing by IIROC, inform staff of the Principal Regulator of their intention to disagree with the classification, with an analysis of their reasons for disagreeing with the classification. Within 5 days of receiving a notice of disagreement from staff of one of the Recognizing Regulators, staff of the Principal Regulator will arrange a conference call among staff of the Recognizing Regulators to discuss the disagreement with the classification. If the disagreement still exists after the conference call, staff of the Principal Regulator will promptly notify IIROC.

(ii) If a notice of disagreement is sent to IIROC under paragraph 2(c)(I), IIROC will reclassify the proposed Rule as a Public Comment Rule.

3. Required Materials

a. IIROC will file the information required under this section concurrently in both English and French, accompanied with a translation certificate, with the applicable Recognizing Regulators.

b. IIROC will file the following information with each Housekeeping Rule:

(i) a cover letter that indicates the classification of the Rule and the rationale for the classification;

(ii) the text of the proposed Rule, and, where applicable, a blacklined version of the Rule indicating changes to an existing rule; and

(iii) a notice for publication that contains the following:

(A) a brief description of the Rule,

(B) the reasons for the Housekeeping classification,

(C) the date that the Rule was approved by the IIROC Board and the Board Resolution, and

(D) the anticipated effective date of the Rule.

c. IIROC will file the following information with each Public Comment Rule:

(i) a cover letter that indicates the classification of the Rule, how IIROC has taken the public interest into account when developing the Rule and why the Rule is in the public interest;

(ii) the text of the proposed Rule, and, where applicable, a blacklined version of the Rule indicating changes to an existing rule; and

(iii) a notice of publication including:

(A) a concise statement, together with supporting analysis, of the nature, purpose and effect of the proposed Rule;

(B) the possible effects of the proposed Rule on market structure, Members, non-Members, competition and the costs of compliance;

(C) a description of the Rule and the Rule-making process, including a description of the context in which the proposed Rule was developed, the date that the Rule was approved by the IIROC Board and the Board Resolution, the process followed, the issues considered, the consultation process undertaken and alternative approaches considered and the reasons for rejecting those alternatives;

(D) where the proposed Rule requires technological systems changes to be made by IIROC, Members or other market participants, a description of the implications of the proposed Rule and, where possible, a discussion of material implementation issues and plans;

(E) where relevant, a reference to other jurisdictions including an indication as to whether another regulator in Canada, the United States or another jurisdiction has a comparable rule or has made or is contemplating making a comparable rule and, if applicable, a comparison of the proposed Rule to the rule of the other jurisdiction;

(F) the anticipated date on which IIROC proposes that the proposed Rule be effective;

(G) a statement that the IIROC Board has determined that the proposed Rule is not contrary to the public interest; and

(H) a request for public comment together with details on how to submit comments with the comment period deadline, and a statement that IIROC would make available to the public all comments received during the comment period.

4. Review Criteria

Without limiting the discretion of the Recognizing Regulators, the Recognizing Regulators agree that the following are factors that should be considered by the Recognizing Regulators in reviewing IIROC Rule proposals:

a. whether IIROC followed its established internal governance practices in approving the proposed Rule;

b. whether IIROC followed the requirements of this Protocol and has provided sufficient analysis of the nature, purpose and effect of a proposed Rule;

c. whether IIROC has considered consequential amendments; and

d. whether the proposed Rule conflicts with applicable laws or the terms and conditions of a Recognizing Regulator's recognition order.

5. Rule Review and Approval Process – Housekeeping Rules

a. IIROC will file each proposed Housekeeping Rule and the materials described in subsection 3(b) of this Protocol with each Recognizing Regulator.

b. Upon receipt of IIROC's notice of publication, staff of the Principal Regulator will immediately send confirmation of receipt of the proposed Housekeeping Rule to IIROC, with copies to the other Recognizing Regulators.

c. If none of the Recognizing Regulators objects to the classification of the proposed Rule as a Housekeeping Rule within the time limit set out in paragraph 2(c)(I), the proposed Rule will be deemed to be approved and will be effective on the date designated by IIROC in its filing.

6. Rule Review and Approval Process – Public Comment Rules

a. IIROC will file each proposed Public Comment Rule and the materials described in subsection 3(c) of this Protocol with each Recognizing Regulator.

b. Upon receipt of IIROC's notice of publication, staff of the Principal Regulator will immediately send confirmation of receipt of the proposed Public Comment Rule to IIROC, with copies to the other Recognizing Regulators.

c. As soon as practicable and in any event within 14 days of receipt of IIROC's notice of publication, the Principal Regulator will, and the other Recognizing Regulators may, publish for a 30-day comment period (commencing on the date the proposed Public Comment Rule appears in the bulletin or on the website of the Principal Regulator) in its bulletin or on its website the text of the proposed Public Comment Rule and the notice of publication filed by IIROC. The Principal Regulator and the other Recognizing Regulators that publish the Rule will coordinate the publication date.

d. During the 30-day comment period, staff of each of the Recognizing Regulators will provide significant comments to staff of the Principal Regulator in writing, with copies to the other Recognizing Regulators. If staff of the Principal Regulator do not receive any such comments within the 30-day period, the other Recognizing Regulators will be deemed to not have any comments.

e. Promptly following the 30-day comment period, IIROC will confirm with staff of the Principal Regulator whether any public comments were received and, if so, IIROC will forward the public comments to each of the Recognizing Regulators.

f. If comments from staff of the Recognizing Regulators and the public comments do not raise any significant issues, staff of the Recognizing Regulators will proceed immediately to the approval of the proposed Rule following the steps outlined insubparagraphs (j)-(n) below.

g. If comments from staff of the Recognizing Regulators or the public comments received raise significant issues, staff of the Principal Regulator will send IIROC written notice, within 7 days of the end of the 30-day comment period, that the Public Comment Rule will be subject to a full review as set out in subparagraph 6(h) below.

h. For a full review of a Public Comment Rule, the Recognizing Regulators will use best efforts to adhere to the following process:

(i) Staff of the Principal Regulator will prepare and deliver to staff of the other Recognizing Regulators, within 7 days of receiving from IIROC confirmation that no public comments were received or a summary of public comments and IIROC's response to the public comments, a draft comment letter that incorporates the comments raised by staff of the Recognizing Regulators;

(ii) within 7 days of receipt, staff of each of the Recognizing Regulators will provide comments on the draft comment letter prepared by staff of the Principal Regulator, with copies to the other Recognizing Regulators; if staff of the Principal Regulator does not receive any comments within the 7-day period, the other Recognizing Regulators will be deemed not to have any comments;

(iii) Staff of the Principal Regulator will consolidate all comments received, and may identify different views from staff of the Recognizing Regulators; in the event that comments received conflict, staff of the Recognizing Regulators will try to reach an agreement to deal with the conflict; if the conflict cannot be resolved, the Principal Regulator will use its best efforts to arrange, within 14 days of becoming aware of the conflict, for the Chair or another senior executive of each of the Recognizing Regulators to discuss the issues and attempt to establish a consensus;

(iv) within 3 days of the other Recognizing Regulators' response (or deemed response) or of the resolution of conflicts by the Chairs or senior executives of the Recognizing Regulators, staff of the Principal Regulator will send the comment letter to IIROC, with a copy to each of the other Recognizing Regulators;

(v) within 14 days of receipt, IIROC will respond in writing to the comment letter sent by staff of the Principal Regulator, with a copy to staff of each of the other Recognizing Regulators; and

(vi) each of the other Recognizing Regulators will provide material comments to the Principal Regulator in writing within 10 days of IIROC's response, and the Principal Regulator will provide its comments to the other Recognizing Regulators within the same period; if the Principal Regulator does not receive any comments within the 10-day period, the other Recognizing Regulators will be deemed not to have any comments.

i. IIROC and the Recognizing Regulators will discuss and attempt to resolve the concerns raised by any of the Recognizing Regulators within 30 days of receiving comments from staff of the other Recognizing Regulators regarding IIROC's response referred to in subparagraph 6(h)(V), but if the concerns are not resolved to the satisfaction of all Recognizing Regulators, review of the proposed Rule will be escalated to be discussed among the Chairs or other senior executives of the Recognizing Regulators as described below:

(i) the Principal Regulator will use its best efforts to schedule a meeting of the chairs or other senior executives of the Recognizing Regulators within 14 days of the end of the 30-day period noted in paragraph 6(i) above; and

(ii) the chairs or other senior executives of the Recognizing Regulators will discuss the issues and attempt to establish a consensus among the Recognizing Regulators. If, after the consultations, the Chairs or other senior executives of the Recognizing Regulators are unable to agree on the appropriate outcome for the proposed Rule, IIROC will not be able to adopt the Rule.

j. Staff of the Principal Regulator will prepare documentation for approval of the proposed Rule by the Principal Regulator within 14 days of resolving comments under paragraph 6(i).

k. After a proposed rule is approved by the Principal Regulator, staff of the Principal Regulator will promptly circulate to the other Recognizing Regulators the documentation.

l. Staff of the other Recognizing Regulators will seek the necessary approval within 30 days of receipt of the documentation from the Principal Regulator, or such later time as is mutually agreed by staff of the Recognizing Regulators.

m. Staff of each Recognizing Regulator will inform staff of the Principal Regulator in writing of the decision concerning the proposed Rule immediately following the decision.

n. Staff of the Principal Regulator will communicate in writing the approval of a proposed Rule to IIROC promptly upon receipt of notification from all of the other Recognizing Regulators of their decision.

7. Immediate Implementation

a. If IIROC reasonably believes that there is an urgent need to implement a proposed Rule because of a substantial risk of material harm to investors, Members, marketplace participants or the Canadian Investor Protection Fund, IIROC may make the proposed Rule effective immediately upon approval by IIROC's Board, provided that:

(i) IIROC provides each Recognizing Regulator with written notice of its intention to rely upon this procedure at least 10 days before the proposed Rule is considered for approval by IIROC's Board; and

(ii) IIROC's written notice includes:

(A) the date on which IIROC intends the proposed Rule to be effective, and

(B) an analysis in support of the need for immediate implementation of the proposed Rule.

b. If a Recognizing Regulator does not agree that immediate implementation is necessary, that Recognizing Regulator will, within 5 days after IIROC provides notice to the Principal Regulator, advise the Principal Regulator in writing that it disagrees and provide the reasons for its disagreement, with copies to the other Recognizing Regulators. Staff of the Principal Regulator will promptly notify IIROC of the disagreement.

c. IIROC and the Recognizing Regulators will discuss and attempt to resolve the concerns raised by the Recognizing Regulators on a timely basis, but if the concerns are not resolved to the satisfaction of all Recognizing Regulators, the proposed Rule cannot be immediately implemented.

d. If no notice is received by IIROC by the end of the tenth day following the day on which IIROC provided the notification to the Principal Regulator, the Recognizing Regulators will be deemed to have approved the immediate implementation of the proposed Rule.

e. Proposed Rules approved (or deemed to have been approved) for immediate implementation will be effective on the later of:

(i) the date on which each Recognizing Regulator has approved (or is deemed to have approved) the immediate implementation; and

(ii) the date designated by IIROC in its written notice to the Principal Regulator.

f. A Rule that is implemented immediately will be published (if it is a Public Comment Rule), reviewed, and approved in accordance with this Protocol.

g. Where the Recognizing Regulators subsequently disapprove a Rule that was implemented immediately, IIROC will promptly repeal the Rule.

8. Effective Date of Rules

a. Public Comment Rules (other than Rules implemented under Section 7 (Immediate Implementation) of this Protocol) will be effective on the later of:

(i) the date of publication of notice of approval, and

(ii) the date designated by IIROC under paragraph 3(c)(III)(6) of this Protocol.

b. Housekeeping Rules will be effective on the date designated by IIROC under paragraph 3(b)(III)(3) of this Protocol.

9. Revisions and Republication

a. If, subsequent to its publication for comment, IIROC revises a Public Comment Rule in a manner that results in a material change in the proposed Rule's substance and/or effect, the Principal Regulator will, in consultation with IIROC and staff of the other Recognizing Regulators determine whether or not the revised Rule should be published for an additional 30-day comment period.

b. If a Public Comment Rule is republished under subsection (a), the request for comments will include a blacklined version marked to the original published version, the date of Board approval (if different from the original published version), IIROC's summary of comments submitted and responses in respect of the previous request for comments, together with an explanation of the revisions to the proposed Rule and the supporting rationale for the revisions.

10. Publication of Notice of Approval

a. The Principal Regulator will prepare a notice of approval of each Public Comment Rule and publish the notice, together with the summary of the proposed Rule prepared by IIROC and IIROC's summary of comments submitted and responses, if applicable, and will coordinate with staff of the other Recognizing Regulators.

b. For any Housekeeping Rule, the Principal Regulator will publish the text of the proposed Rule and the notice for publication referred to in subparagraph 3(b)(III).

c. Recognizing Regulators other than the Principal Regulator may publish any notice of approval.

11. Review of Protocol

IIROC and staff of the Recognizing Regulators will, once every three years, conduct a joint review of the operation of this Protocol in order to identify issues that have arisen since the last review relating to compliance with this Protocol, the continuing appropriateness of the timelines and other requirements set out in this Protocol, and necessary or desirable amendments to this Protocol to address identified issues.

12. Waiving or Varying of the Rule Review Protocol

a. IIROC may file a written request with the Principal Regulator, with copies to the other Recognizing Regulators, to waive or vary any part of this Protocol.

b. Within 7 days of receipt of IIROC's request, a Recognizing Regulator who objects to the granting of the waiver or variation will notify the Principal Regulator of its objection, together with its reason(s) for the objection. If the Principal Regulator does not receive any notices of objection, the other Recognizing Regulators are deemed to not object to the waiver or variation.

c. The Principal Regulator will provide to IIROC on the eighth day of receipt of IIROC's request either:

(i) written notice that a Recognizing Regulator objects to granting the waiver or variation; or

(ii) written notice that the waiver or variation has been granted by the Principal Regulator on behalf of all the Recognizing Regulators.

d. A waiver or variation may be specific or general and may be made for a time or for all time as mutually agreed by staff of the Recognizing Regulators.

BY-LAW NO. 1

being a General By-law of

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA

ORGANISME CANADIEN DE RÉGLEMENTATION DU COMMERCE DES VALEURS MOBILIÈRES

(hereinafter referred to as the "**Corporation**")

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INTERPRETATION

Section 1.1 Definitions

In this By-law, unless the context otherwise specifies or requires:

"**Act**" means *the Canada Corporations Act*, R.S.C. 1970, c. C-32 as from time to time amended and every statute that may be substituted therefor and, in the case of such substitution, any references in the By-laws to provisions of the Act shall be read as references to the substituted provisions therefor in the new statute or statutes.

"**Associate**", where used to indicate a relationship with any person, means:

(a) any corporation of which such person beneficially owns, directly or indirectly, voting securities carrying more than ten percent (10%) of the voting rights attached to all voting securities of the corporation for the time being outstanding;

(b) a partner of that person;

(c) any trust or estate in which such person has a substantial beneficial interest or as to which such person serves as trustee or in a similar capacity;

(d) any relative of that person who resides in the same home as that person;

(e) any person who resides in the same home as the person and to whom that person is married or with whom that person is living in a conjugal relationship outside of marriage; or

(f) any relative of a person mentioned in clause (e) above, who has the same home as that person.

"**By-laws**" means this By-law and any other by-law of the Corporation from time to time in force and effect.

"**Board**" means the Board of Directors of the Corporation.

"**CDS**" means Canadian Depository for Securities Limited.

"**Chair**" means the Director elected by the Board to act as its chair.

"**CIPF**" means the Canadian Investor Protection Fund.

"**Corporation**" means Investment Industry Regulatory Organization of Canada / Organisme Canadien de Réglementation du Commerce des Valeurs Mobilières.

"**Dealer Director**" means a Director, other than a Marketplace Director, who is a partner, director, officer, employee or a person acting in a similar capacity of, or the holder of a Significant Interest in:

(a) a Dealer Member;

(b) an Associate of a Dealer Member; or

(c) an affiliated entity of a Dealer Member.

"**Dealer Member**" means a Member that is an investment dealer in accordance with securities legislation.

"**Director**" means a member of the Board.

"**District**" means a geographic area in Canada designated as a district of the Corporation by the Board, from time to time.

"**District Council**" means each of those Councils created in accordance with Article 10.

"**Indemnified Party**" means each Protected Party and any other person who has undertaken or is about to undertake any liability on behalf of the Corporation, or any entity controlled by it, which the Corporation determines to indemnify in respect of such liability and their respective heirs, executors, administrators, and estates and effects, respectively.

"**Independent Director**" means a Director who is not:

(a) an officer (other than the Chair or any Vice-Chair) or an employee of the Corporation;

(b) a person who qualifies as a Dealer Director or a Marketplace Director; or

(c) an Associate of a partner, director, officer, employee or person acting in a similar capacity of, or the holder of a Significant Interest in, a Dealer Member or Marketplace Member.

"**Industry Agreement**" means the agreement dated December 14, 2001 made between the Corporation and the CIPF, as the same may be amended or replaced from time to time.

"**Letters Patent**" means the letters patent of the Corporation and includes any supplementary letters patent.

"**Marketplace**" means a recognized exchange, a recognized quotation and trade reporting system or an alternative trading system, as each is defined in National Instrument 21-101.

"**Marketplace Director**" means a Director, other than a Dealer Director, who is a partner, director, officer, employee or person acting in a similar capacity of, or the holder of a Significant Interest in:

(a) a Marketplace Member;

(b) an Associate of a Marketplace Member; or

(c) an affiliated entity of a Marketplace Member.

"**Marketplace Member**" means a Member that is a Marketplace.

