

The Ontario Securities Commission

OSC Bulletin

November 27, 2009

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

The Ontario Securities Commission

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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One Corporate Plaza
2075 Kennedy Road
Toronto, Ontario
M1T 3V4

416-609-3800 or 1-800-387-5164

Contact Centre - Inquiries, Complaints:
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Executive Offices:

General Counsel's Office:

Office of the Secretary:

Fax: 416-593-8122

Fax: 416-595-8940

Fax: 416-593-8240

Fax: 416-593-8283

Fax: 416-593-8244

Fax: 416-593-3683

Fax: 416-593-8252

Fax: 416-593-3666

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Fax: 416-593-8241

Fax: 416-593-3681

Fax: 416-593-2318



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One Corporate Plaza
2075 Kennedy Road
Toronto, Ontario
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Customer Relations
Toronto 1-416-609-3800
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Chapter 1

Notices / News Releases

1.1 Notices

1.1.1 Current Proceedings Before The Ontario Securities Commission

NOVEMBER 27, 2009

CURRENT PROCEEDINGS

BEFORE

ONTARIO SECURITIES COMMISSION

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

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

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Kevin J. Kelly	—	KJK
Paulette L. Kennedy	—	PLK
David L. Knight, FCA	—	DLK
Patrick J. LeSage	—	PJL
Carol S. Perry	—	CSP
Charles Wesley Moore (Wes) Scott	—	CWMS

SCHEDULED OSC HEARINGS

November 30 – **Rene Pardo, Gary Usling, Lewis Taylor Sr., Lewis Taylor Jr., Jared Taylor, Colin Taylor and 1248136 Ontario Limited**
December 7, 2009

10:00 a.m.
s. 127

December 8, 2009
M. Britton in attendance for Staff

2:00 p.m.
Panel: JDC/KJK

December 9-23, 2009

10:00 a.m.

November 30, 2009
Paladin Capital Markets Inc., John David Culp and Claudio Fernando Maya

10:00 a.m.
s. 127

C. Price in attendance for Staff

Panel: DLK

November 30, 2009
Uranium308 Resources Inc., Uranium308 Resources PLC., Michael Friedman, George Schwartz, Peter Robinson, Alan Marsh Shuman and Innovative Gifting Inc.

2:00 p.m.

s. 127

M. Boswell in attendance for Staff

Panel: DLK

December 1, 2009	Irwin Boock, Stanton Defreitas, Jason Wong, Saudia Allie, Alena Dubinsky, Alex Khodjaits Select American Transfer Co., Leasesmart, Inc., Advanced Growing Systems, Inc., International Energy Ltd., Nutrione Corporation, Pocketop Corporation, Asia Telecom Ltd., Pharm Control Ltd., Cambridge Resources Corporation, Compushare Transfer Corporation, Federated Purchaser, Inc., TCC Industries, Inc., First National Entertainment Corporation, WGI Holdings, Inc. and Enerbrite Technologies Group	December 9, 2009	IMG International Inc., Investors Marketing Group International Inc., and Michael Smith
10:00 a.m.		10:00 a.m.	s. 127
			C. Price in attendance for Staff
			Panel: CSP
		December 10, 2009	Gold-Quest International, Health and Harmony, Iain Buchanan and Lisa Buchanan
		10:00 a.m.	s. 127
			H. Craig in attendance for Staff
			Panel: CSP
	s. 127 and 127.1		
	H. Craig in attendance for Staff	December 10, 2009	Gold-Quest International, 1725587 Ontario Inc. carrying on business as Health and Harmony, Harmony Club Inc., Donald Iain Buchanan, Lisa Buchanan and Sandra Gale
	Panel: TBA	10:00 a.m.	
December 2, 2009	Paul Iannicca		s. 127
2:00 p.m.			H. Craig in attendance for Staff
			Panel: CSP
			Panel: DLK
December 2, 2009	IBK Capital Corp. and William F. White	December 11, 2009	Tulsiani Investments Inc. and Sunil Tulsiani
3:00 p.m.	s. 127	9:00 a.m.	s. 127
	M. Vaillancourt in attendance for Staff		J. Superina in attendance for Staff
	Panel: DLK		Panel: JEAT
December 4, 2009	Sulja Bros. Building Supplies, Ltd. (Nevada), Sulja Bros. Building Supplies Ltd., Kore International Management Inc., Petar Vucicevich and Andrew DeVries	December 16, 2009	Goldpoint Resources Corporation, Lino Novielli, Brian Moloney, Evanna Tomeli, Robert Black, Richard Wylie and Jack Anderson
10:00 a.m.		9:00 a.m.	
	s. 127 and 127.1		s. 127(1) and 127(5)
	M. Britton in attendance for Staff		M. Boswell in attendance for Staff
	Panel: JEAT		Panel: MGC/DLK
December 9, 2009	Nest Acquisitions and Mergers and Caroline Frayssignes		
10:00 a.m.	s. 127(1) and 127(8)		
	C. Price in attendance for Staff		
	Panel: CSP		

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February 8-12, 2010	Goldbridge Financial Inc., Wesley Wayne Weber and Shawn C. Lesperance	April 13, 2010	Axcess Automation LLC, Axcess Fund Management, LLC, Axcess Fund, L.P., Gordon Alan Driver and David Rutledge, Steven M. Taylor and International Communication Strategies
10:00 a.m.	s. 127	2:30 p.m.	
	J. Feasby in attendance for Staff		s. 127
	Panel: TBA		M. Adams in attendance for Staff
February 17– March 1, 2010	M P Global Financial Ltd., and Joe Feng Deng		Panel: TBA
10:00 .m.	s. 127 (1)	May 3-28, 2010	Sextant Capital Management Inc., Sextant Capital GP Inc., Sextant Strategic Opportunities Hedge Fund L.P., Otto Spork, Robert Levack and Natalie Spork
	M. Britton in attendance for Staff	10:00 a.m.	
	Panel: TBA		s. 127
February 17, 2010	Maple Leaf Investment Fund Corp. and Joe Henry Chau		S. Kushneryk in attendance for Staff
10:00 a.m.	s. 127		Panel: TBA
	J. Superina in attendance for Staff		
	Panel: TBA	May 31 – June 4, 2010	Lyndz Pharmaceuticals Inc., James Marketing Ltd., Michael Eatch and Rickey McKenzie
March 1-8, 2010	Teodosio Vincent Pangia	10:00 a.m.	s. 127(1) and (5)
10:00 a.m.	s. 127		J. Feasby in attendance for Staff
	J. Feasby in attendance for Staff		Panel: TBA
	Panel: TBA	June 29, 2010	Oversea Chinese Fund Limited Partnership, Weizhen Tang and Associates Inc., Weizhen Tang Corp., and Weizhen Tang
March 3, 2010	Brilliant Brasilcan Resources Corp., York Rio Resources Inc., Brian W. Aidelman, Jason Georgiadis, Richard Taylor and Victor York	10:00 a.m.	
10:00 a.m.	s. 127		s. 127 and 127.1
	S. Horgan in attendance for Staff		M. Britton in attendance for Staff
	Panel: TBA	TBA	Panel: TBA
March 10, 2010	Global Energy Group, Ltd. And New Gold Limited Partnerships		Yama Abdullah Yaqeen
10:00 a.m.	s. 127		s. 8(2)
	H. Craig in attendance for Staff		J. Superina in attendance for Staff
	Panel: TBA		Panel: TBA

TBA	<p>Microsourceonline Inc., Michael Peter Anzelmo, Vito Curalli, Jaime S. Lobo, Sumit Majumdar and Jeffrey David Mandell</p> <p>s. 127</p> <p>J. Waechter in attendance for Staff</p> <p>Panel: TBA</p>	TBA	<p>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</p> <p>s. 127</p> <p>C. Price in attendance for Staff</p> <p>Panel: TBA</p>
TBA	<p>Frank Dunn, Douglas Beatty, Michael Gollogly</p> <p>s. 127</p> <p>K. Daniels in attendance for Staff</p> <p>Panel: TBA</p>	TBA	<p>Biovail Corporation, Eugene N. Melnyk, Brian H. Crombie, John R. Miszuk and Kenneth G. Howling</p> <p>s. 127(1) and 127.1</p> <p>J. Superina, A. Clark in attendance for Staff</p> <p>Panel: TBA</p>
TBA	<p>Juniper Fund Management Corporation, Juniper Income Fund, Juniper Equity Growth Fund and Roy Brown (a.k.a. Roy Brown-Rodrigues)</p> <p>s. 127 and 127.1</p> <p>D. Ferris in attendance for Staff</p> <p>Panel: TBA</p>	TBA	<p>Global Partners Capital, Asia Pacific Energy Inc., 1666475 Ontario Inc. operating as "Asian Pacific Energy", Alex Pidgeon, Kit Ching Pan also known as Christine Pan, Hau Wai Cheung, also known as Peter Cheung, Tony Cheung, Mike Davidson, or Peter McDonald, Gurdip Singh Gahunia also known as Michael Gahunia or Shawn Miller, Basis Marcellinius Toussaint also known as Peter Beckford, and Rafique Jiwani also known as Ralph Jay</p> <p>s. 127</p> <p>M. Boswell in attendance for Staff</p> <p>Panel: TBA</p>
TBA	<p>Merax Resource Management Ltd. carrying on business as Crown Capital Partners, Richard Mellon and Alex Elin</p> <p>s. 127</p> <p>H. Craig in attendance for Staff</p> <p>Panel: TBA</p>	TBA	<p>FactorCorp Inc., FactorCorp Financial Inc. and Mark Twerdun</p> <p>s. 127</p> <p>A. Sonnen in attendance for Staff</p> <p>Panel: TBA</p>
TBA	<p>Gregory Galanis</p> <p>s. 127</p> <p>P. Foy in attendance for Staff</p> <p>Panel: TBA</p>	TBA	<p>Shane Suman and Monie Rahman</p> <p>s. 127 and 127(1)</p> <p>C. Price in attendance for Staff</p> <p>Panel: TBA</p>