"**Market Share**" means the proportion of trading activity of any particular Marketplace of the trading activity of all Marketplaces with respect to exchange-traded securities other than derivatives and foreign exchange-traded securities other than derivatives calculated as to one-third by trading value, one-third by trading volume and one-third by number of trades, all in the immediately preceding calendar year calculated in accordance with guidelines approved by the Board. In the event of a dispute as to the calculation, and following consideration by management and the Board of the Corporation, the matter will be reported to the relevant members of the Canadian Securities Administrators (or any successor thereof).

"**Member**" means a person admitted to membership in the Corporation and who has not ceased, resigned or terminated membership in the Corporation in accordance with the provisions of Article 3.

"**Non-Independent Director**" means a Director who is neither the President nor an Independent Director.

"**President**" means the president and chief executive officer of the Corporation appointed in accordance with Section 8.3.

"**Protected Party**" means every current and former Director, officer, employee, committee member (whether a committee of the Board or other committee of the Corporation), and his or her heirs, executors, administrators, estate and effects or any other person acting on behalf of the Corporation.

"**Regulated Persons**" means persons who are or were formerly (i) Dealer Members, (ii) members, users or subscribers of or to Marketplaces for which the Corporation is the regulation services provider, (iii) the respective representatives as designated in the Rules of any of the foregoing, and (iv) other persons subject to the jurisdiction of the Corporation.

"**Regulations**" means the regulations made under the Act as from time to time amended and every regulation that may be substituted therefor and, in the case of such substitution, any references in the By-laws to provisions of the regulations shall be read as references to the substituted provisions therefor in the new regulations.

"**Restricted Fund**" means fine and settlement monies received by the Corporation.

"**Rules**" means the Rules made pursuant to Section 13.1.

"**Significant Interest**" means in respect of any person the holding, directly or indirectly, of the securities of such person carrying in aggregate 10% or more of the voting rights attached to all of the person's outstanding voting securities.

"**TSX**" means TSX Inc. and any continuing or successor corporation.

"**Vice-Chair**" means a Director elected by the Board to act as its vice-chair.

Section 1.2 Interpretation

(1) Unless otherwise defined or interpreted in this By-law or the Rules, every term used in this By-law or the Rules that is:

(a) defined in subsection 1.1(3) of National Instrument 14-101 – Definitions has the meaning ascribed to it in that subsection; and

(b) defined or interpreted in National Instrument 21-101 – Marketplace Operation has the meaning ascribed to it in that National Instrument.

(2) The provisions of this By-law and the Rules are subject to applicable laws. Subject to the By-laws and the Rules, any reference in this By-law or the Rules to a statute or a National Instrument refers to such statute or National Instrument and all rules and regulations made under it, as it may have been or may from time to time be amended or re-enacted.

(3) In this By-law and the Rules and in all other By-laws hereafter passed and the Rules from time to time, unless the context otherwise requires, words importing the singular number or the masculine gender shall include the plural number or the feminine gender, as the case may be, and vice versa, and references to persons shall include, individuals, corporations, limited partnerships, general partnerships, joint ventures, associations, companies, trusts, societies or other entities, organizations and syndicates whether incorporated or not, trustees, executors, or other legal personal representatives, and any government or agency thereof. In the event of any dispute as to the meaning of the Letters Patent, By-laws or Rules, the interpretation of the Board shall be final and conclusive.

ARTICLE 2
AFFAIRS OF THE CORPORATION

Section 2.1 Seal

The seal, an impression of which is stamped in the margin hereof, shall be the seal of the Corporation.

Section 2.2 Head Office

Until changed in accordance with the Act, the head office of the Corporation shall be in the Municipality of Toronto, in the Province of Ontario.

Section 2.3 Financial Year

Until changed by the Board, the financial year of the Corporation shall end on the last day of March in each year.

Section 2.4 Execution of Instruments

Transfers, assignments, contracts, obligations, certificates and other instruments may be signed on behalf of the Corporation by any two officers of the Corporation appointed in accordance with Article 8 of this By-law. In addition, the Board may from time to time direct the manner in which and the person or persons by whom any particular instrument or class of instruments may or shall be signed. Any signing officer may affix the corporate seal to any instrument requiring the same, but it is not necessary to bind the Corporation.

Section 2.5 Banking Arrangements

The banking arrangements of the Corporation including, without limitation, the borrowing of money and the giving of security therefor, shall be transacted with such banks, trust companies or other bodies corporate or organizations as may from time to time be designated by or under the authority of the Board. Such banking business or any part thereof shall be transacted under such agreements, instructions and delegations of powers as the Board may from time to time prescribe or authorize.

Section 2.6 Voting Rights In Other Bodies Corporate

Any two officers of the Corporation appointed in accordance with Article 8 of this By-law may execute and deliver proxies and arrange for the issuance of voting certificates or other evidence of the right to exercise the voting rights attaching to any securities held by the Corporation. Such instruments, certificates or other evidence shall be in favour of such person or persons as may be determined by the officers executing such proxies or arranging for the issuance of voting certificates or such other evidence of the right to exercise such voting rights. In addition, the Board may from time to time direct the manner in which and the person or persons by whom any particular voting rights or class of voting rights may or shall be exercised.

Section 2.7 Divisions

In addition to any other powers of the Board, the Board may, without further approval, cause the operations of the Corporation or any part thereof to be divided or segregated into one or more divisions upon such basis, including without limitation, character or type of operations, geographical territories as the Board may consider appropriate in each case. From time to time the Board, or if authorized by the Board, the President, may authorize, upon such basis as may be considered appropriate in each case:

(a) *Sub-Division and Consolidation*: The further division of the operations of any such division into sub-units and the consolidation of the operations of any such divisions and sub-units;

(b) *Name*: The designation of any such division or sub-unit by, and the carrying on of the operations of any such division or sub-unit, under a name other than the name of the Corporation; provided that the Corporation shall set out its name in legible characters in all contracts, invoices, negotiable instruments and orders for goods or services issued or made by or on behalf of the Corporation; and

(c) *Officers*: The appointment of officers for any such division or sub-unit, the determination of their powers and duties, and the removal of any such officer so appointed without prejudice to such officer's rights under any employment contract or in law, provided that any such officers shall not, as such, be officers of the Corporation, unless expressly designated as such in accordance with Article 8 of this By-law.

ARTICLE 3
CONDITIONS OF MEMBERSHIP

Section 3.1 Entitlement

The Board shall, in its discretion, decide (and may delegate to a committee of the Board or an officer of the Corporation the authority to so decide) upon all issues pertaining to eligibility for membership in accordance with the By-laws and Rules of the Corporation. The Board may, by the affirmative vote of a majority of the Directors at a meeting of the Board and sanctioned by the Members in accordance with Article 17, amend the By-law to add additional classes of Members and determine the rights and obligations pertaining to any added class. The first Members (the "First Members") shall be the first three Directors of the Corporation until such First Members elect the Board pursuant to Section 5.2. Thereafter, there shall be two classes of Members, being Marketplace Members and Dealer Members.

Section 3.2 Dealer Members

Subject to the By-laws and the Act, Dealer Members shall be entitled to the rights and entitlements attaching to all Members.

Section 3.3 Marketplace Members

Subject to the By-laws and the Act, Marketplace Members shall be entitled to the rights and entitlements attaching to all Members.

Section 3.4 Fees

Membership and other fees and assessments may be established by the Board in the amounts and in accordance with the terms and conditions established by or under the authority of the Board. Fees shall be imposed on an equitable basis and, as a matter of best efforts, on a cost recovery basis to the extent practicable.

Section 3.5 Process for Approval for Membership of Dealer Members

(1) In the case of Dealer Members, an application for membership must be submitted to the Corporation in the form and executed in the manner prescribed by or under the authority of the Board, and shall be accompanied by such fees, information and documents as the Corporation and the applicable District Council may require.

(2) Any firm shall be eligible to apply for membership if:

(a) It is formed under the laws of one of the provinces or territories of Canada and, where the firm is a corporation, it is incorporated under the laws of Canada or one of its provinces or territories;

(b) It carries on, or proposes to carry on, business in Canada as an investment dealer and is registered or licensed in each jurisdiction in Canada where the nature of its business requires such registration or licensing,

and is in compliance with such legislation and the requirements of any securities commission having jurisdiction over the applicant; and

(c) Its directors, officers, partners, investors and employees, and its holding companies, affiliated entities and related companies (if any), would comply with the By-laws and Rules of the Corporation that would apply to them if the applicant were a Dealer Member.

(3) An application for membership shall be accompanied by a non-refundable application review deposit in an amount to be determined by the Board, to be credited towards the annual fee paid by the Member in the event that the application is approved by the Board. Where, for any reason that cannot reasonably be attributed to the Corporation or its staff, the application process (other than an application of an alternative trading system) has not been completed within six months from the date the application was accepted for review by the Corporation, the deposit shall be forfeited to the Corporation and the application shall be required to be resubmitted with a new non-refundable application review deposit. For purposes of this Section, the application process shall be considered to be completed when Corporation staff recommends to the applicable District Council the approval or rejection thereof.

(4) If in connection with the review or consideration of any application for membership, the applicable District Council or the Board is of the opinion that the nature of the applicant's business, its financial condition, the conduct of its business, the completeness of the application, the basis on which the application was made or any Corporation review in respect of the application in accordance with the By-laws and Rules of the Corporation has required, or can reasonably be expected to require, excessive attention, time and resources of the Corporation, such District Council or the Board may require the applicant to reimburse the Corporation for some or all of its costs and expenses which are reasonably attributable to such excessive attention, time and resources or provide an undertaking or security in respect of such reimbursement. If an applicant is to be required to make such reimbursement of costs and expenses, the Corporation shall provide to the applicant a breakdown and explanation of such costs and expenses in sufficient detail to permit the applicant to understand the basis on which the costs and expenses were or are to be calculated.

(5) The process for review and approval of the application for membership shall be determined by or under the authority of the Board, and the Corporation shall make a preliminary review of the same and either:

(a) Where the application is incomplete, provide the applicant with a deficiency letter listing the items missing from or incomplete in the application, and, once Corporation staff have determined that the deficiencies have been addressed, perform a compliance review as referred to in Section 3.5(5)(b); or

(b) Where the application is complete, perform a compliance review and either:

(i) If such review discloses substantial compliance and willingness to comply with the requirements of the By-laws and Rules of the Corporation and approval of the application is considered to be in the public interest, forward a Corporation staff recommendation to approve the application to the applicable District Council for consideration along with the membership application; or

(ii) If such review discloses any substantial non-compliance or unwillingness to comply with the requirements of the By-laws and Rules of the Corporation, notify the applicant as to the nature of such non-compliance or unwillingness to comply and request that the application for membership be amended in accordance with the notification of the Corporation and refiled or be withdrawn. Once Corporation staff have determined that the necessary amendments have been made to the refiled application for membership, forward a Corporation staff recommendation to approve the application to the applicable District Council for consideration along with the membership application. If the applicant declines to amend or withdraw the application for membership, forward a Corporation staff recommendation to refuse the application to the applicable District Council for consideration along with the membership application and provide a copy of the recommendation to the applicant; or

(iii) If such review indicates that approval of the application is not in the public interest, notify the applicant as to the nature of the public interest concerns and request that the application for membership be withdrawn. If the applicant declines to withdraw the application for membership, forward a Corporation staff recommendation to refuse the application to the applicable District Council for consideration along with the membership application and provide a copy of the recommendation to the applicant.

(6) Once the application for membership has been determined to be complete pursuant to Section 3.5 (5), the Corporation shall notify all Dealer Members of the receipt of the application for membership. Any Dealer Member may, within fifteen days from the date of the mailing of such notification, lodge with the Corporation a written objection to the admission of

the applicant. Any objections shall be forwarded to the applicable District Council for consideration along with the membership application.

(7) The membership application approval process, as set out in the Corporation's By-laws and Rules established from time to time, shall commence once the applicable District Council receives:

(a) The membership application from Corporation staff;

(b) Notification from Corporation staff that the fifteen day period referred to in Section 3.5(6) has expired;

(c) Copies of any objection letters referred to in Section 3.5(6) that have been submitted relating to the application; and

(d) The Corporation staff recommendation to either approve or refuse the application pursuant to Section 3.5(5).

(8) The Board shall, in its discretion and pursuant to the membership application approval process, as set out in the Corporation's By-laws and Rules established from time to time, decide (and may delegate to a committee of the Board or an officer of the Corporation the authority to so decide) upon all applications for membership but shall not consider or approve any application unless and until it has been considered by the applicable District Council and a recommendation has been received from such applicable District Council as to the approval (with or without terms and conditions) or refusal of the application. The applicant and Corporation staff shall have an opportunity to be heard in respect of any decision proposed to be made under this Section 3.5(8).

(9) If the Board approves an application subject to terms and conditions as determined by or under the authority of the Board or refuses an application, the applicant shall be provided with a statement of the grounds upon which the Board has approved the application subject to terms and conditions or refused the application, and the particulars of those grounds.

(10) The Board may as it considers appropriate vary or remove any such terms and conditions as may have been imposed on an applicant, if such terms and conditions are or are no longer, as the case may be, necessary to ensure that the By-laws and Rules will be complied with by the applicant. In the event that the Board proposes to vary terms and conditions in a manner which would be more burdensome to the applicant, the provisions of Section 3.5(9) shall apply in the same manner as if the Board was exercising its powers thereunder in regard to the applicant.

(11) If, pursuant to the provisions of Section 3.5(9), the Board approves an application subject to terms and conditions or refuses an application, the Board may order that the applicant may not apply for removal or variation of terms and conditions or reapply for approval, for such period as the Board provides.

(12) Actions upon Approval of Application:

(a) If and when the application is approved by the Board, the Corporation shall compute the amount of the annual fee to be paid by the applicant.

(b) If and when the application has been approved by the Board, and the applicant has, if required to do so, been duly licensed or registered under applicable law of the province or provinces or territories in Canada in which the applicant carries on or proposes to carry on business, and upon payment of the balance of the entrance and annual fees, the applicant shall become and be a Dealer Member; and

(c) The Corporation shall keep a register of the names and business addresses of all Dealer Members and of their respective annual fees. The annual fees of Dealer Members shall not be made public by the Corporation.

Section 3.6 Acceptance of Membership for Marketplace Members

If a Marketplace has requested that the Corporation act as the regulation services provider for that Marketplace, the Marketplace shall be accepted as a Marketplace Member effective upon the execution of an agreement with the Marketplace that has been authorized by the Board, for the Corporation to be the regulation services provider to that Marketplace. A Marketplace shall cease to be a Marketplace Member upon the termination of the agreement for the Corporation to be the regulation services provider to the Marketplace.

Section 3.7 Amalgamation of Members

If two or more Members propose to amalgamate and continue as one Member, the continuing Member shall not be considered to be a new Member or be required to re-apply for membership, except as otherwise determined by the Board and

provided that the continuing Member otherwise complies with the By-laws and Rules including the payment of Member fees, if applicable.

Section 3.8 Dealer Member Resignation

Subject to Section 13.5, a Dealer Member wishing to resign shall address a letter of resignation to the Board in the form and containing such information prescribed by the Board which resignation shall become effective when approved by the Board, in accordance with the Rules. A Dealer Member resigning from the Corporation shall make full payment of its annual fee, if applicable, for the financial year in which its resignation becomes effective.

Section 3.9 Dealer Member Removal

Unless a Dealer Member has voluntarily resigned, the Board may terminate the membership of any Dealer Member in accordance with the By-laws and Rules.

Section 3.10 Transferability

Membership is not transferable, unless approved by the Board.

ARTICLE 4
MEMBERS' MEETINGS

Section 4.1 Annual Meeting

The annual meeting of the Members shall be held on a date to be determined by the Board, but in any case shall be held within six months after the end of the Corporation's fiscal year. Each annual meeting shall be held at the head office of the Corporation or at any other place in Canada as the Board may determine. The Members may resolve that a particular meeting of Members may be held outside of Canada. At every annual meeting, in addition to any other business that may be transacted, the report of the Directors, the financial statements and the report of the auditors shall be presented and auditors shall be appointed for the ensuing year.

Section 4.2 Special or General Meetings

Members may consider and transact any business either special or general at any meeting of the Members. The Board, the Chair, Vice-Chair, the President, or a designated vice-president shall have power to call, at any time, a general meeting of the Members. The Board shall call a special general meeting of Members on written requisition of Members representing not less than twenty percent of the number of Members.

Section 4.3 Quorum

Unless otherwise provided by the Act, the Letters Patent or any other By-law, twenty percent of Members shall constitute a quorum at any meeting of the Members provided such Members are present in person or represented by a duly appointed proxyholder. If a quorum is present at the opening of any meeting of Members, the Members present or represented by proxy may proceed with the business of the meeting notwithstanding that a quorum is not present throughout the meeting. If a quorum is not present at the opening of any meeting of Members, the Members present or represented by proxy may adjourn the meeting to a fixed time and place but may not transact any other business.

Section 4.4 List of Members Entitled to Notice

For every meeting of Members, the Corporation shall prepare a list, in alphabetic order and arranged by class, of Members entitled to receive notice of and vote at the meeting. The Members listed shall be those registered at the close of business on the day immediately preceding the day on which notice of the meeting is given. The list shall be available for examination by any Member during usual business hours at the head office of the Corporation and at the meeting for which the list was prepared.

Section 4.5 Notice

Fourteen days notice shall be given to each Member of any annual or special general meeting of Members in the manner prescribed by the Rules and Policies. Notice of any meeting where special business will be transacted shall contain sufficient information to permit the Member to form a reasoned judgement on the decision to be taken upon which the Member is entitled to vote. Notice of each meeting of Members must remind the Member entitled to vote that the Member has the right to vote by proxy, and must attach a form of proxy.