TBA	Berkshire Capital Limited, GP Berkshire Capital Limited, Panama Opportunity Fund and Ernest Anderson	<u>ADJOURNED SINE DIE</u>	Global Privacy Management Trust and Robert Cranston
	s. 127		S. B. McLaughlin
	E. Cole in attendance for Staff		Livent Inc., Garth H. Drabinsky, Myron I. Gottlieb, Gordon Eckstein, Robert Topol
	Panel: TBA		Portus Alternative Asset Management Inc., Portus Asset Management Inc., Boaz Manor, Michael Mendelson, Michael Labanowich and John Ogg
TBA	MRS Sciences Inc. (formerly Morningside Capital Corp.), Americo DeRosa, Ronald Sherman, Edward Emmons and Ivan Cavric		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
	s. 127 and 127(1)		
	D. Ferris in attendance for Staff		
	Panel: TBA		Global Petroleum Strategies, LLC, Petroleum Unlimited, LLC, Aurora Escrow Services, LLC, John Andrew, Vincent Cataldi, Charlotte Chambers, Carl Dylan, James Eulo, Richard Garcia, Troy Gray, Jim Kaufman, Timothy Kaufman, Chris Harris, Morgan Kimmel, Roger A. Kimmel, Jr., Erik Luna, Mitch Malizio, Adam Mills, Jenna Pelusio, Rosemary Salveggi, Stephen J. Shore and Chris Spinler
TBA	Barry Landen		
	s. 127		
	H. Craig in attendance for Staff		
	Panel: TBA		
TBA	Imagin Diagnostic Centres Inc., Patrick J. Rooney, Cynthia Jordan, Allan McCaffrey, Michael Shumacher, Christopher Smith, Melvyn Harris and Michael Zelyony		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 and 127.1		
	J. Feasby in attendance for Staff		Hollinger Inc., Conrad M. Black, F. David Radler, John A. Boulton and Peter Y. Atkinson
	Panel: TBA		

1.1.2 CSA Staff Notice 45-304 – Notice of Local Exemptions Related to NI 45-106 Prospectus and Registration Exemptions and NI 31-103 Registration Requirements and Exemptions

CSA STAFF NOTICE 45-304

**NOTICE OF LOCAL EXEMPTIONS RELATED TO
NATIONAL INSTRUMENT 45-106 *PROSPECTUS AND REGISTRATION EXEMPTIONS*
AND
NATIONAL INSTRUMENT 31-103 *REGISTRATION REQUIREMENTS AND EXEMPTIONS***

Effective September 28, 2009, members of the Canadian Securities Administrators (CSA or we) implemented an amended and restated National Instrument 45-106 *Prospectus and Registration Exemptions* (NI 45-106) together with various consequential amendments to certain national and local instruments, rules and regulations. Also effective September 28, 2009, the CSA implemented National Instrument 31-103 *Registration Requirements and Exemptions* (NI 31-103). The registration exemptions contained in NI 45-106 will remain in effect for a transition period until March 27, 2010.

Although NI 45-106 and NI 31-103 consolidate and harmonize most of the prospectus and registration exemptions available under Canadian securities laws, there remain a limited number of local exemptions in each jurisdiction.

This notice lists the prospectus and registration exemptions in each jurisdiction that are not included in NI 45-106 or NI 31-103. These exemptions are listed by jurisdiction and apply only in that jurisdiction. Please refer to the Appendix attached to this notice. Although we have attempted to consolidate a list of all remaining exemptions by local jurisdiction, we encourage persons relying on a local exemption to consult the securities legislation of the jurisdiction. If a jurisdiction is not listed in the Appendix, please consult the securities legislation of that jurisdiction for any local exemptions.

The list of exemptions in the Appendix is up-to-date as of November 27, 2009. Although the CSA will update the list of local exemptions periodically, issuers and their counsel should check the current status of any local exemption.

Questions

Questions about any of the local exemptions listed in the Appendix may be referred to the contact(s) for that local jurisdiction listed below:

British Columbia

Gordon Smith
Senior Legal Counsel, Corporate Finance
British Columbia Securities Commission
(604) 899-6656
gsmith@bcsc.bc.ca

George Hungerford
Senior Legal Counsel, Corporate Finance
British Columbia Securities Commission
(604) 899-6690
ghungerford@bcsc.bc.ca

Alberta

Taryn Montgomery
Legal Counsel
Alberta Securities Commission
(403) 297-4968
Taryn.Montgomery@asc.ca

Tracy Clark
Legal Counsel
Alberta Securities Commission
(403) 355-4424
Tracy.Clark@asc.ca

Saskatchewan

Dean Murrison
Deputy Director, Legal/Registration
Securities Division
Saskatchewan Financial Services Commission
(306) 787-5879
Dean.Murrison@gov.sk.ca

Manitoba

Chris Besko
Legal Counsel – Deputy Director
The Manitoba Securities Commission
(204) 945-2561
cbesko@gov.mb.ca

Ontario

Jo-Anne Matear
Assistant Manager, Corporate Finance Branch
Ontario Securities Commission
(416) 593-2323
jmatear@osc.gov.on.ca

Jason Koskela
Legal Counsel, Corporate Finance
Ontario Securities Commission
(416) 595-8922
jkoskela@osc.gov.on.ca

Robert F. Kohl (for NI 31-103)
Senior Legal Counsel
Registrant Regulation
Ontario Securities Commission
(416) 593-8233
rkohl@osc.gov.on.ca