Section 4.6 Proxies

(1) Votes at meetings of the Members may be given either personally or by proxy or, in the case of a Member who is a body corporate or association, by an individual authorized by a resolution of the Board or governing body of the body corporate or association to represent it at meetings of the Members of the Corporation. At every meeting at which a Member is entitled to vote, every Member and/or person appointed by proxy to represent one or more Members and/or individuals so authorized to represent a Member who is present in person shall have one vote on a show of hands. Upon a poll and subject to the By-laws, every Member who is entitled to vote at the meeting and who is present in person or represented by an individual so authorized shall have one vote and every person appointed by proxy shall have one vote for each Member who is entitled to vote at the meeting and who is represented by such proxyholder.

(2) A proxy shall be executed by the Member or the Member's attorney authorized in writing or, if the Member is a body corporate or association, by an officer or employee of a Member or of an affiliated entity of a Member.

(3) A person appointed by proxy must be a director, officer or employee of a Member or of an affiliated entity of a Member.

(4) The Board may from time to time establish requirements regarding the lodging of proxies at some place or places other than the place at which a meeting or adjourned meeting of Members is to be held and for particulars of such proxies to be sent by facsimile or in writing before the meeting or adjourned meeting to the Corporation or any agent of the Corporation for the purpose of receiving such particulars and providing that proxies so lodged may be voted upon as though the proxies themselves were produced at the meeting or adjourned meeting and votes given in accordance with such requirements shall be valid and shall be counted. The chair of any meeting of Members may, subject to any requirements established as aforesaid, in the chair's discretion accept facsimile or written communication as to the authority of any person claiming to vote on behalf of and to represent a Member notwithstanding that no proxy conferring such authority has been lodged with the Corporation, and any votes given in accordance with such facsimile or written communication accepted by the chair of the meeting shall be valid and shall be counted.

Section 4.7 Votes

The voting rights of the Members at any meeting of Members shall be as follows:

(a) In the case of a vote for the election of Directors, each Member present at a meeting to elect such Directors shall have the right to exercise one vote. A majority of votes cast by the Members, voting together, present and carrying voting rights shall elect a nominee;

(b) In the case of a vote for the removal of a Director, each Member present at a meeting to consider the removal of the Director shall have the right to exercise one vote. Two-thirds of the votes cast by the Members, voting together, present and carrying voting rights to remove a Director shall remove such Director from office;

(c) In the case of a vote for the repeal, amendment or enactment of a By-law or to authorize an application for supplementary Letters Patent (including increasing the size of the Board or adding new classes of members) or to approve the sale or transfer of all or substantially all the Corporation's assets, or an amalgamation or plan of arrangement, each Member shall have the right to exercise one vote at a meeting at which such approval is required, and except as required by the Letters Patent or the Act, every such question shall be decided by at least two-thirds of the votes cast on the question by the Members, voting together, present and carrying voting rights;

(d) On all other questions or matters to be decided at a meeting, each Member present at a meeting shall have the right to exercise one vote. A majority of votes cast by all Members, voting together, present and carrying voting rights shall decide the question or matter.

Section 4.8 Meetings by Conference Telephone

(1) A Member may participate in a meeting of the Members by means of teleconference or by other electronic means that permit all persons participating in the meeting to communicate adequately with each other, provided that each Member has equal access to the specific means of communication to be used and that each Member has consented in advance to meeting by such means, and a Member participating in such a meeting by such means is deemed to be present at the meeting.

(2) At the outset of each meeting referred to in subsection (1) and whenever votes are required, the chair of the meeting shall establish the existence of a quorum and unless a majority of the Members present at such meeting otherwise require, adjourn the meeting to a predetermined date, time and place whenever not satisfied that the proceedings of the meeting may proceed with adequate security and confidentiality.

Section 4.9 Chair, Secretary and Scrutineers

The chair of any meeting of Members shall be the first mentioned of such of the following officers as have been appointed and who is present at the meeting: Chair, Vice-Chair, or the President. If no such officer is present within fifteen minutes from the time fixed for holding the meeting, the persons present and entitled to vote on behalf of Members shall choose one of their number to be chair. If the secretary of the Corporation is absent, the chair shall appoint an individual who is authorized to vote on behalf of a Member to act as secretary of the meeting. If desired, one or more scrutineers, who need not be Members, may be appointed by a resolution or by the chair with the consent of the meeting.

Section 4.10 Persons Entitled to be Present

The only persons entitled to be present at a meeting of Members shall be those entitled to vote thereat, the Directors and auditor of the Corporation and others who, although not entitled to vote, are entitled or required under any provision of the Act, the Letters Patent or By-laws to be present at the meeting. Any other person may be admitted only on the invitation of the chair of the meeting or with the consent of the meeting.

Section 4.11 Show of Hands

Subject to the provisions of the Act, any question at a meeting of Members shall be decided by a show of hands, unless a ballot thereon is required or demanded in accordance with Section 4.12. Subject to the By-laws, upon a show of hands, every person who is present and entitled to vote on behalf of a Member shall have one vote. Whenever a vote by show of hands shall have been taken upon a question, unless a ballot thereon is so required or demanded, a declaration by the chair of the meeting that the vote upon the question has been carried or carried by a particular majority or not carried and an entry to that effect in the minutes of the meeting shall be *prima facie* evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against any resolution or other proceeding in respect of the said question, and the result of the vote so taken shall be the decision of the Members upon the said question.

Section 4.12 Ballots

On any question proposed for consideration at a meeting of Members, and whether or not a show of hands has been taken thereon, the chair or any person who is present and entitled to vote, whether as proxyholder or representative, on such questions at the meeting may demand a ballot. A ballot so required or demanded shall be taken in such manner as the chair shall direct. A requirement or demand for a ballot may be withdrawn at any time prior to the taking of the ballot. If a ballot is taken each person present shall be entitled to that number of votes provided by the By-laws and the result of the ballot so taken shall be the decision of the Members upon the said question.

Section 4.13 Adjournment

The chair at a meeting of Members may, with the consent of the meeting and subject to such conditions as the meeting may decide, adjourn the meeting from time to time and place to place. If a meeting of Members is adjourned for less than thirty days, it shall not be necessary to give notice of the adjourned meeting, other than by announcement at the earliest meeting that is adjourned.

ARTICLE 5
BOARD OF DIRECTORS

Section 5.1 Number and Qualifications

Subject to the Letters Patent, the Board shall be comprised of fifteen Directors. Directors must be individuals, 18 years of age, with power under law to contract. A majority of the Directors shall be resident Canadians. Directors need not be Members.

Section 5.2 First Directors

The applicants for incorporation shall become the first Directors of the Corporation whose term of office on the Board shall continue until their successors are elected in accordance with the following sentence. The First Members referred to in Section 3.1 shall elect a Board comprised of up to fifteen directors, constituted as set forth in Section 5.3(2), who shall replace the Directors named in the Letters Patent and the term of office of such Directors shall continue until their successors are elected at the first annual meeting of Members as set forth in Section 5.4.

Section 5.3 Director Representation

(1) At all times, the Board shall consist of an uneven number of Directors, which shall include the President and an equal number of Independent Directors and Non-Independent Directors; and

(2) Subject to Section 5.2, the Board shall be comprised of fifteen Directors as follows:

(i) Two Marketplace Directors,

(ii) Five Dealer Directors,

(iii) Seven Independent Directors, and

(iv) The President who shall be appointed to the Board.

Section 5.4 Election and Term

(1) Subject to Section 5.2 and subsection 5.4(2), the term of each Dealer Director, Independent Director and Marketplace Director elected at a meeting of Members shall expire at the dissolution or adjournment of the second annual meeting of Members following the annual meeting of Members at which the Director was elected.

(2) At the first annual meeting of Members, fourteen Directors shall be elected and the Board shall designate:

(a) Three of the positions of Independent Director, two of the positions of Dealer Director and one of the positions of Marketplace Director to be for a term that shall expire at the second annual meeting of Members; and

(b) Four of the positions of Independent Director, three of the positions of Dealer Director and one of the positions of Marketplace Director to be for a term that shall expire at the third annual meeting of Members.

(3) With the exception of the President, a Director may be elected to serve four consecutive terms in office but shall not be eligible to be elected to serve a fifth consecutive term. For purposes of determining the number of consecutive terms in office of a Director elected by the First Members in accordance with Section 5.2 who is re-elected at the first annual meeting of Members in accordance with subsection 5.4(2), his or her term in office prior to the first annual meeting of Members shall not be included. Those Directors elected at the first annual meeting of Members to serve for an initial one year term shall be limited to three additional consecutive terms in office.

Section 5.5 Recommendation of Director Nominees for Election

(1) Prior to each annual meeting of Members at which Directors are to be elected:

(a) The Corporate Governance Committee shall review and select for recommendation to the Board as nominees such number of qualified candidates for election as Dealer Directors, Marketplace Directors and Independent Directors as are to be elected at the annual meeting. The Corporate Governance Committee will evaluate individual candidates based on their ability to contribute a range of knowledge, skills and experience and having regard for the required composition of the Board and the fact that the Board, as a whole, should be representative of the Corporation's various stakeholders;

(b) In selecting nominees for election at a particular annual meeting the Corporate Governance Committee shall ensure that, if each of the nominees is elected, the Board would have:

(i) at least one Director, who need not be a Marketplace Director, with experience and expertise in respect of public venture equity markets,

(ii) a Marketplace Director recommended by TSX for nomination by the Corporate Governance Committee if, at the date of the selection of nominees:

(A) TSX is a Member, and

(B) the aggregate of the Market Share of TSX and each Marketplace that is an associate or an affiliated entity of TSX is not less than forty percent, and

(iii) at least one Director, who need not be a Marketplace Director, who is a partner, director, officer or employee of:

(A) a Marketplace,

(B) an associate of a Marketplace, or

(C) an affiliated entity of a Marketplace,

other than TSX or a Marketplace that is an associate or an affiliated entity of TSX; and

(c) If a Marketplace Director recommended for nomination by TSX is to be elected at the annual meeting, TSX shall notify the secretary of the Corporation in writing of the recommendation of a qualified candidate for nomination and election as one of the Marketplace Directors.

(2) The Board shall nominate for election to the Board at the annual meeting the persons as determined in accordance with this Section 5.5.

(3) The Members shall not elect to the Board at any annual meeting any person who has not been nominated by the Board in accordance with this Section 5.5.

Section 5.6 Vacancies

The office of Director shall be automatically vacated:

(a) If a resolution to remove the Director has been approved by the Members in accordance with Section 4.7(b);

(b) In the case of a Director appointed to the Board by reason of holding the office of President, if the Director ceases to be President;

(c) In the case of an Independent Director, if the Director ceases to be qualified as an Independent Director;

(d) If a Director shall have resigned the office by delivering a written resignation to the secretary of the Corporation;

(e) If the Director is found by a court to be of unsound mind;

(f) If the Director becomes bankrupt; or

(g) If the Director dies.

Section 5.7 Filling Vacancies

If a vacancy in the Board shall occur for any reason, the vacancy shall be filled (allowing a reasonable period of time for doing so) for the balance of the term of the Director that vacated the office by a resolution passed by the Board appointing a Director, provided that:

(a) If the vacancy is caused by the departure of the President, the person to be appointed to the office of the President has been appointed by the Board;

(b) If the vacancy is caused by the departure of an Independent Director, Dealer Director or Marketplace Director, the person to be appointed has been identified and recommended by the Corporate Governance Committee and in the case of a vacancy of:

(i) an Independent Director, the person recommended is qualified as an Independent Director,

(ii) a Dealer Director, the person recommended is qualified as a Dealer Director, and

(iii) a Marketplace Director, the person recommended is qualified as a Marketplace Director;

(c) In recommending a person for appointment to fill a vacancy the Corporate Governance Committee shall ensure that, if the person recommended is appointed, the Board would have:

(i) at least one Director, who need not be a Marketplace Director, with particular experience and expertise in respect of public venture equity markets,

(ii) a Marketplace Director recommended for appointment by TSX if, at the date of the recommendation:

(A) TSX is a Member, and

(B) the aggregate of the Market Share of TSX and each Marketplace that is an associate or an affiliated entity of TSX is not less than forty percent, and

(iii) at least one Director, who need not be a Marketplace Director, who is a partner, director, officer or employee of:

(A) a Marketplace,

(B) an associate of a Marketplace, or

(C) an affiliated entity of a Marketplace,

other than TSX or a Marketplace that is an associate or an affiliated entity of TSX;

(d) If a Marketplace Director recommended for appointment by TSX is to be appointed, TSX shall notify the secretary of the Corporation in writing of the recommendation of a qualified candidate for appointment; and

(e) If the vacancy is caused by the failure to elect the required number of Directors, the Board may appoint a Director to fill the vacancy on the basis that the vacancy arose by reason of the departure of an Independent Director, Dealer Director or Marketplace Director (including a Marketplace Director to be recommended by TSX) and the provisions of subsections 5.7(b), (c) and (d) shall apply according to whether the vacancy relates to an Independent Director, Member Director or Marketplace Director, as the case may be.

Section 5.8 Remuneration of Directors

The Board may determine from time to time such reasonable remuneration, if any, to be paid to the Independent Directors for serving as such and the Board may determine that such remuneration need not be the same for all Directors. Non-Independent Directors shall not receive remuneration for serving as such. Directors may be reimbursed for reasonable expenses incurred by a Director in the performance of the Director's duties.

Section 5.9 Release of Claims

When a Director ceases to hold office, the Corporation shall release a resigning or departing Director of all claims with respect to any matter or thing up to and including the resignation or departure in the capacity as a Director, except for any claims (other than to the extent the Director is indemnified by the Corporation pursuant to Section 9.2) which might arise out of the gross negligence or fraud of the resigning or departing Director.

ARTICLE 6
POWERS OF DIRECTORS

Section 6.1 Administer Affairs

The Board shall supervise the management of the affairs of the Corporation. Subject to the By-laws and the Act, the powers of the Board may be exercised by resolution passed at a meeting at which a quorum is present or by resolution in writing signed by all the Directors entitled to vote on that resolution at a meeting of the Board. If there is a vacancy on the Board, the remaining Directors may exercise all the powers of the Board so long as a quorum remains in office.

Section 6.2 Expenditures

The Board shall have power to authorize expenditures on behalf of the Corporation from time to time and may delegate by resolution to an officer or officers of the Corporation the right to employ and pay salaries to employees.

Section 6.3 Borrowing Power

(1) The Board is hereby authorized, from time to time, without the authorization of the Members:

(a) To borrow money upon the credit of the Corporation;

(b) To limit or increase the amount to be borrowed;

(c) To issue or cause to be issued, bonds, debentures or other securities of the Corporation and to pledge or sell the same for such sums, upon such terms, covenants and conditions and at such prices as may be deemed expedient by the Board;

(d) To secure any such bond, debentures or other securities, or any other present or future borrowing or liability of the Corporation, by mortgage, hypothec, charge or pledge of all or any currently owned or subsequently acquired real and personal, movable and immovable, property of the Corporation, and the undertaking and rights of the Corporation; and

(e) Delegate to a committee of the Board, a Director or an officer or officers of the Corporation all or any of the powers conferred on the Board under this subsection to such extent and in such manner as the Board may determine at the time of such delegation.

(2) The powers hereby conferred shall be deemed to be in supplement of and not in substitution for any powers to borrow money for the purposes of the Corporation possessed by its Directors or officers independently of this By-law.

Section 6.4 Conflict of Interest

(1) A Director who is in any way directly or indirectly interested in a contract or proposed contract with the Corporation shall make the disclosure required by the Act and except as provided by the Act, no such Director shall vote on any resolution to approve any such contract. In supplement of and not by way of limitation upon any rights conferred upon Directors by Section 98 of the Act and specifically subject to the provisions contained in that Section, it is declared that no Director shall be disqualified from any such office by, or vacate any such office by reason of, holding any office with the Corporation or with any corporation in which the Corporation shall be a shareholder or by reason of being otherwise in any way directly or indirectly interested or contracting with the Corporation as vendor, purchaser or otherwise or being concerned in any contract or arrangement made or proposed to be entered into with the Corporation in which the Director is in any way directly or indirectly interested as vendor, purchaser or otherwise. Subject to compliance with the Act, no contract or arrangement entered into by or on behalf of the Corporation in which any Director shall be in any way directly or indirectly interested shall be void or voidable and no Director shall be liable to account to the Corporation or any of its Members or creditors for any profit realized by or from any such contract or arrangement by reason of any fiduciary relationship. Notwithstanding the foregoing prohibitions on voting by a Director, such Director may be present at and counted to determine the presence of a quorum at the relevant meeting of Directors.

(2) A Director who is a party to, or who is a director, officer or employee of or has a material interest in any person who is a party to, a regulatory matter or regulatory investigation in which the Corporation is involved shall disclose the nature and extent of his or her interest at the time and in the manner required by subsection 6.4(1) for an interest in a contract or transaction. Such Director shall not vote on any such matter or investigation, and shall withdraw from the part of any meeting of the Board at which the matter or investigation is discussed or considered, if such matter or investigation is directed specifically at or otherwise directly relates to the Director or a person of which he or she is an employee, officer or director or in which he or she has a material interest.

ARTICLE 7
DIRECTORS' MEETINGS

Section 7.1 Place of Meeting

Meetings of the Board may be held at any place to be determined by the Board, inside or outside of Canada.

Section 7.2 Calling of Meetings

Meetings of the Board shall be held from time to time at such time as the Board, the Chair, the President, or any two Directors may determine.

Section 7.3 Notice of Meetings

Forty-eight hours written notice of any meeting of the Board shall be given, other than by mail, to each Director. Notice by mail shall be sent at least fourteen days prior to the meeting. There shall be at least one meeting per calendar quarter of the Board. Any notice shall describe the matters to be addressed at the meeting. A meeting of the Board shall be held immediately following an annual meeting without notice, provided a quorum is present.

Section 7.4 Adjourned Meeting

Notice of an adjourned meeting of the Board is not required if the time and place of the adjourned meeting is announced at the original meeting.

Section 7.5 Regular Meetings

The Board may appoint a day or days in any month or months for regular meetings of the Board at a place and hour to be named. A copy of any resolution of the Board fixing the place and time of such regular meetings shall be sent to each Director forthwith after being passed, but no other notice shall be required for any such regular meeting except where the Act requires the purpose thereof or the business to be transacted thereat to be specified and except where non-routine business is to be discussed.

Section 7.6 Chair of Meetings of the Board

The chair of any meeting of the Board shall be the first mentioned of such of the following officers as have been appointed and who is a Director and is present at the meeting: Chair, Vice-Chair or the President. If no such officer is present, the Directors present shall choose one of their number to be chair.

Section 7.7 Voting Rights

Each Director is authorized to exercise one vote at all meetings of the Board, and except as required by the Letters Patent or the Act, every question shall be decided by a majority of the votes cast on the question and, in case of an equality of votes, the chair of the meeting shall not be entitled to a second or casting vote.

Section 7.8 Meetings by Conference Telephone

(1) A Director may participate in a meeting of the Board or of a committee of the Board by means of teleconference or by other electronic means that permit all persons participating in the meeting to communicate adequately with each other, provided that each Director has equal access to the specific means of communication to be used and that each Director has consented in advance to meeting by such means, and a Director participating in such a meeting by such means is deemed to be present at the meeting.

(2) At the outset of each meeting referred to in the foregoing subsection and whenever votes are required, the chair of the meeting shall establish the existence of a quorum and, unless a majority of the Directors present at such meeting otherwise require, adjourn the meeting to a predetermined date, time and place whenever not satisfied that the proceedings of the meeting may proceed with adequate security and confidentiality.

Section 7.9 Quorum

A majority of the Directors in office including at least fifty percent of the Independent Directors in office from time to time shall constitute a quorum for meetings of the Board. Any meeting of the Board at which a quorum is present shall be competent to exercise all or any of the authorities, powers and discretions by or under the By-laws.

Section 7.10 Minutes of Meetings

The minutes of the Board shall not be available to the Members but shall be available to the Directors, each of whom shall receive a copy of such minutes.

ARTICLE 8
OFFICERS

Section 8.1 Appointment

The Board may annually or more often as may be required, appoint a Chair, a Vice-Chair, a President, one or more vice-presidents, a secretary and any such other officers as the Board may determine, including one or more assistants to any of the officers so appointed. The Board may specify the duties of and, in accordance with this By-law and subject to the provisions of the Act, delegate to such officers powers to manage the affairs of the Corporation. Except as otherwise provided in this By-law, officers need not be Directors, nor Members.

Section 8.2 Chair and Vice-Chair of the Board

The Board shall from time to time appoint a Chair of the Board and may appoint one or more Vice-Chairs of the Board who shall be Directors and may not be President. If appointed, the Board may assign to them any of the powers and duties that are by any provisions of a By-law assigned to the President, and they shall, subject to the provisions of the Act, have such other powers and duties as the Board may specify. During the absence or disability of the Chair, the Vice-Chair shall perform the duties and exercise the powers of Chair.

Section 8.3 President and Chief Executive Officer

The Board shall appoint a President, who shall also be appointed as the chief executive officer. The President shall have such powers and duties as the Board may specify.

Section 8.4 Vice-President

A vice-president shall have such powers and duties as the Board or the President may specify.

Section 8.5 Secretary

The secretary shall attend and be the secretary of all meetings of the Board (or arrange for another individual to so act), Members and committees of the Board and shall enter or cause to be entered in records kept for that purpose minutes of all proceedings thereat; the secretary shall give or cause to be given, as and when instructed, all notices to Members, Directors, officers, auditors and members of committees of the Board; the secretary shall be the custodian of the stamp or mechanical device generally used for affixing the corporate seal of the Corporation and of all books, papers, records, documents, and instruments belonging to the Corporation, except when some other officer or agent has been appointed for that purpose; and the secretary shall have such other powers and duties as the Board or the President may specify.

Section 8.6 Powers and Duties of Other Officers

The powers and duties of all other officers shall be such as the terms of their engagement call for or as the Board or the President may specify. Any of the powers and duties of an officer to whom an assistant has been appointed may be exercised and performed by such assistant, unless the Board or the President otherwise directs.

Section 8.7 Variation of Powers and Duties

The Board may from time to time and subject to the provisions of the Act, vary, add to or limit the powers and duties of any officer.

Section 8.8 Term of Office

The Board, in its discretion, may remove any officer of the Corporation, without prejudice to such officer's rights under any employment contract. Otherwise, each officer appointed by the Board shall hold office until his or her successor is appointed, or until his or her earlier resignation.

Section 8.9 Terms of Employment and Remuneration

The terms of employment and the remuneration of an officer appointed by the Board shall be settled by the Board from time to time or by a committee of the Board appointed for that purpose.

Section 8.10 Conflict of Interest

An officer shall disclose any interest in any material contract or proposed material contract with the Corporation.

Section 8.11 Agents and Attorneys

The Corporation, by or under the authority of the Board, shall have power from time to time to appoint agents or attorneys for the Corporation in or outside Canada with such powers of management, administration or otherwise (including the power to sub-delegate) as may be thought fit, subject to the provisions of the Act.

ARTICLE 9
PROTECTION OF DIRECTORS AND OTHERS

Section 9.1 Limitation of Liability

No Protected Party shall be liable for the acts, neglect or defaults of any other Protected Party, or for any other loss, damage or misfortune whatsoever which shall happen in the execution of the duties of his or her office or position or in relation thereto unless the same are occasioned by his or her own wilful neglect or default.

Section 9.2 Indemnities to Directors and Others

(1) Each Indemnified Party shall, from time to time and at all times, be indemnified and saved harmless out of the funds of the Corporation, from and against:

(a) all costs, charges, fines, damages and penalties and expenses whatsoever that such Indemnified Party sustains or incurs in or about or to settle any action, suit or proceeding which is threatened, brought, commenced or prosecuted against him or her, or in respect of any act, deed, matter or thing whatsoever, made, done or permitted by him or her, in or about the execution of the duties of his or her office or position or in respect of any such liability including those duties executed, whether in an official capacity or not, for or on behalf of or in relation to any body corporate or entity which he or she serves or served at the request of or on behalf of the Corporation; and

(b) all other costs, charges and expenses which he or she sustains or incurs in or about or in relation to the affairs thereof, including an amount representing the value of time any such Indemnified Party spent in relation thereto and any income or other taxes or assessments incurred in respect of the indemnification provided for in this By-law,

until it is conclusively determined that such Indemnified Party shall no longer be entitled to such indemnification, and except for such costs, charges, damages and expenses as are occasioned by his or her own wilful neglect or default.

(2) The Corporation shall also indemnify such persons in such other circumstances as the Act permits or requires. Nothing in this By-law shall limit the right of any person entitled to indemnity apart from the provisions of this By-law.

Section 9.3 Insurance

The Corporation may purchase and maintain insurance for the benefit of any Indemnified Party against such liabilities and in such amounts as the Board may from time to time determine and are permitted by the Act.

ARTICLE 10
DISTRICT COUNCILS

Section 10.1 Designation of District

The Board may from time to time designate any geographic area in Canada as a District of the Corporation, and may change or terminate any such designation at its discretion. The originating geographic areas of Canada have been designated as Districts of the Corporation as follows, until changed or terminated by the Board:

(a) Newfoundland and Labrador District;

(b) Prince Edward Island District;

(c) Nova Scotia District;

(d) New Brunswick District;

(e) Québec District;

(f) Ontario District;

(g) Manitoba District, composed of the Province of Manitoba and the Territory of Nunavut;

(h) Saskatchewan District;

(i) Alberta District, composed of the Province of Alberta and the Northwest Territories; and

(j) Pacific District, composed of the Province of British Columbia and the Yukon Territory.

Section 10.2 Composition of District Councils

(1) There shall be a District Council in each District. Each District Council shall be composed of four to twenty members, as determined from time to time by the District Council, including a chair and vice-chair to be elected at the annual meeting of Dealer Members of the District.

(2) In addition to the members of the District Council elected at the annual meeting of Dealer Members of the District, the Board may appoint one or more ex-officio members of a District Council.

Section 10.3 Duties and Powers

Each District Council shall have the duties and procedures and exercise the powers with respect to Dealer Members specified in this By-law and the Rules.

Section 10.4 Meetings of District Members

The Dealer Members of each District shall meet at least annually for the purpose of electing members of the District Council. A meeting of the Dealer Members of any District may be called by the District Council or by the Board and shall be held and conducted in accordance with the By-laws and Rules, and the procedures established by the Board from time to time. Notice of the time and place of any such meeting shall be given to the Dealer Members of the District. Two Members of the District entitled to vote, present personally or by a partner, director or officer shall be a quorum for any meeting of the Dealer Members of the District. Unless otherwise determined by the Board, voting at any meeting of the Dealer Members of a District may be carried out in the same manner as provided for voting at meetings of the Corporation. Instruments of proxy for such purpose shall be lodged with the Chair of the District Council not later than 10:00 a.m. of the day of the meeting or of any adjournment thereof.

Section 10.5 Initial District Councils

(1) On a date determined by the Board, the initial District Council of each District shall be established and shall be comprised of the members of the District Council of such District for the Investment Dealers Association of Canada on the day immediately preceding the date determined by the Board, such members being those individuals most recently elected at the annual meeting of Dealer Members of a District or, failing such election, such other members of a District Council in office on the applicable date.

(2) Each member of the District Council described in subsection 10.5(1) above shall hold office until the first annual meeting of the Dealer Members of the District, held in accordance with Section 10.4.

ARTICLE 11
COMMITTEES AND ADVISORY BODIES

Section 11.1 Committees of the Board

The Board may from time to time in its discretion appoint from their number one or more committees of the Board with such powers as the Board may determine including, without limitation, the authority to exercise any of the powers of the Board and to act in all matters for and in the name of the Board under the By-laws and Rules, except in each case where By-laws or Rules specifically require an action by, or approval of, the Board. The members of any committee established by the Board shall be appointed annually at the first meeting of Directors following the annual meeting of Members at which Directors have been elected. Unless otherwise provided in this By-law, any Director shall be entitled to be appointed to any committee and a majority of the members of a committee present in person or by telephone shall constitute a quorum, provided that if Independent Directors must be members of the committee, the quorum must also include a majority of the Independent Directors who are members of the committee.

Section 11.2 Corporate Governance Committee

The Board shall establish a Corporate Governance Committee composed of at least five Directors, and may include the Chair. Unless the Chair is a Non-Independent Director, all of the members shall be Independent Directors. The chair of the Corporate Governance Committee shall be an Independent Director elected by the members of the Corporate Governance Committee. The Corporate Governance Committee shall perform such duties as the Board may delegate or direct from time to time.

Section 11.3 Finance and Audit Committee

The Board shall establish a Finance and Audit Committee composed of at least five Directors of whom a majority shall be Independent Directors. The chair of the Finance and Audit Committee shall be an Independent Director elected by the members of the Finance and Audit Committee. The Finance and Audit Committee shall review and report to the Board on the annual financial statements of the Corporation and shall perform such other duties as the Board may delegate or direct from time to time.

Section 11.4 Human Resources and Pension Committee

The Board shall establish a Human Resources and Pension Committee composed of at least five Directors. The chair of the Human Resources and Pension Committee shall be elected by the members of the Human Resources and Pension Committee. The Human Resources and Pension Committee shall perform such duties as the Board may delegate or direct from time to time.

Section 11.5 Committee Meetings

The Board may prescribe requirements and procedures not inconsistent with the Act and the By-laws relating to the calling of meetings of, and conduct or business by, committees of the Board. Subject to the By-laws and Rules and any resolution of the Board, meetings of any such committee shall be held at any time and place to be determined by the chair of the committee or its members provided that at least 48 hours' prior written notice of such meetings shall be given, other than by mail, to each member of the committee. Notice by mail shall be sent at least 14 days prior to the meeting.

Section 11.6 Advisory Bodies

The Board may from time to time appoint such advisory bodies as it may deem advisable, and may delegate such power of appointment to any Director, officer, committee or employee of the Corporation. Membership on such advisory bodies shall be determined by the Board from time to time and if the Board so decides, members of such advisory bodies may be persons other than Directors, Members or directors, officers or employees of a Member.

Section 11.7 Procedure

Unless otherwise determined by the Board, this By-law or the Rules, each committee and advisory body shall have power to regulate its procedure.

ARTICLE 12
NOTICES

Section 12.1 Method of Giving Notices

Any notice (which term includes any communication or document) to be given (which term includes sent, delivered, or served) pursuant to the Act, the regulations thereunder, the Letters Patent, the By-laws or otherwise to a Member, Director, officer, auditor or member of a committee of the Board shall be sufficiently given if delivered personally to the person to whom it is to be given; or if delivered to the person's recorded address; or if mailed to the person at the person's recorded address by prepaid ordinary or air mail; or if sent to the person at the person's recorded address by any means of prepaid transmitted or recorded communication (including any form of electronic communication). A notice so delivered shall be deemed to have been given when it is delivered personally or to the recorded address as aforesaid; a notice so mailed shall be deemed to have been given when deposited in a post office or public letter box and deemed to have been received on the fifth day after mailing; and a notice so sent by any means of transmitted or recorded communication shall be deemed to have been given when dispatched or delivered to the appropriate communication company or agency or its representative for dispatch. The secretary may change or cause to be changed the recorded address of any Member, Director, officer, auditor or member of a committee of the Board in accordance with any information believed by the secretary to be reliable. The foregoing shall not be construed so as to limit the manner or effect of giving notice by any other means of communication otherwise permitted by law or as authorized by this By-law.

Section 12.2 Undelivered Notices

If any notice given to a Member pursuant to Section 12.1 is returned on three consecutive occasions because the Member cannot be found, the Corporation shall not be required to give any further notices to such Member until the Member informs the Corporation in writing of the Member's new address.

Section 12.3 Omissions and Errors

The accidental omission to give any notice to any Member, Director, officer, auditor or member of a committee of the Board or the non-receipt of any notice by any such person or any error in any notice not affecting the substance thereof shall not invalidate any action taken at any meeting held pursuant to such notice or otherwise founded thereon.

Section 12.4 Waiver of Notice

Any Member, proxyholder, representative, other person entitled to attend a Members' Meeting, Director, officer, auditor or member of a committee of the Board may at any time waive any notice, or waive or abridge the time for any notice, required to be given to such person under any provision of the Act, the regulations thereunder, the Letters Patent, the By-laws or otherwise and such waiver or abridgement, whether given before or after the meeting or other event of which notice is required to be given, shall cure any default in the giving or in the time of such notice, as the case may be. Any such waiver or abridgement shall be in writing except a waiver of notice of a meeting of the Board or of a committee of the Board which may be given in any manner.

ARTICLE 13
RULES AND OTHER INSTRUMENTS

Section 13.1 Power to Make, Amend or Repeal Rules

The Board may make and from time to time amend or repeal such Rules for the objects of the Corporation as a self-regulatory organization (including permissible uses for the Restricted Fund) and a regulation services provider. All such Rules for the time being in force, unless expressly otherwise provided, shall be binding upon all Regulated Persons. Rules made or amended may be designated with such style, name or title as approved by the Board. Rules shall be effective without Member approval or approval by any other person, except as expressly otherwise provided therein or pursuant to any applicable legislation. Rules may represent the imposition of requirements in addition to or higher than those imposed under the applicable securities legislation.

Section 13.2 Use of Restricted Fund

Permissible uses for the Restricted Fund will be subject to the terms of recognition orders issued by the securities commission (or any successor regulatory authorities thereto) in the jurisdictions in which the Corporation is recognized as a self-regulatory organization.

Section 13.3 Other Instruments

If under any By-law or Rule, another instrument may be prescribed or adopted, any such instrument (including any instructions, directions, notices, bulletins, forms or notes) that is prescribed or adopted by the Corporation shall have the same force and effect as the By-law or Rule pursuant to which it is prescribed or adopted. Any reference in the By-laws or Rules to compliance with the By-laws or Rules shall be deemed to include a reference to any such other instrument that is prescribed or adopted.

Section 13.4 Notices, Guidelines, Etc.

The Corporation may develop and issue to Regulated Persons such guidelines, notices, bulletins, interpretations, procedures, practices and other communications relevant to the By-laws and Rules or the business and activities of a Regulated Person or any other person subject to the jurisdiction of the Corporation to supplement or assist in the interpretation, application of and compliance with the By-laws and Rules.

Section 13.5 Continuing Jurisdiction and Discipline and Enforcement under the Rules

(1) Any Regulated Person, in accordance with the provision of any Rule, shall remain subject to the jurisdiction of the Corporation in respect of any action or matter that occurred while that person was subject to the By-laws and Rules for such period of time and under such additional conditions as may be provided in the Rules.

(2) The Rules shall provide the practice and procedure to be followed by the Corporation in connection with the commencement and conduct of a disciplinary hearing and shall establish the penalties or remedies that may be imposed by the Corporation on a Regulated Person for failure to comply with any Rules.

Section 13.6 Exchange of Information, Agreements

(1) The Corporation may provide assistance, including the collection and sharing of information and other forms of assistance for the purpose of market surveillance, investigations, enforcement litigation, investor protection and compensation and for any other regulatory purpose to any exchange, self-regulatory organization, securities regulator, financial intelligence or law enforcement agency or authority, or investor protection or compensation fund, whether domestic or foreign.