Quebec

Sylvie Lalonde (for NI 45-106)
Manager, Policy Department
Autorité des marchés financiers
(514) 395-0337, ext. 4461
sylvie.lalonde@lautorite.qc.ca

Rosetta Gagliardi (for NI 45-102)
Senior Policy Advisor
Autorité des marchés financiers
(514) 395-0337 ext. 4462
rosetta.gagliardi@lautorite.qc.ca

Isabelle Pelletier (for NI 31-103)
Legal Counsel
Autorité des marchés financiers
(514) 395-0337, ext. 2566
isabelle.pelletier@lautorite.qc.ca

Nova Scotia

Shirley Lee
Director, Policy and Market Regulation
Nova Scotia Securities Commission
(902) 424-5441
leesp@gov.ns.ca

New Brunswick

Susan Powell
Senior Legal Counsel, Regulatory Affairs
New Brunswick Securities Commission
(506) 643-7697
susan.powell@nbsc-cvmnb.ca

Prince Edward Island

Steve Dowling
Superintendent of Securities
Prince Edward Island
(902) 368-4551
sddowling@gov.pe.ca

Newfoundland & Labrador

Don Boyles
Program & Policy Development
Securities Commission of Newfoundland and
Labrador
Government of Newfoundland & Labrador
(709) 729-4501
dboyles@gov.nl.ca

Yukon

Fred Pretorius
Director, Corporate Affairs (C-6)
Dept of Community Services
Government of Yukon
(867) 667-5225
fred.pretorius@gov.yk.ca

Northwest Territories

Donn MacDougall
Deputy Superintendent, Legal & Enforcement
Office of the Superintendent of Securities
Government of the Northwest Territories
PO Box 1320
Yellowknife, NT X1A 2L9
Tel: (867) 920-8984
Fax: (867) 873-0243
E-mail: donald_macdougall@gov.nt.ca

Nunavut

Louis Arki, Director, Legal Registries
Department of Justice,
Government of Nunavut
(867) 975-6587
larki@gov.nu.ca

November 27, 2009

Appendix

Local Exemptions – Alberta

Alberta Securities Commission Rules

Section 127.03 (Prospectus exemption for cooperatives and corporations under the *Rural Utilities Act*)

Section 127.04 (Transitional: exemption of trades)

ASC Rule 45-502 *Trade with RESP*

ASC Rule 72-501 *Distributions to Purchasers Outside Alberta*

ASC Rule 91-504 *Strip Bonds*

Blanket Orders

ASC Blanket Order 87/03/26 Certain Interests in Government Securities

ASC Blanket Order 90/02/22 Trades of Government Warrants

ASC Blanket Order 2005/10/21 Registration and Prospectus Exemption for Certain Capital Accumulation Plans

ASC Blanket Order 91-503 Over-the-Counter Derivatives Transactions and Commodity Contracts

Local Exemptions – British Columbia

Commission Rules

BC Instrument 45-501 *Mortgages*

Blanket Orders

BC Instrument 32-503 *Registration Exemption for Approved Persons of the Mutual Funds Dealers Association of Canada*

BC Instrument 33-517 *Registration and Prospectus Exemption for Persons Registered under the Mortgage Brokers Act*

BC Instrument 45-504 *Trades to trust companies, insurers, and portfolio managers outside British Columbia*

BC Instrument 45-512 *Real Estate Securities*

BC Instrument 45-514 *The Employee Investment Act*

BC Instrument 45-524 *Registration and Prospectus Exemption for Certain Capital Accumulation Plans*

BC Instrument 45-528 *Trades under a realization on collateral given for a debt*

BC Instrument 45-529 *Bonus or finders fee*

BC Instrument 45-530 *Exemptions for securities issued by a cooperative association*

BC Instrument 45-531 *Exemptions for shares or deposits of a credit union*

BC Instrument 72-502 *Trades in Securities of U.S. Registered Issuers*

BC Instrument 72-503 *Distribution of Securities outside British Columbia*

BC Instrument 72-504 *Distribution of Eurobonds*

BC Instrument 81-504 *Transactions Between Mutual Funds and Responsible Persons Relating to Certain Debt Securities, Mortgages and Equity Securities*

BC Instrument 91-501 *Over-The-Counter Derivatives*

BC Instrument 91-502 *Short Term Foreign Exchange Transactions*

BC Instrument 91-503 *Contracts Providing for Physical Delivery of Commodities*

BC Instrument 91-504 *Government Strip Bonds*

BC Instrument 91-505 *Prospectus exemption for put and call options*

Local Exemptions – Manitoba

The Securities Act (Manitoba)

Section 19(1)(c) and 58(1)(a) – Exempt Purchasers

Sections 19(2)(g) and 58(3)(a) – Securities to which *The Cooperatives Act* apply

Sections 19(2)(h) and 58(3)(a) – Securities to which *The Credit Unions and Caisses Populaires Act* apply

Securities Regulation (Manitoba)

Sections 91(a) and (b) of *The Securities Regulation* M.R. 491/88R

Blanket Rulings (Manitoba)

Local Policy 3.17 – Strip Bonds

Local Exemptions – New Brunswick

Rules

Local Rule 45-501 *Prospectus and Registration Exemptions*

Local Rule 45-802 *Implementing National Instrument 45-106 Prospectus and Registration Exemptions*