(2) The Corporation may enter into an agreement with any entity described in subsection (1) to collect and exchange information and to provide for any other forms of mutual assistance for the purpose of market surveillance, investigation, enforcement litigation, investor protection and compensation and for any other regulatory purpose.

ARTICLE 14
NO ACTIONS

Section 14.1 No Actions Against the Corporation

No Regulated Person (including in all cases a Member whose rights and privileges have been suspended or terminated and a Member who has been expelled from the Corporation or whose membership has been forfeited) shall be entitled, subject to the rights of appeal granted under the By-laws or Rules, and further subject to any specific contractual rights that a Regulated Person may have in respect of a contract or other agreement to which the Corporation is a party, to commence or carry on any action or other proceedings against the Corporation or against the Board, or any Indemnified Party, or against the CIPF, its Board of Directors, any of its committees or its officers, employees and agents, in respect of any penalty imposed or any act or omission done or omitted under the provisions of and in compliance with or intended compliance with the provisions of the Letters Patent, By-laws or Rules and, in the case of the CIPF, done or omitted under the provisions of and in compliance with or intended compliance with the provisions of its letters patent, by-laws and policies, and in any case under any legislation or regulatory directives or agreements thereunder.

Section 14.2 No Liabilities Arising in Respect of Entities in which Corporation Holds an Interest

The Corporation shall not be liable to a Regulated Person (including in all cases a Member whose rights and privileges have been suspended or terminated and a member who has been expelled from the Corporation or whose membership has been forfeited) for any loss, damage, costs, expense, or other liability arising from any act or omission of any corporation or other entity in which the Corporation holds an equity or participating interest, including without limitation CDS and FundSERV Inc.

ARTICLE 15
USE OF NAME OR LOGO: LIABILITIES: CLAIMS

Section 15.1 Use of Name

No Member shall use the name or logo of the Corporation on letterheads or in any circulars or other advertising or publicity matter, except to the extent and in such form as may be authorized by the Board. The Board may at its sole discretion require a Member to cease using the name or logo of the Corporation. Any use by a Member of the name or logo of the Corporation shall not have the effect of granting to the Member any proprietary interest in the Corporation's name or logo.

Section 15.2 Liabilities

No liability shall be incurred in the name of the Corporation by any Member, officer or committee without the authority of the Board.

Section 15.3 Claims

Whenever the membership of a Member ceases for any reason whatsoever, neither the former Member nor its heirs, executors, administrators, successors, assigns or other legal representatives, shall have any interest in or claim on or against the funds and property of the Corporation.

ARTICLE 16
TRANSITION PERIODS FOR BY-LAWS AND RULES

Section 16.1 Transition Periods for By-laws and Rules

The Board may suspend or modify the application of any By-law or Rule, or provision thereof, for such period of time as it may determine in its sole discretion in order to facilitate the orderly application of and compliance with such By-law or Rule to or by all or any number or class of Regulated Persons. Any suspension or modification may be made either before or after the relevant By-law or Rule has become effective, and notice of the suspension or modification shall be given promptly to all Regulated Persons and to the securities regulatory authority in any jurisdiction where such By-law or Rule would otherwise be in effect. No suspension or modification shall unfairly discriminate between Members or other persons subject to the jurisdiction of the Corporation and no such modification shall impose on all or any of the Members or other persons subject to the jurisdiction of the Corporation a requirement that is more onerous or strict than the requirements of the By-law or Rule that is subject to the modification.

ARTICLE 17
AMENDMENT, REPEAL, ENACTMENT OF BY-LAWS

Section 17.1 By-laws

The By-laws of the Corporation not embodied in the Letters Patent may be repealed or amended by By-law or a new By-law relating to the requirements of subsection 155(2) of the Act may be enacted, only by a majority of the Directors at a meeting of the Board and sanctioned by an affirmative vote of the Members as set out in this By-law at a meeting duly called for the purpose of considering such By-law, provided that the repeal or amendment of such By-law shall not be enforced or acted upon until the approval of the Minister of Industry has been obtained.

ARTICLE 18
AUDITORS

Section 18.1 Auditors

The Members shall, at each annual meeting, appoint an auditor to audit the accounts of the Corporation for report to the Members at the next annual meeting. The auditors shall hold office until the next annual meeting provided that the Directors may fill any casual vacancy in the office of auditor. The Corporation's auditor may not be a Director, officer or employee of the Corporation or of an affiliated Corporation or associated with that Director, officer or employee. The remuneration of the auditor shall be fixed by the Board.

ARTICLE 19
BOOKS AND RECORDS

Section 19.1 Books and Records

The Board shall see that all necessary books and records of the Corporation required by the By-laws of the Corporation or by any applicable statute or law are regularly and properly kept.

ENACTED this _____ day of _____, _____.

WITNESS the seal of the Corporation.

_____ _____

President Secretary

May 1, 2008

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA

TRANSITION RULE NO. 1

MADE PURSUANT TO BY-LAW 13.1 OF THE CORPORATION

1.1 MARKETPLACE MEMBER REGULATION

1.1.1 General

This Transition Rule No. 1.1 is made to adopt as Rules of the Corporation those rules and policies of Market Regulation Services Inc. ("RS") that are in force and effect immediately prior to June 1, 2008 that are identified in Transition Rule No. 1.1.2 ("UMIR") to be applicable to those persons defined as "Regulated Persons" under UMIR ("UMIR Regulated Persons") who are subject to the jurisdiction of the Corporation as Regulated Persons of the Corporation on and after such date, subject to (i) incidental conforming changes made to ensure consistency, and (ii) such further amendments to UMIR as may be made from time to time. The intention of this Transition Rule No. 1.1 is that marketplace regulation of UMIR Regulated Persons formerly conducted by RS is to continue by the Corporation in accordance with UMIR, unaffected and in the same manner and to the same degree in respect of such persons as Regulated Persons of the Corporation. Such UMIR Regulated Persons who obtain membership in the Corporation, execute and deliver regulation service or other related agreements, or are the subject of the terms of orders or approvals of the applicable securities regulatory authorities, or some combination thereof, are Regulated Persons of the Corporation and are subject to the jurisdiction of the Corporation, which is authorized to continue their regulation, subject to the terms of the Rules of the Corporation and amendments thereto, and such orders and approvals effective as of June 1, 2008 or to be lawfully made or imposed after such date.

1.1.2 Adoption of UMIR

The UMIR rules and policies set out in Schedule A.1 to this Transition Rule No. 1 are hereby made and adopted as Rules of the Corporation, subject to the terms and conditions provided for in this Transition Rule No. 1.1.

1.1.3 Marketplace Directives and Guidance

All Market Integrity Notices issued by RS to UMIR Regulated Persons in force and effect immediately prior to June 1, 2008, whether of general or specific application, are hereby adopted by the Corporation and shall be applicable to UMIR Regulated Persons who are subject to the jurisdiction of the Corporation, all with the intent that the Rules adopted under pursuant to Transition Rule No. 1.1.2 shall be interpreted and applied in accordance with such Market Integrity Notices to the extent they relate to a corresponding provision of UMIR.

1.1.4 Continuing Jurisdiction of RS

Nothing in this Transition Rule No. 1.1 affects the jurisdiction of RS to regulate UMIR Regulated Persons for conduct or activities prior to June 1, 2008 to the extent that such UMIR Regulated Persons are not subject to regulation by the Corporation, by virtue of refusal to attorn to the jurisdiction of the Corporation, dissolution of the UMIR Regulated Person, any transitional or permanent defect in the jurisdiction of the Corporation in respect of the UMIR Regulated Person, or otherwise.

1.1.5 Interpretation

In the case of any inconsistency between the provisions of this Transition Rule No. 1.1 and the provisions of the rules and policies set out in Schedule A.1, the terms of Transition Rule No. 1.1 shall prevail. In the event of any inconsistency between the provisions of this Transition Rule No. 1.1 and the terms of any regulation services agreement or undertaking made between the Corporation and a Regulated Person, the terms of such agreement or undertaking shall prevail. The interpretation and application of UMIR, including but not limited to the defined terms used therein, shall be separate from and made without reference to the Dealer Member Rules, as defined in Transition Rule No. 1.2.1, except to the extent that UMIR expressly provides otherwise. The interpretation of the Rules of the Corporation (including this Transition Rule No. 1.1) as determined by the Corporation shall be final and conclusive, subject to the provisions of UMIR Rule 11.3 and applicable legislation.

1.2 DEALER MEMBER REGULATION

1.2.1 General

This Transition Rule No. 1.2 is made to adopt as Rules of the Corporation those regulatory By-laws, Regulations, Forms and Policies of the Investment Dealers Association of Canada ("IDA") that are in force and effect immediately prior to June 1, 2008

that are identified in Transition Rule No. 1.2.2 (the "Dealer Member Rules") to be applicable to those persons defined as "Members" and "Approved Persons" under the Dealer Member Rules and other persons subject to the jurisdiction of the IDA (collectively, the "IDA Regulated Persons") who are subject to the jurisdiction of the Corporation as Regulated Persons of the Corporation on and after such date, subject to (i) incidental conforming changes to ensure consistency, and (ii) such further amendments to the Dealer Member Rules as may be made from time to time. The intention of this Transition Rule No. 1.2 is that dealer regulation of IDA Regulated Persons formerly conducted by the IDA is to continue by the Corporation in accordance with the Dealer Member Rules, unaffected and in the same manner and to the same degree in respect of such persons as Regulated Persons of the Corporation. Such IDA Regulated Persons who obtain membership in the Corporation, or are the subject of the terms of orders or approvals of the applicable securities regulatory authorities, or some combination thereof, are Regulated Persons of the Corporation and are subject to the jurisdiction of the Corporation, which is authorized to continue their regulation, subject to the terms of the Rules of the Corporation and amendments thereto, and such orders and approvals effective as of June 1, 2008 or to be lawfully made or imposed after such date.

1.2.2 **Adoption of Dealer Member Rules**

The Dealer Member Rules set out in Schedule B.1 to this Transition Rule No. 1 are hereby made and adopted as Rules of the Corporation, subject to the terms and conditions provided for in this Transition Rule No. 1.2.

1.2.3 **Dealer Member Directives and Guidance**

All regulatory notices, bulletins, directives and guidance provided by the IDA to IDA Regulated Persons in force and effect immediately prior to June 1, 2008, whether of general or specific application, and including without limitation those forms of notices, bulletins, directives and guidance listed on Schedule B.2 to this Transition Rule No. 1.2, are hereby adopted by the Corporation and shall be applicable to IDA Regulated Persons who are subject to the jurisdiction of the Corporation, all with the intent that the Rules adopted pursuant to Transition Rule No. 1.2.2 shall be interpreted and applied in accordance with such notices, bulletins, directives and guidance to the extent they relate to a corresponding Dealer Member Rule.

1.2.4 **Continuing Jurisdiction of the IDA**

Nothing in this Transition Rule No. 1.2 affects the jurisdiction of the IDA to regulate IDA Regulated Persons for conduct or activities prior to June 1, 2008 to the extent that such IDA Regulated Persons are not subject to regulation by the Corporation, by virtue of refusal to attorn to the jurisdiction of the Corporation, dissolution of the IDA Regulated Person, any transitional or permanent defect in the jurisdiction of the Corporation in respect of the IDA Regulated Person, or otherwise.

1.2.5 **Interpretation**

In the case of any inconsistency between the provisions of this Transition Rule No. 1.2 and the provisions of the rules and requirements set out in Schedule B.1, the terms of this Transition Rule No. 1.2 shall prevail. In the event of any inconsistency between the provisions of this Transition Rule No. 1.2 and the terms of any undertaking made between the Corporation and a Regulated Person, the terms of such undertaking shall prevail. The interpretation and application of the Dealer Member Rules, including but not limited to the defined terms used therein, shall be separate from and made without reference to UMIR, except to the extent the Dealer Member Rules expressly provide otherwise. The interpretation of the Rules of the Corporation (including this Transition Rule No. 1.2) as determined by the Corporation shall be final and conclusive, subject to the provisions of Dealer Member Rule 33 and applicable legislation.

1.3 **HEARING COMMITTEES AND PANELS**

1.3.1 **General**

This Transition Rule No. 1.3 is made to provide for the manner and basis on which Hearing Committees and Hearing Panels of the Corporation shall be constituted. The intention of this Transition Rule No. 1.3 is that such Hearing Committees and Hearing Panels shall be constituted in the same manner with respect to any Enforcement Proceeding or Review Proceeding, as defined in Schedule C.1 to this Transition Rule No. 1, involving any Regulated Persons of the Corporation, whether such Regulated Persons be subject to UMIR or the Dealer Member Rules.

1.3.2 **Hearing Committee and Hearing Panel Rules**

The rules set out in Schedule C.1 to this Transition Rule No. 1 are hereby made as Rules of the Corporation, subject to the terms and conditions provided for in Transition Rule No. 1.

SCHEDULE A.1

TO TRANSITION RULE NO. 1

[Not reproduced. Please see OSC website at www.osc.gov.on.ca.]

SCHEDULE B.1

TO TRANSITION RULE NO. 1

[Not reproduced. Please see OSC website at www.osc.gov.on.ca.]

SCHEDULE B.2

TO TRANSITION RULE NO. 1

Bulletins
Member Regulation Notices
Compliance Interpretation Bulletins
Financial Compliance Notices

SCHEDULE C.1

TO TRANSITION RULE NO. 1

HEARING COMMITTEES AND HEARING PANELS RULE

Part A. DEFINITIONS

1.1. In this Rule:

"Dealer Member Rules" means the Dealer Member Rules adopted pursuant to Transition Rule No. 1.2.2 of the Corporation.

"Enforcement Proceeding" means a disciplinary hearing, a settlement hearing, and an expedited hearing under UMIR and Rule 20.30, Rule 20.33, Rule 20.34, Rule 20.42, and Rule 20.43 of the Dealer Member Rules, and includes any procedural applications or motions in relation to these proceedings.

"Industry Member" means an individual who is:

(a) a current or former director, officer, partner or employee of a Member or Access Person;

(b) a current or former director, officer, partner or employee of a former Member or former Access Person; or

(c) any other individual that is suitable and qualified, in accordance with the factors enumerated in Subsection 1.3(1) of this Rule.

"National Hearing Coordinator" means the secretary of the Corporation or such other officer, employee or agent of the Corporation designated in writing from time to time by the secretary to perform the functions assigned to the National Hearing Coordinator under the Rules of the Corporation or by the Board of Directors.

"Practice and Procedure" means the practice and procedure governing a hearing pursuant to UMIR or the Dealer Member Rules, as applicable.

"**Public Member"** means an individual who is a current or retired member of the Law Society of any Canadian province and is in good standing at the Law Society, except in Quebec, where the individual shall be a current or retired member of the Law Society of Quebec who is in good standing.

"Review Proceeding" means an approval application review proceeding, an early warning level 2 review proceeding, and an expedited hearing review under Rule 20.19, Rule 20.29, and Rule 20.47 of the Dealer Member Rules, and includes any procedural applications or motions in relation to these proceedings.

"UMIR" means the provisions of the Universal Market Integrity Rules adopted pursuant to Transition Rule No. 1.1.2 of the Corporation.

Terms used in this Hearing Committees and Hearing Panels Rule which are not defined herein shall have the same meanings as used or defined in whichever of the Dealer Member Rules or UMIR is applicable to such hearing or proceeding. In the case of any inconsistency between terms used or defined in this Hearing Committees and Hearing Panels Rule and terms used or defined in the Dealer Member Rules or UMIR, the meanings of such terms as used or defined in this Hearing Committees and Hearing Panels Rule shall prevail.

PART B. HEARING COMMITTEES

1.2. Nomination of Candidates to the Hearing Committee

(1) From time to time, each District Council shall nominate individuals resident in the District to be members of the hearing committee of the respective District.

(2) From time to time, each Marketplace Member shall nominate individuals resident in the District to be members of the hearing committee in their respective District provided the Marketplace Member is in that District:

(a) in the case of an Exchange or QTRS, recognized or exempt from recognition as an Exchange or QTRS in accordance with applicable securities legislation; and

(b) in the case of an ATS, registered in accordance with applicable securities legislation.

(3) To the extent practicable, one-third of the individuals nominated by a District Council or a Marketplace Member in each District shall be Public Members.

(4) To the extent practicable, two-thirds of the individuals nominated by a District Council or a Marketplace Member in each District shall be Industry Members.

1.3. Appointment of Public and Industry Members to the Hearing Committee

(1) The Corporate Governance Committee shall review the suitability and qualifications of individuals nominated for membership on the hearing committee and in such review shall consider:

(a) general knowledge of business practices and securities legislation;

(b) experience;

(c) regulatory background;

(d) availability for hearings;

(e) reputation in the securities industry;

(f) ability to conduct hearings in either French or English; and

(g) Districts in which the individual would be entitled to serve.

(2) The Corporate Governance Committee shall appoint to the hearing committee of each District those individuals that the Corporate Governance Committee considers to be suitable and qualified.

(3) To the extent practicable, the Corporate Governance Committee shall ensure that one-third of the members of the hearing committee of each District shall be Public Members.

(4) To the extent practicable, the Corporate Governance Committee shall ensure that two-thirds of the members of the hearing committee of each District shall be Industry Members.

(5) No individual shall be eligible to be appointed as a Public Member or be permitted to continue to serve his or her term of appointment as a Public Member if she or he represents any parties to hearings under the Rules of the Corporation during the course of his or her appointment to a hearing committee.

(6) Any hearing required by the present rules in Quebec shall be held in Quebec and the parties may present in French both verbally and in writing.

1.4. Appointment of Hearing Committee Chairs

(1) For each District, the Corporate Governance Committee shall appoint a Public Member to serve as the chair of that District's hearing committee.

(2) The chair of the hearing committee shall play an advisory role with respect to any legal, administrative or procedural issues or any issues regarding selection of Hearing Panel members raised by the National Hearing Coordinator.

1.5. Appointment to and removal from Hearing Committees

(1) Each individual appointed to the hearing committee shall serve for a term of three years from the date of their appointment and each individual shall be eligible to be re-appointed to successive terms.

(2) If a member of the hearing committee is serving on a Hearing Panel at the expiration of their three-year term and the individual is not re-appointed to the hearing committee, the term of that individual shall be automatically extended until the completion of the proceeding then before the Hearing Panel.

(3) The Corporate Governance Committee may remove from the hearing committee prior to the expiration of their term any individual who:

(a) ceases to be a resident of the District in respect of which the individual was appointed to serve on the hearing committee;

(b) is precluded from acting in such capacity by reason of any statutory requirement applicable to the jurisdiction in respect of which the individual was appointed to serve on the hearing committee;

(c) in the opinion of the Corporate Governance Committee, will have a reasonable apprehension of bias in respect of matters that may come before a Hearing Panel; or

(d) has otherwise ceased to be suitable and qualified to serve on the hearing committee.

(4) If an individual is removed from the hearing committee in accordance with subsection (3), the individual shall cease to qualify on any Hearing Panel on which the individual is serving at the time of their removal from the hearing committee.

PART C. HEARING PANELS

1.6. Selection of Hearing Panel

(1) Any Enforcement Proceeding or Review Proceeding pursuant to Rules of the Corporation shall be heard by a Hearing Panel selected by the National Hearing Co-ordinator comprised of two Industry Members and one Public Member appointed to the hearing committee of the applicable District subject to subsection (2).

(2) Hearing committee members may serve on Hearing Panels in other Districts where both chairs of the respective hearing committees consent. Notwithstanding the foregoing sentence or any other provision of the By-laws or Rules, Hearing Panels considering matters that relate to the conduct or activities in the Province of Quebec shall be composed mainly of persons residing in Quebec.

(3) The National Hearing Coordinator shall not select any individual to be a member of any Hearing Panel with respect to any matter if the member:

(a) is an officer, partner, director, employee or an associate of, or is providing services to any person that is a subject of the hearing, order or interim order;

(b) has or had such other relationship to the person or matter that is a subject of the hearing, order or interim order as may give rise to a reasonable apprehension of bias;

(c) represents any parties to hearings under the Rules of the Corporation during his or her appointment to the hearing committee;

(d) is precluded from acting in such capacity by reason of any statutory requirement applicable to the District in which the hearing will be held;

(e) is the chair of the Hearing Committee of the District and the National Hearing Coordinator consulted the chair with respect to the selection of the Hearing Panel; or

(f) in connection with a hearing, order or interim order in respect of a Marketplace Rule for the purposes of the Rules of the Corporation, is precluded from acting in such capacity by reason of any requirement in the recognition order or registration under the applicable securities legislation of the relevant Marketplace.

1.7. Chair of Hearing Panels

(1) A Public Member of a hearing committee shall be appointed to serve as the chair of the Hearing Panel.

1.8. Provisions for Hearing Panels

(1) If a member (including the chair) of a Hearing Panel becomes incapacitated or is otherwise unable to serve on a Hearing Panel for whatever reason, the remaining member or members of the Hearing Panel may continue to deal with any matter and may make any order or decision that a Hearing Panel may make provided that the Hearing Panel may only continue to deal with any matter with the consent of all parties to the hearing.

(2) Any order or decision of a Hearing Panel may be made by a majority of the members of the Hearing Panel. In the event that the Hearing Panel is comprised of two members the order or decision shall be unanimous.

(3) If any member of a Hearing Panel is unable to continue to be a member of the Hearing Panel by reason of participation in a pre-hearing conference as authorized by the Practice and Procedure, the National Hearing Coordinator shall select a replacement for the individual such that the composition of the Hearing Panel shall be as provided in Rule 1.6.

PART D. TRANSITIONAL PROVISIONS

1.9. Enforcement Proceedings

(1) Any Enforcement Proceeding commenced by the IDA or RS in accordance with their respective rules prior to June 1, 2008:

(a) in respect of which a hearing panel has been appointed, shall be continued by the Corporation on behalf of the IDA or RS, as applicable, and shall proceed in accordance with the by-laws, decisions, directions, policies, regulations, rules, rulings and practice and procedure of the IDA or RS, as applicable, in effect and applicable to such Enforcement Proceeding at the time it was commenced; and

(b) in respect of which a hearing panel has not been appointed, shall be continued by the Corporation on behalf of the IDA or RS, as applicable, and shall proceed in accordance with the by-laws, decisions, directions, policies, regulations, rules, rulings and practice and procedure of the IDA or RS, as applicable, in effect and applicable to such Enforcement Proceeding at the time it was commenced, except that despite any provision of the by-laws, decisions, directions, policies, regulations, rules, rulings and practice and procedure of the IDA or RS, as applicable, in effect and applicable to such Enforcement Proceeding, this Rule shall apply to the appointment of the hearing panel.

(2) Any Enforcement Proceeding commenced on or after June 1, 2008 by the Corporation on behalf of the IDA or RS with respect to compliance with the by-laws, decisions, directions, policies, regulations, rules and rulings of the IDA or RS, as applicable, relating to conduct that occurred prior to June 1, 2008 shall be undertaken in accordance with the Practice and Procedure in effect on the date of the commencement of the Enforcement Proceeding notwithstanding that the conduct which is the subject of the Enforcement Proceeding occurred prior to June 1, 2008. However, in any such proceeding the by-laws, decisions, directions, policies, regulations, rules, rulings and practice and procedure of the IDA or RS, as applicable, in effect and applicable to such conduct at the time it occurred shall apply to the extent that it is not inconsistent with the Practice and Procedure in effect at the time the Enforcement Proceeding is commenced.

1.10. Review Proceedings

(1) Any Review Proceeding that has been requested prior to June 1, 2008 by the IDA, a Member, an Approved Person, an Applicant, or other person subject to the jurisdiction of the IDA in accordance with the rules of the IDA in effect and applicable at the time of the request:

(a) in respect of which a hearing panel has been appointed, shall be continued by the Corporation on behalf of the IDA and shall proceed in accordance with the by-laws, decisions, directions, policies, regulations, rules, rulings and practice and procedure of the IDA in effect and applicable to such Review Proceeding at the time it was commenced; and

(b) in respect of which a hearing panel has not been appointed, shall be continued by the Corporation on behalf of the IDA and shall proceed in accordance with the by-laws, decisions, directions, policies, regulations, rules, rulings and practice and procedure of the IDA in effect and applicable to such Review Proceeding at the time it was commenced, except that despite any provision of the by-laws, decisions, directions, policies, regulations, rules, rulings and practice and procedure of the IDA in effect and applicable to such Review Proceeding, this Rule shall apply to the appointment of the hearing panel.

(2) Any Review Proceeding that has been requested on or after June 1, 2008 shall be undertaken in accordance with the Practice and Procedure in effect on the date of the request of the Review Proceeding notwithstanding that the conduct or application which is the subject of the Review Proceeding occurred prior to June 1, 2008.

1.11 Continuing Membership of Hearing Committees

Each individual who on May 31, 2008 was a member of a hearing committee of the IDA or RS shall be automatically deemed to be a member of the hearing committee of the Corporation and the term of each such individual as a member of the hearing committee of the Corporation shall expire on the date that his or her term as a member of the hearing committee of the IDA or RS would have expired.

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

AND

IN THE MATTER OF
THE INVESTMENT DEALERS ASSOCIATION OF CANADA

VARIATION AND RESTATEMENT

(Subsections 21.1(1) and 144(1) of the Act)

The Ontario Securities Commission (the Commission) issued an order on October 27, 1995 recognizing the Investment Dealers Association of Canada (IDA) as a self-regulatory organization pursuant to section 21.1 of the Act (Previous Order);

Effective June 1, 2008, the IDA will combine its operations (the Combination) with Market Regulation Services Inc. (RS) to become the Investment Industry Regulatory Organization of Canada (IIROC);

IIROC will be a self-regulatory organization recognized by the British Columbia Securities Commission, the Alberta Securities Commission, the Saskatchewan Financial Services Commission, the Manitoba Securities Commission, the Ontario Securities Commission, the Autorité des marchés financiers, the Financial Services Regulation Division, Department of Government Services, Consumer & Commercial Affairs Branch (Newfoundland and Labrador), Nova Scotia Securities Commission, the New Brunswick Securities Commission and the Securities Office, Consumer, Corporate and Insurance Securities Division, Office of Attorney General (Prince Edward Island);

The IDA has applied to the Commission to vary and restate the Previous Order in order to reflect that, subsequent to the Combination, the IDA will continue to operate as a self-regulatory organization for a period of time to perform limited complaint handling, investigation and enforcement functions;

The Commission has determined that it is not prejudicial to the public interest to issue an order that varies and restates the Previous Order to reflect the more limited functions of the IDA subsequent to the Combination;

It is ordered, pursuant to subsection 144(1) of the Act, that the Previous Order be varied and restated as follows, without prejudice to the effectiveness of any lawful exercise of authority under the Previous Order prior to the date of this variation and restatement:

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

AND

IN THE MATTER OF
THE INVESTMENT DEALERS ASSOCIATION OF CANADA

RECOGNITION ORDER
(Section 21.1)

On October 27, 1995, the Commission recognized the Investment Dealers Association of Canada (IDA) as a self-regulatory organization;

The IDA and Market Regulation Services Inc. have combined (the Combination) their operations into the Investment Industry Regulatory Organization of Canada (IIROC), to be effective on June 1, 2008 (the Effective Date);

Subsequent to the Combination, for complaint handling, investigations and disciplinary actions, the IDA will continue to regulate and maintain its authority over persons subject to its authority prior to the Effective Date (collectively, Persons) for conduct occurring prior to the Effective Date, for up to five years following the Effective Date;

The IDA and IIROC have entered into an agreement (the Agreement) where the IDA has retained IIROC as its agent to perform complaint handling, investigation and enforcement functions on behalf of the IDA for the conduct of Persons occurring prior to the Effective Date, and to provide all administrative services in connection with these functions and the continuance of the IDA.

On April 23, 2008, the board of directors of the IDA adopted amendments to its by-law to be effective immediately prior to the Effective Date (IDA By-law Amendments) to reflect the fact that the governance and administration of the IDA in its continued form will be by a board of directors that will be the same as the board of directors of IIROC and to make other consequential amendments following from the creation of IIROC.

The IDA has made the following representations:

1. The IDA will, among other things:

   (i) maintain its existence and recognition as necessary to ensure its continuing authority over Persons and their conduct occurring prior to the Effective Date;

   (ii) provide confirmation and further assurances to third parties, including tribunals and appeal bodies, of its continuing authority over Persons and their conduct occurring prior to the Effective Date;

   (iii) subject to applicable law, provide to IIROC all relevant information in its possession that it receives from third parties in connection with the conduct of Persons occurring prior to the Effective Date;

   (iv) to the extent required for the handling of complaints regarding or the investigation of the conduct of Persons occurring prior to the Effective Date, request information from third parties under information-sharing arrangements to which the IDA is a party; and

   (v) perform all further acts and provide all further assurances necessary to maintain and confirm its continuing authority over Persons and their conduct occurring prior to the Effective Date.

2. Under the Agreement, IIROC will, among other things:

   (i) carry out on the IDA's behalf all complaint handling, investigative and enforcement activities relating to the conduct of Persons occurring prior to the Effective Date;

   (ii) maintain sufficient personnel, technological and other resources to perform IIROC's obligations under the Agreement in a timely and diligent manner;

   (iii) comply with, or facilitate the IDA's compliance with, the terms of any information-sharing agreements where the IDA receives information relating to the conduct of Persons occurring prior to the Effective Date; and

   (iv) provide all funding required for the performance of activities of the IDA relating to the conduct of Persons occurring prior to the Effective Date.

3. All hearing committees and hearing panels for the purposes of any proceedings by the IDA will be constituted in accordance with IIROC Transition Rule No. 1 and Schedule C-1 *Hearing Committees and Hearing Panels Rule*.

Based on the representations and application, including the IDA By-law Amendments, made by the IDA to the Commission, the Commission is satisfied that continuing to recognize the IDA would not be prejudicial to the public interest.

The Commission hereby amends the IDA's recognition as a self-regulatory organization so that the recognition pursuant to section 21.1 continues with respect to the IDA, subject to the terms and conditions set out in Schedule A.

Dated October 27, 1995, as amended on May 16, 2008, effective June 1, 2008.

"W. David Wilson"

"James E.A. Turner"

SCHEDULE A

TERMS AND CONDITIONS

1. CORPORATE GOVERNANCE

The IDA must have the same board of directors as IIROC.

2. CAPACITY TO PERFORM REGULATORY FUNCTIONS

(a) The IDA must enter into the Agreement with IIROC under which IIROC must act as the IDA's agent to perform regulation services, including complaint handling, investigation and enforcement related to the conduct of persons subject to its authority occurring prior to the Effective Date and all administrative services in connection therewith and the continuance of the IDA.

(b) Prior Commission approval is required for any changes to the Agreement.

3. INFORMATION SHARING

The IDA or its agents must share information and must otherwise co-operate with the Commission and its staff, other Canadian securities regulatory authorities, exchanges, other regulation services providers, other recognized self-regulatory organizations, clearing agencies, and investor protection or compensation funds.

4. ADDITIONAL INFORMATION & COMPLIANCE WITH OVERSIGHT

The IDA or its agents must provide the Commission any additional information the Commission may require from time to time.

5. USE OF FINES AND SETTLEMENTS

All fines collected by the IDA, or by IIROC on behalf of the IDA, and all payments made under settlement agreements entered into with the IDA, or with IIROC on behalf of the IDA, must be used in accordance with the terms and conditions set out in the IIROC recognition order effective June 1, 2008, as amended from time to time.

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

AND

IN THE MATTER OF
MARKET REGULATION SERVICES INC.

VARIATION AND RESTATEMENT

(Subsections 21.1(1) and 144(1) of the Act)

The Ontario Securities Commission (the Commission) issued an order on January 29, 2002 recognizing Market Regulation Services Inc. (RS) as a self-regulatory organization pursuant to section 21.1 of the Act (Previous Order);

Effective June 1, 2008, RS will combine its operations (the Combination) with the Investment Dealers Association of Canada (IDA) to become the Investment Industry Regulatory Organization of Canada (IIROC);

IIROC will be a self-regulatory organization recognized by the British Columbia Securities Commission, the Alberta Securities Commission, the Saskatchewan Financial Services Commission, the Manitoba Securities Commission, the Ontario Securities Commission, the Autorité des marchés financiers, the Financial Services Regulation Division, Department of Government Services, Consumer & Commercial Affairs Branch (Newfoundland and Labrador), Nova Scotia Securities Commission, the New Brunswick Securities Commission and the Securities Office, Consumer, Corporate and Insurance Services Division, Office of the Attorney General (Prince Edward Island);

RS has applied to the Commission to vary and restate the Previous Order in order to reflect that, subsequent to the Combination, RS will continue to operate as a self-regulatory organization for a period of time to perform limited complaint handling, investigation and enforcement functions;

The Commission has determined that it is not prejudicial to the public interest to issue an order that varies and restates the Previous Order to reflect the more limited functions of RS subsequent to the Combination;

It is ordered, pursuant to subsection 144(1) of the Act, that the Previous Order be varied and restated as follows, without prejudice to the effectiveness of any lawful exercise of authority under the Previous Order prior to the date of this variation and restatement:

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

AND

IN THE MATTER OF
MARKET REGULATION SERVICES INC.

RECOGNITION ORDER
(Section 21.1)

On January 29, 2002, the Commission recognized Market Regulation Services Inc. (RS) as a self-regulatory organization;

RS is a regulation services provider under National Instrument 21-101 *Marketplace Operation Rule* and National Instrument 23-101 *Trading Rules* (together the ATS Rules) and regulates its members and marketplace participants pursuant to the Universal Market Integrity Rules (UMIR);

RS and the Investment Dealers Association of Canada have combined (the Combination) their operations into the Investment Industry Regulatory Organization of Canada (IIROC), to be effective on June 1, 2008 (the Effective Date);

Subsequent to the Combination, for complaint handling, investigations and disciplinary actions, RS will continue to regulate and maintain its authority over persons subject to its authority prior to the Effective Date (collectively, Persons) for conduct occurring prior to the Effective Date, for up to five years following the Effective Date;

RS and IIROC have entered into an agreement (the Agreement) where RS has retained IIROC as its agent to perform complaint handling, investigation and enforcement functions on behalf of RS for the conduct of Persons occurring prior to the Effective Date, and to provide all administrative services in connection with these functions and the continuance of RS;

On April 22, 2008, the board of directors of RS adopted amendments to its by-law to be effective immediately prior to the Effective Date (RS By-law Amendments) to reflect the fact that the governance and administration of RS in its continued form will be by a board of directors that will be the same as the board of directors of IIROC and to make other consequential amendments following from the creation of IIROC.

RS has made the following representations:

1. RS will, among other things:

   (i) maintain its existence and recognition as necessary to ensure its continuing authority over Persons and their conduct occurring prior to the Effective Date;

   (ii) provide confirmation and further assurances to third parties, including tribunals and appeal bodies, of its continuing authority over Persons and their conduct occurring prior to the Effective Date;

   (iii) subject to applicable law, provide to IIROC all relevant information in its possession that it receives from third parties in connection with the conduct of Persons occurring prior to the Effective Date;

   (iv) to the extent required for the handling of complaints regarding or the investigation of the conduct of Persons occurring prior to the Effective Date, request information from third parties under information-sharing arrangements to which RS is a party; and

   (v) perform all further acts and provide all further assurances necessary to maintain and confirm its continuing authority over Persons and their conduct occurring prior to the Effective Date.