Local Rule 81-502 *Registration and Prospectus Exemption for Certain Capital Accumulation Plans*

Local Rule 91-501 *Derivatives*

Local Exemptions – Newfoundland and Labrador

Securities Act (Newfoundland and Labrador)

Section 35 (Exemption of advisers)

Section 36 (Exemption of trades)

Local Exemptions – Northwest Territories

Securities Act (Northwest Territories)

Section 2 (Various exemptions from registration requirement)

Blanket Orders

Blanket Order No. 1 – Section 2 (Secondary Market Trading)

Blanket Order No. 1 – Subsection 3(a) (*Bona Fide* Debts of Non-control Persons)

Blanket Order No. 1 – Section 3(b) (Securities of a Cooperative)

Blanket Order No. 1 – Section 3(c) (Distributions commenced in reliance on Blanket Order exemptions in effect prior to September 14, 2005)

Blanket Order No. 2 – Subsection 2(a) (*Bona Fide* Debts of Non-control Persons)

Blanket Order No. 2 – Section 2(b) (Securities of a Cooperative)

Blanket Order No. 2 – Section 2(c) (Trades commenced in reliance on Blanket Order exemptions in effect prior to September 14, 2005)

Local Exemptions – Nova Scotia

Securities Act (Nova Scotia)

Section 41(1) (ama) and (amb) (Registration exemption for securities of a cooperative)

Section 41(2)(i) (Registration exemption for shares of a credit union within the meaning of the *Credit Union Act*)

Section 77(1)(ah) (Prospectus exemption for securities of a cooperative)

Section 78(1)(a) as it relates to section 41(2)(i) (Prospectus exemption for shares of a credit union within the meaning of the *Credit Union Act*)

Rules

NSSC Rule 35-101 *Conditional Exemption from Registration for United States Broker-Dealers and Agents*

Regulations

Section 3 of the *Community Economic – Development Corporations Regulations* – N.S. Reg. 79/98 (Registration and prospectus exemptions for shares of a community economic-development corporation)

Blanket Orders

Blanket Order No. 3 Zero Coupon Strip Bonds

Blanket Order No. 15 Trading in Recognized Options Cleared Through Recognized Clearing Organizations

Blanket Order No. 16 Trading in Commodity Futures Contracts and Commodity Futures Options

Blanket Order No. 24 Certain Certificates for Government Securities

Blanket Order No. 47 Distribution of Mutual Funds Established for Employees of a Company and Its Affiliates

Blanket Order No. 45-507 A Registration and Prospectus Exemption for Certain Capital Accumulation Plans

Blanket Order No. 45-509 Trades in Warrants to Acquire Certain Debt Securities

Blanket Order No. 45-510 First and Subsequent Trades in Shares of a Community Economic-Development Corporation

Local Exemptions – Nunavut

Securities Act (Nunavut)

Section 2 (Various exemptions from registration requirement)

Blanket Orders

Blanket Order No. 1 – Section 2 (Secondary Market Trading)

Blanket Order No. 1 – Subsection 3(a) (*Bona Fide* Debts of Non-control Persons)

Blanket Order No. 1 – Section 3(b) (Securities of a Cooperative)

Blanket Order No. 1 – Section 3(c) (Distributions commenced in reliance on Blanket Order exemptions in effect prior to September 14, 2005)

Blanket Order No. 3 – Subsection 2(a) (*Bona Fide* Debts of Non-control Persons)

Blanket Order No. 3 – Section 2(b) (Securities of a Cooperative)

Blanket Order No. 3 – Section 2(c) (Trades commenced in reliance on Blanket Order exemptions in effect prior to September 14, 2005)

Local Exemptions – Ontario

Securities Act (Ontario)

Section 34 (Exemption from registration requirements, advisers)

Section 35 (Exemption from registration requirements, dealers)

Section 35.1 (Exemption from registration requirement, financial institutions)

Section 73 (Exemption)

Regulations

Ontario Regulation 85/05 *Exemptions respecting the Ontario Financing Authority*

Rules

Ontario Securities Commission Rule 32-501 *Direct Purchase Plans*

Ontario Securities Commission Rule 35-101 *Conditional Exemption from Registration for United States Broker-Dealers and Agents*

Ontario Securities Commission Rule 35-502 *Non Resident Advisers*

Ontario Securities Commission Rule 35-503 *Trades by Certain Members of The Toronto Stock Exchange*

Ontario Securities Commission Rule 45-501 *Ontario Prospectus and Registration Exemptions*

Ontario Securities Commission Rule 91-501 *Strip Bonds*

Ontario Securities Commission Rule 91-502 *Trades in Recognized Options – Rule Under the Securities Act*

Ontario Securities Commission Rule 91-503 *Trades in Commodity Futures Contracts and Commodity Futures Options Entered into on Commodity Futures Exchanges Situate Outside of Ontario – Rule Under the Securities Act*

Local Exemptions – Prince Edward Island

Rules

Local Rule 45-501 – *Exempt Distributions – Co-operative Associations*

Local Rule 45-502 – *Exempt Distributions – Credit Unions*

Local Rule 45-507 – *Exempt Distributions – Self-Directed Registered Education Savings Plans*

Local Exemptions – Québec

Securities Act (Québec)