2. Under the Agreement, IIROC will, among other things:

   (i) carry out on RS's behalf all complaint handling, investigative and enforcement activities relating to the conduct of Persons occurring prior to the Effective Date;

   (ii) maintain sufficient personnel, technological and other resources to perform IIROC's obligations under the Agreement in a timely and diligent manner;

   (iii) comply with, or facilitate RS's compliance with, the terms of any information-sharing agreements where RS receives information relating to the conduct of Persons occurring prior to the Effective Date; and

   (iv) provide all funding required for the performance of activities of RS relating to the conduct of Persons occurring prior to the Effective Date.

3. All hearing committees and hearing panels for the purposes of any proceedings by RS will be constituted in accordance with IIROC Transition Rule No. 1 and Schedule C-1 *Hearing Committees and Hearing Panels Rule*.

Based on the representations and application, including the RS By-law Amendments, made by RS to the Commission, the Commission is satisfied that continuing to recognize RS would not be prejudicial to the public interest.

The Commission hereby amends RS's recognition as a self-regulatory organization so that the recognition pursuant to section 21.1 continues with respect to RS, subject to the terms and conditions set out in Schedule A.

Dated January 29, 2002, as amended on May 16, 2008, effective June 1, 2008.

"W. David Wilson"

"James E.A. Turner"

SCHEDULE A

TERMS AND CONDITIONS

1. CORPORATE GOVERNANCE

RS must have the same board of directors as IIROC.

2. CAPACITY TO PERFORM REGULATORY FUNCTIONS

(a) RS must enter into the Agreement with IIROC under which IIROC must act as RS's agent to perform regulation services, including complaint handling, investigation and enforcement related to the conduct of persons subject to its authority occurring prior to the Effective Date and all administrative services in connection therewith and the continuance of RS.

(b) Prior Commission approval is required for any changes to the Agreement.

3. INFORMATION SHARING

RS or its agents must share information and must otherwise co-operate with the Commission and its staff, other Canadian securities regulatory authorities, exchanges, other regulation services providers, other recognized self-regulatory organizations, clearing agencies, and investor protection or compensation funds.

4. ADDITIONAL INFORMATION & COMPLIANCE WITH OVERSIGHT

RS or its agents must provide the Commission any additional information the Commission may require from time to time.

5. USE OF FINES AND SETTLEMENTS

All fines collected by RS, or by IIROC on behalf of RS, and all payments made under settlement agreements entered into with RS, or with IIROC on behalf of RS, must be used in accordance with the terms and conditions set out in the IIROC recognition order effective June 1, 2008, as amended from time to time.

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

AND

IN THE MATTER OF
INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA (IIROC)

VARIATION OF DECISION
(Subsection 144(1) of the Act)

Background

The Commission made a decision on June 29, 2005 under subsection 21.1(4) of the Act (the Original Decision) to require Market Regulation Services (RS):

(A) to waive the requirement for a subscriber of an alternative trading system (ATS) to execute the RS confirmation and representation forms and the acknowledgments described in section 3.6 of the Regulation Services Agreements (RSA) if

(i) the subscriber signs a release made and executed in favour of, and delivered to, RS in the form of the following:

RS, its directors, officers, employees, agents and any other person acting under its authority shall not be liable to the Subscriber or any of its Regulated Persons (as defined in the UMIR) for any loss, damage, cost, expense or other liability or claim arising from any act or omission, in good faith, in connection with RS's performance of services as a Regulation Services Provider (as defined in NI 21-101); or

(ii) the ATS has executed an indemnity that is consistent with the language in section 11.10 of UMIR and has taken steps, satisfactory to RS acting reasonably, to ensure that it will be able to satisfy the indemnity, and

(B) to continue to monitor and enforce its rules and requirements against subscribers to an ATS with which it has agreed to act as the RSP and against their directors, officers and employees.

IIROC has applied to the Commission for an Order varying the Original Decision.

Representations

The Applicant has made the following representations.

1. On June 1, 2008, RS combined with the Investment Dealers Association of Canada (IDA) to become IIROC.

2. Like RS, IIROC is a regulation services provider (RSP) under National Instrument 21-101 *Marketplace Operation* and National Instrument 23-101 *Trading Rules* (the ATS Rules). It has been recognized by the British Columbia Securities Commission, the Alberta Securities Commission, the Saskatchewan Financial Services Commission, the Manitoba Securities Commission, the Ontario Securities Commission, the Autorité des marchés financiers, Newfoundland and Labrador, Securities Division, Department of Government Services and Lands, Nova Scotia Securities Commission and the New Brunswick Securities Commission.

3. Because of the combination with the IDA, IIROC has requested that the Commission vary the Original Decision to reflect its new name and the securities regulatory authorities that have recognized it as a self-regulatory organization or self-regulatory body.

Commission Decision

The Commission is satisfied that to do so would not be prejudicial to the public interest;

The Commission orders that the Original Decision be varied as follows:

1. Each reference to Market Regulation Services Inc. be deleted and replaced with a reference to Investment Industry Regulatory Organization of Canada;

2. Each reference to RS be deleted and replaced with a reference to IIROC;

3. Paragraph 3 be deleted and replaced by the following:

> "IIROC is an RSP under the ATS Rules and has been recognized by the British Columbia Securities Commission, the Alberta Securities Commission, the Saskatchewan Financial Services Commission (Securities Division), the Manitoba Securities Commission, the Ontario Securities Commission, the Autorité des marchés financiers, Newfoundland and Labrador, Securities Division, Department of Government Services and Lands, Nova Scotia Securities Commission and the New Brunswick Securities Commission."

4. Paragraphs 5 and 6 be deleted.

Dated this 16th day of May, 2008.

"W. David Wilson"

"James E.A. Turner"

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

AND

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

ORDER
(Section 144 of the Act)

WHEREAS the Commission issued an order dated April 3, 2000, varied on January 29, 2002, September 3, 2002, August 12, 2005, December 16, 2005 and August 10, 2006 granting and continuing the recognition of TSX Group Inc. and TSX Inc. as a stock exchange pursuant to section 21 of the Act (the Recognition Order);

AND WHEREAS the terms and conditions attached as Schedule A to the Recognition Order reference Market Regulation Services Inc. (RS Inc.) in Item 13;

AND WHEREAS effective June 1, 2008, RS Inc. will combine its operations with the Investment Dealers Association of Canada to form the Investment Industry Regulatory Organization of Canada (IIROC);

AND WHEREAS the Commission is of the opinion that it is not prejudicial to the public interest to vary the Recognition Order to refer to IIROC;

IT IS ORDERED pursuant to section 144 of the Act that the Recognition Order be varied as follows:

1. Item 13 of Schedule A of the Recognition Order is repealed and replaced by the following:

"**13. REGULATION**

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

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

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

(d) TSX shall continue to perform all other regulation functions not performed by IIROC. TSX shall not perform such regulation functions through any other party, including its affiliates or associates, without prior Commission approval. For greater certainty, any outsourcing of a business function that is done in accordance with paragraph 23 does not contravene this paragraph.

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

2. Item 15(a) of Schedule A of the Recognition Order is repealed and replaced by the following:

"**15. Purpose of Rules**

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

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

3. Item 18 of Schedule A of the Recognition Order is repealed and replaced by the following:

"**18. Sanction Rules**

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

4. Item 21 of Schedule A of the Recognition Order is repealed and replaced by the following:

"**21. Listed Company Rules**

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

5. Section 3.5 of Appendix I of the Recognition Order is repealed and replaced by the following:

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

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

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

3.5.3. TSX shall provide instruction to staff at TSX that any initial listing or continued listing matter or a complaint of a Competitor or of any TSX-listed issuer or listing applicant that asserts that it is a Competitor must be immediately brought to the attention of the Committee Secretary.

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

6. Section 4 of Appendix I of the Recognition Order is repealed and replaced by the following:

"**4. Timely Disclosure and Monitoring of Trading**

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

Dated this 16th day of May, 2008, effective on June 1, 2008.

"W. David Wilson"

"James E.A. Turner"

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

AND

IN THE MATTER OF
CANADIAN TRADING AND QUOTATION SYSTEM INC.

ORDER
(Section 144 of the Act)

WHEREAS the Commission issued an order dated May 7, 2004, as varied on September 9, 2005 and June 13, 2006 granting the recognition of the Canadian Trading and Quotation System Inc. (CNQ) as a stock exchange pursuant to section 21 of the Act (the Recognition Order);

AND WHEREAS the terms and conditions attached as Schedule A to the Recognition Order reference Market Regulation Services Inc. (RS Inc.) in Item 6;

AND WHEREAS effective June 1, 2008, RS Inc. will combine its operations with the Investment Dealers Association of Canada to form the Investment Industry Regulatory Organization of Canada (IIROC);

AND WHEREAS the Commission is of the opinion that it is not prejudicial to the public interest to vary the Recognition Order to refer to IIROC;

IT IS ORDERED pursuant to section 144 of the Act that the Recognition Order be varied as follows:

1. Item 6 of Schedule A of the Recognition Order is repealed and replaced by the following:

   "6. REGULATION

   (a) CNQ will maintain its ability to perform its regulation functions including setting requirements governing the conduct of CNQ Dealers and CNQ Issuers and disciplining CNQ Dealers and CNQ Issuers.

   (b) CNQ has retained and will continue to retain the Investment Industry Regulatory Organization of Canada (IIROC) as a regulation services provider to provide certain regulation services which have been approved by the Commission. CNQ will provide to the Commission, on an annual basis, a list outlining the regulation services performed by IIROC and the regulation services performed by CNQ. All amendments to those listed services are subject to the prior approval of the Commission.

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

   (d) CNQ will perform all other regulation functions not performed by IIROC.

   (e) Management of CNQ (including the President and CEO) will at least annually assess the performance by IIROC of its regulation functions and report to the Board, together with any recommendations for improvements. CNQ will provide the Commission with copies of such reports and shall advise the Commission of any proposed actions arising therefrom.

   (f) CNQ shall provide the Commission with the information set out in Appendix A, as amended from time to time."

2. Item 11 of the Recognition Order is repealed and replaced by the following:

   "**11. DISCIPLINE RULES**

   (a) CNQ will ensure, through IIROC and otherwise, that any person or company subject to its regulation is appropriately disciplined for violations of securities legislation and the Rules.

   (b) CNQ will have general disciplinary and enforcement provisions in its Rules that will apply to any person or company subject to its regulation."

Dated this 16th day of May, 2008, effective on June 1, 2008.

“W. David Wilson”

“James E.A. Turner”

13.1.2 RS Disciplinary Notice - Kevin Moorhead

May 22, 2008

No. 2008-001

Summary

A Hearing Panel constituted under the Universal Market Integrity Rules today approved a settlement agreement between RS and Kevin Moorhead. In the settlement agreement, Moorhead agrees that between August 29, 2005 and October 27, 2005, he contravened UMIR 2.2(1) and 2.2(2)(b). Moorhead was fined $40,000, plus $10,000 in costs. He is also suspended from access to all marketplaces regulated by RS for three (3) months.

Questions / Further Information

For further information or questions concerning this notice contact:

Charles Corlett
Enforcement Counsel
Investigations & Enforcement, Eastern Region

Telephone: 416.646.7253
Fax: 416.646.7285

e-mail: charles.corlett@rs.ca

Person Disciplined

On May 22, 2008, a Hearing Panel of the Hearing Committee of Market Regulation Services Inc. ("RS") approved a settlement agreement (the "Settlement Agreement") concerning Kevin Moorhead ("Moorhead").

Requirement Contravened

Under the terms of the Settlement Agreement, Moorhead admits that the following Requirements were contravened:

- Between August 29, 2005 and October 27, 2005, he contravened Universal Market Integrity Rule ("UMIR") 2.2(1), 2.2(2)(b) and UMIR Policy 2.2 for which he is liable under UMIR 10.4(1).

Sanctions Approved

The following sanctions were approved:

(a) A fine of $40,000.00 payable by Moorhead to RS;

(b) Suspension of access to all marketplaces regulated by RS for three (3) months, commencing upon the day following the approval of this settlement agreement by a Hearing Panel; and

(c) Costs of $10,000.00 payable to RS.

Summary of Facts

Moorhead has been registered since 1995. He has been employed by Canaccord from 1996 to the present as an inventory trader.

Moorhead worked at Canaccord with a trader who subsequently left and joined another firm ("Firm A"). During the material time, Moorhead assisted and worked in conjunction with the trader at Firm A, who also entered high closing bids in the shares of Central Canada Foods Corporation ("CDF.A") and Peterborough Capital Corp. ("PEC").

During the relevant period, Moorhead entered certain orders and/or instructed his assistant to enter certain orders, as described below, to purchase securities of CDF.A and PEC with the intention of assisting a trader at Firm A (as defined below) to increase the daily profit or reduce the daily loss position in that trader's inventory account, and which therefore were for no bona fide

purpose. The orders misrepresented the performance of the securities and were artificial in that they were not justified by any real demand for the securities.

Moorhead knew or ought to have known that his order entry activity would create or could reasonably be expected to create an artificial bid price. Moorhead entered the orders to assist the trader at Firm A to improve the daily profit and loss positions in his inventory account.

The purpose of UMIR 2.2(1) and 2.2(2)(b) and Policy 2.2 is to protect the marketplace from manipulative and deceptive trading activity and artificial pricing, which undermine the integrity of the marketplace and erode investor confidence.

Panel Members

Chair:	The Honourable Paul Moore, Q.C.
Industry Member:	Mr. Donald Lawson
Industry Member:	Mr. Dusty Graham

Further Information

Participants who require additional information should direct questions to Charles Corlett, Enforcement Counsel, Investigations & Enforcement, Eastern Region, Market Regulation Services Inc. at 416-646-7253.

About Market Regulation Services Inc. (RS)

RS is the independent regulation services provider for Canadian equity marketplaces, including TSX, TSX Venture Exchange, Canadian Trading and Quotation System, Bloomberg Tradebook Canada Company, Liquidnet Canada Inc., Blockbook, Pure Trading, MATCH Now, OMEGA ATS and Chi-X Canada. RS is recognized by the securities commissions of Ontario, British Columbia, Alberta and Manitoba and by the Autorité des marchés financiers in Québec to regulate the trading of securities on these marketplaces by participant firms and their trading and sales staff. RS helps protect investors and ensure market integrity by ensuring all equities transactions are executed properly, fairly and in compliance with trading rules.

13.1.3 Request for Comments – Elimination of the Indicative Calculated Closing Price Feature on the Market on Close Facility

REQUEST FOR COMMENTS
ELIMINATION OF THE INDICATIVE CALCULATED CLOSING PRICE
FEATURE ON THE MARKET ON CLOSE FACILITY

The Board of Directors of TSX Inc. ("TSX") has approved amendments ("Amendments") to the Rules of the Toronto Stock Exchange ("TSX Rules"). The Amendments eliminate the indicative calculated closing price feature on TSX's Market On Close ("MOC") facility.

The Amendments will be effective upon approval by the Ontario Securities Commission ("Commission") following public notice and comment. Comments on the proposed Amendments should be in writing and delivered within 30 days of the date of this notice to:

Amer Chaudhry
Legal Counsel
TSX Group Inc.
The Exchange Tower
130 King Street West, 3rd Floor
Toronto, Ontario M5X 1J2
Fax: (416) 947-4461
e-mail: amer.chaudhry@tsx.com

A copy should also be provided to:

Susan Greenglass
Manager, Market Regulation
Ontario Securities Commission
Suite 1903, Box 55
20 Queen Street West
Toronto, Ontario M5H 3S8
Fax: (416) 595-8940
e-mail: sgreenglass@osc.gov.on.ca

Terms not defined in this Request for Comments are defined in the TSX Rules.

1.0 Background

1.1 The MOC facility is an electronic call market that establishes the closing price for certain Toronto Stock Exchange listed stocks, primarily symbols of the S&P/TSX Composite Index. At the close, the MOC facility matches orders, from the MOC book and the central limit order book at a price that assumes the maximum quantity filled, allocating fills according to price and time priority.

1.2 The MOC facility accepts fully-confidential market MOC orders from before the open and throughout the day (between 7:00 am to 3:40 pm), maintaining them in a time priority ("MOC Pre-open"). After the MOC Pre-open, the MOC imbalance is broadcasted once to the marketplace. The broadcasted MOC imbalance message includes, if there is an imbalance: symbols, side and size. After the MOC Pre-open, if there is an imbalance for a symbol, the blind offset session is open from 3:40 pm to 4:00 pm during which limit orders seeking a part of the imbalance are entered into the MOC book. These limit orders are not displayed.

1.3 Prior to the close of the blind offset session, at 3:50 pm, the indicative calculated closing price ("ICCP") is published. The ICCP indicates what the closing price for a MOC eligible security would be if, at the time of calculation, the regular trading session had ended.

1.4 At 4:00 pm the calculated closing price ("CCP") is determined by combining the orders in the MOC book with those in the central limit order book. The CCP is validated against the volatility parameters determined by the TSX. If there is no violation of such parameters, then the symbol will close at the CCP, or otherwise a price movement extension ("PME") period between 4:00 pm and 4:10 pm will be initiated for that symbol. The PME period is designed to solicit further liquidity and prices to offset the imbalances. During such period, limit orders, on the contra-side of the imbalance may be entered into the MOC book, such orders are not displayed. At 4:10 pm the CCP is recalculated and validated against the closing price acceptance ("CPA") parameters, which is a price control parameter that is used to

either accept or reject the CCP that is derived from the PME. If there is a violation of the CPA parameter, the symbol will close at the price that matches the most orders within the CPA parameter.

1.5 Cancels of book orders at the CCP are allowed between 4:10 pm and 4:15 pm, and extended hours trading conducted at the CCP only, begins at 4:15 pm and ends at 5:00 pm.

2.0 Amendments – Elimination of ICCP

2.1 On June 13, 2006, TSX commenced publishing the ICCP to the trading community. At the time TSX believed that the ICCP would serve as an additional safeguard against unexpected closing results by providing market participants with an early warning regarding potential large price movements at close, which would prompt market participants to offer additional liquidity. Also, the ICCP was intended to provide investors with continuous market orders additional information about the potential close rather than receive an unexpected surprise at the close.

2.2 Since the introduction of the ICCP, we have received feedback from numerous MOC participants that the ICCP is not an effective indicator of the actual closing price and therefore, is largely ignored. Also, numerous participants have stated that the effectiveness of the ICCP is limited because significant offsetting orders are purposely deferred during the blind offset session until after the ICCP is published, which would otherwise affect the ICCP. Numerous MOC participants have provided feedback that notwithstanding the deferral of large offsetting orders, the price at 3:50 pm is generally not an accurate indication of the 4:00 pm closing price since continuous supply and demand and prices fluctuate over the ten minute period between the ICCP calculation and the actual closing.

2.3 Numerous MOC participants have stated that they routinely hold back their large MOC offsetting orders until after the ICCP is published. This is undertaken to prevent others from knowing and reacting to the ICCP price that would otherwise be determined by such large offsetting orders. Essentially, this suggests that the ICCP has reduced the time period for traders that enter large MOC offsetting orders from a twenty minute session to a ten minute session. This undesired effect of compressing the amount of time traders have to enter their large offsetting orders increases the likelihood of missed order entry opportunities and price volatility, as well as, producing an inaccurate ICCP which further undermines its effectiveness. Some participants have also raised concerns that order sizes and limit prices of icebergs are revealed to the market since the ICCP includes icebergs in the calculation but excludes large MOC offsetting orders that have been held back.

3.0 Proposed Amendments

3.1 The proposed Amendments are set out in Appendix A hereto.

4.0 Public Interest Assessment

4.1 TSX has had feedback and discussions regarding the elimination of the ICCP with a broad group of MOC participants. The majority of the MOC participant feedback is supportive of the elimination of the ICCP. Feedback to date suggests that ICCP at best offers little or no value and at worst restricts MOC order entry and efficient price discovery. For these reasons and the reasons described above, the TSX believes that the elimination of the ICCP within the MOC facility is not contrary to the public interest.

4.2 We submit that in accordance with the Protocol for Commission Oversight of Toronto Stock Exchange Rule Proposals, the Amendments will be considered “public interest” in nature. The Amendments would, therefore, only become effective following public notice, a comment period and the approval of the Commission.

5.0 Questions

5.1 Questions concerning this notice should be directed to Alex Taylor, Product Manager, TSX Markets at (416) 947-4489 or Amer Chaudhry, Legal Counsel, TSX Group Inc. at (416) 947-4501.

APPENDIX A
ICCP Provisions

The TSX Rules are hereby amended as follows:

1. The definition of “Indicative calculated closing price” as set out in Rule 1-101 is repealed.

2. Rule 4-902(3)(c) is repealed.

13.1.4 MFDA - Proposed Amendments to MFDA Rule 1.1.6 (Introducing and Carrying Arrangement)

MUTUAL FUND DEALERS ASSOCIATION OF CANADA

PROPOSED AMENDMENTS TO MFDA RULE 1.1.6

(INTRODUCING AND CARRYING ARRANGEMENT)

I. OVERVIEW

A. Current Rule

Rule 1.1.6(b)(viii) currently requires that, at account opening, the introducing dealer advise the client of the introducing dealer's relationship to the carrying dealer and of the relationship between the client and the carrying dealer.

Rule 1.1.6(b)(ix) currently requires the name and role of each of the carrying dealer and the introducing dealer to be shown on all contracts, account statements and confirmations. The Rule requires the carrying dealer to be responsible for sending account statements and confirmations to clients introduced to it by the introducing dealer to the extent such statements and confirmations relate to trading or account positions in respect of which the carrying dealer has provided services.

Rule 1.1.6(b)(x) currently provides Level 3 and Level 4 introducing dealers with the option to comply with the disclosure requirements under 1.1.6(b)(ix) by providing written disclosure at least annually to each of its clients whose accounts are being carried by the carrying dealer, outlining the relationship between the introducing dealer and the carrying dealer and the relationship between the client and the carrying dealer.

Rule 5.4.1 currently requires Members who have acted as principal or agent in connection with any trade in a security to send to the client a written confirmation of the transaction containing the information required under Rule 5.4.3. The Rule provides that a Member need not send this trade confirmation where the manager of the mutual fund sends the client a written confirmation containing the required information.

B. The Issues

Rule 1.1.6(b)(viii) is intended to ensure that, at the time of account opening, each client receives adequate disclosure of the relationship between the introducing dealer and carrying dealer and the carrying dealer and the client. The MFDA has received comments from Members that, where the particulars of the disclosure are provided as prescribed and in a way that clearly explains the relationships between the parties, it is not necessary to specify the party that must prepare and develop this disclosure.

Rule 1.1.6(b)(x) is intended to create flexibility by providing an alternate way for Level 3 and 4 introducing dealers to meet the requirements of Rule 1.1.6(b)(ix). Level 1 and 2 dealers cannot presently rely on the flexibility offered by this section. The MFDA has received comments from Members that the current requirement for ongoing disclosure of the name and role of the introducing dealer and carrying dealer on contracts, account statements and trade confirmations is not necessary to ensure that clients understand the parties involved in processing their trades and that the annual disclosure option should be extended to Level 1 and 2 introducing dealers.

Rule 5.4.1 is intended to avoid duplication by providing Members with relief from the requirement to send a written trade confirmation where the manager of the mutual fund sends a client a written confirmation containing the required information. Carrying dealers are presently required by Rule 1.1.6(b)(ix) to a send written confirmation of a trade in a security of a mutual fund to clients. However, mutual fund managers also send trade confirmations to clients in respect of the same trades.

C. Objectives

The objective of the proposed amendments is to allow an appropriate degree of flexibility in how Members meet the disclosure requirements of the Rule while continuing to ensure that clients are informed about the role and identity of the carrying dealer. The proposed amendments will also permit carrying dealers to rely on the trade confirmations sent by mutual fund managers, where such confirmations contain the information required to be sent under Rule 5.4.3.

D. Effect of Proposed Amendments

The proposed amendments will allow Members greater flexibility in meeting their disclosure obligations and avoid duplication by allowing Members to rely on written trade confirmation statements sent by mutual fund managers. The proposed amendments will avoid client confusion arising from the delivery of duplicative information while also reducing unnecessary production and mailing costs for the industry.

The proposed amendments create greater flexibility and do not impose additional requirements. As a result, it is not expected that the proposed amendments will have a significant effect on Members, other market participants, market structure or competition. It is also not expected that proposed amendments will generate additional compliance costs.

II. DETAILED ANALYSIS

A. Proposed Amendments

The proposed amendments to Rule 1.1.6(b)(viii) are intended to clarify that either the introducing dealer or carrying dealer can prepare or develop the disclosure by removing the reference to the introducing dealer advising the client of the relationship. The proposed amendments will require the introducing dealer to ensure that the client receives the requisite disclosure document on account opening.

The proposed amendments to Rule 1.1.6(b)(viii) will also remove the requirement that, in the case of a Level 2 introducing dealer, the client's acknowledgment of disclosure reflect that the introducing dealer has advised the client that the carrying dealer shall be responsible for and shall maintain in its name any trust accounts established in respect of cash received from clients and that all client cheques shall be payable to the carrying dealer. Under proposed Rule 2.2.5(c) (Relationship Disclosure), the Member will be required to provide the client with disclosure describing the Member's policies and procedures regarding the receipt and handling of client cash and cheques. In the case of a Level 2 dealer, the disclosure must include an explanation that all client cheques shall be payable to the issuer or carrying dealer, as applicable.

The proposed amendments to Rule 1.1.6(b)(x) will allow Level 1 and 2 dealers to use the annual disclosure option set out in that Rule as an alternate way to fulfill the requirements of Rule 1.1.6(b)(ix).

Proposed subsection 1.1.6(b)(xii) will provide that the carrying dealer need not send a written confirmation of a trade in a security of a mutual fund where the manager of the mutual fund sends the client a written confirmation containing the information required to be sent under Rule 5.4.3.

B. Issues and Alternatives Considered

No other issues or alternatives were considered.

C. Comparison with Similar Provisions

The proposed amendments are consistent with the Investment Dealers Association of Canada ("IDA") disclosure requirements for Type 2 introducing/carrying broker arrangements set out in By-law No. 35.

IDA Type 2 introducing brokers have the ability to handle cash and facilitate cash transactions on behalf of clients through the use of an account in the name of the introducing broker. IDA Type 2 introducing brokers, like Type 3 and 4 introducing brokers, have the option under IDA By-law No. 35 of providing written disclosure to clients of the relationship between the introducing broker and the carrying broker either on an annual basis or on an ongoing basis on all contracts, account statements and trade confirmations.

Under MFDA Rules, carrying dealers in Level 2 introducing/carrying dealer arrangements are responsible for and maintain in their name any trust accounts established in respect of cash received from clients and all client cheques must be payable to the carrying dealer. With respect to the Level 2 introducing/carrying dealer arrangement, the MFDA currently requires that the carrier's name and role be on all contracts, account statements and trade confirmations. The proposed amendments will eliminate this difference between IDA By-law No. 35 and MFDA Rule 1.1.6 by extending the annual disclosure option that is currently available to Level 3 and 4 introducing dealers to Level 1 and 2 introducing dealers.

The proposed amendments to Rule 2.2.5 (Relationship Disclosure) will underscore the importance of the role of the carrying dealer in MFDA Level 2 introducing/carrying dealer arrangements by requiring disclosure of Member's procedures regarding the receipt and handling of client cash and cheques.

D. Systems Impact of Amendments

It is not anticipated that there will be a significant systems impact on Members as a result of the proposed amendments.

E. Best Interests of the Capital Markets

The Board has determined that the proposed amendments are in the best interests of the capital markets.

F. Public Interest Objective

The proposed amendments will improve the Rule by creating greater flexibility and avoiding client confusion arising from the delivery of duplicative information, while continuing to serve the public interest by ensuring that clients understand the role of the carrying dealer in processing their trades and receive detailed information with respect to their trades.

III. COMMENTARY

A. Filing in Other Jurisdictions

The proposed amendments will be filed for approval with the Alberta, British Columbia, Manitoba, New Brunswick, Nova Scotia, and Ontario Securities Commissions and the Saskatchewan Financial Services Commission.

B. Effectiveness

The proposed amendments are simple and effective.

C. Process

The proposed amendments have been prepared in consultation with relevant departments within the MFDA. The MFDA Board of Directors approved the proposed amendments on May 22, 2008.

D. Effective Date

The proposed amendments will be effective on a date to be subsequently determined by the MFDA.

IV. SOURCES

MFDA Rule 1.1.6
MFDA Rule 5.4

V. REQUIREMENT TO PUBLISH FOR COMMENT

The MFDA is required to publish for comment the proposed amendments so that the issues referred to above may be considered by the Recognizing Regulators.

The MFDA has determined that the entry into force of the proposed amendments would be in the public interest and is not detrimental to the capital markets. Comments are sought on the proposed amendments. Comments should be made in writing. One copy of each comment letter should be delivered within 30 days of the publication of this notice, addressed to the attention of the Corporate Secretary, Mutual Fund Dealers Association of Canada, 121 King St. West, Suite 1000, Toronto, Ontario, M5H 3T9 and one copy addressed to the attention of Sarah Corrigall-Brown, Senior Legal Counsel, British Columbia Securities Commission, 701 West Georgia Street, P.O. Box 10142, Pacific Centre, Vancouver, British Columbia, V7Y 1L2.

Those submitting comment letters should be aware that a copy of their comment letter will be made publicly available on the MFDA website at: www.mfda.ca.

Questions may be referred to:

Paige Ward
Director of Policy and Regulatory Affairs
Mutual Fund Dealers Association of Canada
(416) 943-5838

MUTUAL FUND DEALERS ASSOCIATION OF CANADA

INTRODUCING AND CARRYING ARRANGEMENT (Rule 1.1.6)

On May 22, 2008, the Board of Directors of the Mutual Fund Dealers Association of Canada made the following amendments to MFDA Rule 1.1.6:

Rule 1.1.6 – (Introducing and Carrying Arrangement)

1.1.6 **Introducing and Carrying Arrangement**

(b) **Terms of Arrangement**. A Member may enter into an agreement with another Member in accordance with Rule 1.1.6(a) if it satisfies the following requirements:

(viii) Disclosure and Acknowledgement on Account Opening. At the time of opening each client account, the introducing dealer shall ensure that the client receives written disclosure explaining ~~advise the client of~~ the introducing dealer's relationship to the carrying dealer and ~~of~~ the relationship between the client and the carrying dealer and, in the case of a Level 1 ~~or 2~~ introducing dealer, shall obtain from the client an acknowledgement in writing to the effect that such disclosure ~~advice~~ has been received by the client ~~given. In the case of a Level 2 introducing dealer, the acknowledgement shall reflect that the introducing dealer has advised the client that the carrying dealer shall be responsible for and shall maintain in its name any trust accounts established in respect of cash received from clients and that all client cheques shall be payable to the carrying dealer~~;

(ix) Contracts, Account Statements, Confirmations and Client Communications. The name and role of each of the carrying dealer and the introducing dealer shall be shown on all contracts, account statements, confirmations and, in the case of a Level 1 introducing dealer, all client communications (as defined in Rule 2.8.1) and advertisements and sales communications (as defined in Rule 2.7.1) sent by either the introducing dealer or the carrying dealer in respect of accounts carried by the carrying dealer. In the case of a Level 1 introducing dealer, the name and role of the carrying dealer shall appear in at least equal size to that of the introducing dealer. The use of business or trade or style names shall be in accordance with Rule 1.1.7 as applicable; ~~The carrying dealer shall be responsible for sending account statements and confirmations to clients introduced to it by the introducing dealer as required by the By-laws and Rules to the extent such statements and confirmations relate to trading or account positions in respect of which the carrying dealer has provided services;~~

(x) Annual Disclosure. A Level 1, 2, 3 or ~~Level~~ 4 introducing dealer may comply with the disclosure requirements under paragraph (ix) by providing written disclosure at least annually to each of its clients whose accounts are being carried by the carrying dealer, outlining the relationship between the introducing dealer and the carrying dealer and the relationship between the client and the carrying dealer;

(xi) Clients Introduced to the Carrying Dealer. Each client introduced to the carrying dealer by the introducing dealer shall be considered a client of the carrying dealer for the purposes of complying with the By-laws and Rules to the extent of the services provided by the carrying dealer; ~~and~~

(xii) Responsibility for Reporting. The carrying dealer shall be responsible for sending account statements and confirmations to clients introduced to it by the introducing dealer as required by the By-laws and Rules to the extent such statements and confirmations relate to trading or account positions in respect of which the carrying dealer has provided services. The carrying dealer need not send a written confirmation of a trade in a security of a mutual fund where the manager of the mutual fund sends the client a written confirmation containing the information required to be sent under Rule 5.4.3; and

(xiii) Responsibility for Compliance. Unless otherwise specified in Rule 2 or in this Rule 1.1.6, the introducing dealer which is a Level 1 Dealer and its carrying dealer shall be jointly and severally responsible for compliance with the By-laws and Rules for each account introduced to the carrying dealer by the introducing dealer, and in all other cases the introducing dealer shall be responsible for such compliance, subject to the carrying dealer being also responsible for compliance with respect to those functions it agrees to perform under the arrangement entered into under this Rule 1.1.6.

13.1.5 MFDA Issues Notice of Hearing Regarding Leo Alexander O'Brien and David Baxter Snow

NEWS RELEASE
For immediate release

MFDA ISSUES NOTICE OF HEARING REGARDING
LEO ALEXANDER O'BRIEN AND DAVID BAXTER SNOW

May 28, 2008 (Toronto, Ontario) – The Mutual Fund Dealers Association of Canada ("MFDA") today announced that it has commenced disciplinary proceedings against Leo O'Brien and David Snow.

MFDA staff alleges in its Notice of Hearing that the respondents engaged in the following conduct contrary to the By-laws, Rules or Policies of the MFDA:

> Allegation #1: Between April 20, 2005 and June 16, 2006, O'Brien engaged in excessive trading by processing 166 switches in 22 client accounts using limited trading authorizations without obtaining instructions, approval or authorization from the clients, contrary to MFDA Rules 2.3.4, 2.1.1 and outside the scope of his registration as a mutual fund salesperson as stipulated under section 86 of the Consolidated Newfoundland and Labrador Regulation 805/96, *Securities Regulations under the Securities Act*, O.C. 96-286;
>
> Allegation #2: Between April 20, 2005 and June 16, 2006, Snow, at all material times the Branch Manager responsible for supervising O'Brien, failed to adequately supervise O'Brien's trading activity, contrary to MFDA Rule 2.5.3(b) and MFDA Policy No 2.

The first appearance in this matter will take place by teleconference before a Hearing Panel of the MFDA Atlantic Regional Council on Thursday, July 10, 2008 at 11:00 a.m. (Newfoundland) 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 who want to listen to the teleconference for the first appearance should contact Yvette MacDougall, MFDA Hearings Coordinator, at 416-943-4606 or by e-mail at ymacdougall@mfda.ca on or before Tuesday, July 8, 2008 to obtain particulars. The Hearing on the Merits will take place at a location in St. John's, Newfoundland at a time, place and venue to be announced at a later date.

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 157 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

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