Section 3 (exemptions)

Section 41 (prospectus exemptions)

Securities Regulation (Québec)

Section 192 (registration exemptions)

Regulation to amend the Securities Regulation (which came into force on September 28, 2009)

Section 5 (registration exemption – transition period until December 28, 2009 for former s. 194.2 QSR)

Derivatives Act (Québec)

Section 7 (over-the-counter derivatives activities or transactions involving accredited counterparties only or in any other case specified by regulation)

Regulation to amend the Derivatives Regulation

Section 11.14 (registration exemption to the extent the person carries on business solely for an accredited counterparty and its activity involves a standardized derivative that is offered primarily outside Québec)

General exemption decisions

Decision 2000-C-0699: Registration exemption for dealers in respect of trading at a distance on NASDAQ

Decision 2009-PDG-0007 Registration exemption for dealer and adviser activities relative to derivatives with accredited investors

Local Exemptions – Saskatchewan

General Rulings/Orders

General Ruling/Order 21-901 *Market Facilitation Activities by Issuers in Their Own Securities*

General Ruling/Order 45-902 *Labour-Sponsored Venture Capital Corporations*

General Ruling/Order 45-912 *Co-operatives and Credit Unions*

General Ruling/Order 45-913 *Capital Accumulation Plans*

General Ruling/Order 45-916 *Solicitations of Expressions of Interest*

General Ruling/Order 72-901 *Trades to Purchasers Outside of Saskatchewan*

General Ruling/Order 91-904 *Government Warrants*

General Ruling/Order 91-905 *Certain Interests in Government Securities*

General Ruling/Order 91-906 *Strip Bonds*

General Ruling/Order 91-907 *Over-the-Counter Derivatives*

Local Exemptions – Yukon

The Securities Act, S.Y. 2007.c.16 (Yukon)

Section 16 – If the Superintendent of Securities is satisfied that it would not be prejudicial to the public interest, the Superintendent may, by order exempt a person, security, trade, distribution or transaction from all or any provisions of Yukon securities laws.

Yukon Local Rules

Local Rule 11-802 – Adopting all CSA Instruments, Forms & Policies as amended and in force on September 28, 2009

Local Rule 12-501 – Exemption for discretionary exemptions applied before March 17, 2008, effective from March 17, 2008

Local Rule 15-501 – Exemption of certain contracts issued by Insurance Companies effective from March 17, 2008

Webpage: <http://www.community.gov.yk.ca/corp/ysorules.html>

1.4 Notices from the Office of the Secretary

1.4.1 Phoenix Capital Income Trust and Phoenix Capital Inc.

**FOR IMMEDIATE RELEASE
November 23, 2009**

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

AND

**IN THE MATTER OF
PHOENIX CAPITAL INCOME TRUST AND
PHOENIX CAPITAL INC.**

TORONTO – The Commission issued the Decision in the above named matter.

A copy of the Decision dated November 13, 2009 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

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 W.J.N. Holdings Inc. et al.

**FOR IMMEDIATE RELEASE
November 25, 2009**

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

AND

**IN THE MATTER OF
W.J.N. HOLDINGS INC., MSI CANADA INC.,
360 DEGREE FINANCIAL SERVICES INC.,
DOMINION INVESTMENTS CLUB INC.,
LEVERAGEPRO INC., PROSPOREX INVESTMENT
CLUB INC., PROSPOREX INVESTMENTS INC.,
PROSPOREX LTD., PROSPOREX INC., NETWORK
FINANCIAL GROUP INC., NETWORK MARKETING
SOLUTIONS, DOMINION ROYAL CREDIT UNION,
DOMINION ROYAL FINANCIAL INC.,
WILTON JOHN NEALE, EZRA DOUSE,
ALBERT JAMES, ELNONIETH "NONI" JAMES,
DAVID WHITELY, CARLTON IVANHOE LEWIS,
MARK ANTHONY SCOTT, SEDWICK HILL,
TRUDY HUYNH, DORLAN FRANCIS,
VINCENT ARTHUR, CHRISTIAN YEBOAH,
AZUCENA GARCIA, ANGELA CURRY,
AND PROSPOREX FOREX SPV TRUST**

TORONTO – The Commission issued an Order in the above matter which provides that (1) Prosporex Forex SPV Trust is added as a respondent to this proceeding; (2) the Temporary Order, as varied is extended to January 18, 2010; and (3) a hearing in this proceeding will take place on January 15, 2010 at 10:00 a.m.

A copy of the Order dated November 24, 2009 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

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

For investor inquiries: OSC Contact Centre
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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 Northwest & Ethical Investments L.P. et al.

Headnote

NP 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Approval of mutual fund mergers – approval required because mergers do not meet the criteria for pre-approval – certain continuing funds have different investment objectives and fee structures than terminating funds, certain mergers are not “qualifying exchanges” or tax-deferred transactions under the Income Tax Act (Canada) – prospectus and annual and interim financial statements not required to be sent in connection with investor approval of mergers provided the information circular clearly discloses the various ways investors can access the financial statements – tailored prospectus of continuing funds sent to investors of terminating funds instead of a simplified prospectus.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, ss. 5.5(1)(b), 5.6, 5.7, 5.5(3).

October 22, 2009

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
NORTHWEST & ETHICAL INVESTMENTS L.P.,
ACTING THROUGH ITS GENERAL PARTNER,
NORTHWEST & ETHICAL INVESTMENTS INC.
(the Filer)

AND

IN THE MATTER OF
THE TERMINATING FUNDS AND THE
CONTINUING FUNDS LISTED IN SCHEDULE “A”
(collectively, the Funds)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer for a decision under the securities legislation of the Jurisdiction (the **Legislation**) granting:

- (a) Approval under section 5.5(1)(b) of National Instrument 81-102 *Mutual Funds* (**NI 81-102**) to merge each Terminating Fund into the Continuing Fund opposite its name in the chart attached as Schedule A (the **Proposed Mergers**) (the **Merger Approvals**); and

- (b) Relief from the prospectus and financial statements delivery requirement contained in section 5.6(1)(f)(ii) of NI 81-102 for the Proposed Mergers and all future mergers of mutual funds managed by the Filer or an affiliate of the Filer (collectively, **Northwest**) (together with the Proposed Mergers, the **Mergers**) (the **Exemptive Relief**)

(collectively, the **Requested Approval**).

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 to be relied upon in British Columbia, Alberta, Saskatchewan, Manitoba, Quebec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, Yukon, Northwest Territories and Nunavut.

Interpretation

Defined terms contained in National Instrument 14-101 – *Definitions* and in MI 11-102 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:

The Filer

1. The Filer is a limited partnership existing under the laws of Ontario with its head office located in Toronto, Ontario and the manager of the Funds.

The Funds

2. Each of the Funds listed in Schedule A with a name ending in the word “Fund” or “Portfolio,” but not “Corporate Class Portfolio,” is an open-end mutual fund trust established under the laws of Ontario or British Columbia under declarations of trust (the **Trust Funds**). Each of the Funds listed in Schedule A with a name ending in the words “Corporate Class Portfolio” is an open-end mutual fund class of shares of Northwest Corporate Class Inc., a corporation incorporated under the laws of Ontario (the **Corporate Funds**).
3. Securities of the Funds are qualified for sale in all provinces and territories of Canada by simplified prospectus, in the case of the Corporate Funds, dated November 3, 2008, as amended, and in the case of the Trust Funds, dated June 30, 2009, as amended, except that units of the Trust Funds sold under the Credential brand are qualified for sale in Quebec by simplified prospectus dated October 9, 2009.
4. The Funds are reporting issuers under applicable Canadian securities legislation and subject to the requirements of NI 81-102. The Funds are not on the list of defaulting reporting issuers maintained under applicable Canadian securities legislation or in default of applicable Canadian securities legislation in any jurisdiction.
5. Each Fund follows the standard investment restrictions and practices established under applicable Canadian securities legislation except to the extent that it has received permission from the Canadian Securities Administrators to deviate therefrom.
6. The net asset value (**NAV**) for each of the Funds is calculated on a daily basis on each day the Toronto Stock Exchange is open for business. As at August 31, 2009, the NAV of the Funds was as set out in Schedule A.

The Proposed Mergers

7. The Proposed Mergers were described in a press release dated September 4, 2009 and a material change report and amendments to the simplified prospectuses and annual information forms for the Funds filed on SEDAR on or about September 11, 2009.
8. The Filer proposes to effect the Proposed Mergers, subject to and after obtaining all necessary approvals, on or about October 23, 2009 (the Effective Date) after which the Continuing Funds will continue as publicly offered open-end mutual funds.

9. The Filer believes the Proposed Mergers will be beneficial to securityholders of each Fund for the following reasons:
 - (a) Securityholders of the applicable Terminating Fund and Continuing Fund may enjoy increased economies of scale and lower operating expenses as part of a larger combined Continuing Fund;
 - (b) Each Continuing Fund will have a portfolio of greater value allowing for increased portfolio diversification opportunities than within the applicable Terminating Fund; and
 - (c) Each Continuing Fund, as a result of its increased size, will benefit from a more significant profile in the marketplace.
10. The Independent Review Committee for the Funds (the **IRC**) has advised the Filer that, after reasonable inquiry, it has concluded that the Proposed Mergers do not create any conflict issues that have not been adequately addressed and, on that basis, achieve a fair and reasonable result for the Funds (the **IRC's Conclusion**).
11. Due to the different structures of the Funds, the procedures for implementing the Proposed Mergers will vary. However, the result of each Proposed Merger will be that investors in each Terminating Fund will cease to be holders of securities of a class of the Terminating Fund and will become holders of securities of an equivalent class of its corresponding Continuing Fund.
12. At the same time as proposing the Proposed Mergers, the Filer has proposed fixed administration fees for the Continuing Funds. Investors in the Continuing Funds approved the fixed administration fees at the same meetings held on October 14th and 15th, 2009 at which investors in the Terminating Funds and certain Continuing Funds approved the Proposed Mergers (the **Securityholder Meetings**). However, it is expected that the Proposed Mergers will result in substantially similar fees for investors in the Terminating Funds, except in respect of the Proposed Merger of Ethical Canadian Index Fund into Ethical Growth Fund which Proposed Merger is expected to result in increased fees for investors in the Terminating Fund, Ethical Canadian Index Fund.
13. Eight of the Proposed Mergers involve a Terminating Fund or Terminating Funds with a larger NAV as at August 31, 2009 than their corresponding Continuing Fund, specifically:

Terminating Fund and NAV as at Aug 31, 2009	Continuing Fund and NAV as at Aug 31, 2009
Northwest Quadrant Conservative Portfolio – \$12,218,471	Credential Select Conservative Portfolio – \$17,610,674
Northwest Quadrant Income Portfolio – \$19,519,529	
Ethical Advantage 2015 Fund – \$24,456,954	Ethical Advantage 2010 Fund – \$11,463,579
Ethical Advantage 2020 Fund – \$35,380,119	
Ethical Advantage 2030 Fund – \$24,884,621	
Ethical Advantage 2040 Fund – \$10,644,637	
Credential Money Market Fund – \$75,962,082	Northwest Money Market Fund – \$41,197,629
Northwest Quadrant All Equity Corporate Class Portfolio – \$3,967,106	Northwest Quadrant Global Equity Corporate Class Portfolio – \$268,133

The Filer has concluded that, except for the Proposed Merger of Credential Money Market Fund into Northwest Money Market Fund, these Proposed Mergers constitute a material change for these Continuing Funds and investors in these Continuing Funds, except investors in Northwest Money Market Fund, were asked to and did approve their respective Proposed Mergers at the Securityholder Meetings pursuant to section 5.1(g) of NI 81-102.

14. A notice of meeting, management information circular (the **Circular**) and a form of proxy were mailed to investors and filed on SEDAR on or about September 25, 2009 in connection with the Securityholder Meetings. The materials mailed to investors also included a copy of a tailored prospectus containing the current Part A and current Part B of the simplified prospectus for the relevant Continuing Fund.
15. For four of the Proposed Mergers, the Terminating Fund did, but the Continuing Fund did not, at the time meeting materials were mailed to investors, have a current simplified prospectus in Quebec and for Series F units in all jurisdictions, specifically:

Terminating Fund and NAV as at Aug 31, 2009	Continuing Fund and NAV as at Aug 31, 2009
Northwest Quadrant Conservative Portfolio – \$12,218,471	Credential Select Conservative Portfolio – \$17,610,674
Northwest Quadrant Income Portfolio – \$19,519,529	
Northwest Quadrant Global Equity Portfolio – \$592,043	Credential Select High Growth Portfolio – \$35,163,324
Northwest Quadrant All Equity Portfolio – \$20,095,210	

The Filer sent investors in these Terminating Funds in Quebec, and in their Series F units in all jurisdictions, together with the Circular, the current Part A and the current Part B of the simplified prospectus of the corresponding Continuing Fund filed with the securities regulatory authorities in the provinces and territories of Canada outside Quebec.

16. The Circular set out:
 - (a) The Proposed Mergers, including the procedures for implementing them and the consequences of the Proposed Mergers, including their fees consequences and their tax consequences for the Terminating Funds and for investors in the Terminating Funds;
 - (b) That the Proposed Mergers will not proceed unless investors in the Continuing Funds approve the proposed fixed administration fees;
 - (c) The similarities and differences between the Terminating Funds and the Continuing Funds;
 - (d) The various ways in which investors can obtain a copy of the annual information form and most recent annual and interim financial statements for the Continuing Funds; and
 - (e) The IRC's Conclusion.
17. The Circular provides sufficient information about the Proposed Mergers to permit investors to have made an informed decision about the Proposed Mergers.
18. The Filer is conducting the Proposed Mergers of Trust Funds on a taxable basis in order to preserve loss carryforwards in the Continuing Funds, which it believes to be a better result for investors in the Trust Funds.
19. The cost of effecting the Proposed Mergers (consisting primarily of legal, proxy solicitation, brokerage fees, printing, mailing and regulatory fees) will be borne by the Filer.
20. Investors in the Terminating Funds will continue to have the right to redeem securities of the Terminating Funds until the close of business on the business day before the Effective Date.
21. No sales charges will be payable in connection with the acquisition by the Continuing Funds of the investment portfolio of the applicable Terminating Funds.
22. Following the Proposed Mergers, the Terminating Funds will be wound up as soon as reasonably practicable.
23. The Merger Approvals are required because the Proposed Mergers do not satisfy all of the criteria for pre-approved mergers set out in section 5.6 of NI 81-102, specifically:
 - (a) For all Proposed Mergers, except the Proposed Merger of Credential Money Market Fund into Northwest Money Market Fund, a reasonable person might not consider the investment objectives of the merging Funds to be substantially similar as would be required to meet the criteria in section 5.6(1)(a)(ii) of NI 81-102;
 - (b) The Filer is proposing the introduction of fixed administration fees for the Continuing Funds, which is not a feature of the Terminating Funds. A reasonable person might therefore not consider the fee structures of the merging Funds to be substantially similar as would be required to meet the criteria in section 5.6(1)(a)(ii) of NI 81-102;
 - (c) A tailored version of the current simplified prospectus, except in Quebec for Credential Select Conservative Portfolio and Credential Select High Growth Portfolio and in all jurisdictions for their Series F units, was sent,

and the most recent annual and interim financial statements that have been made public for the Continuing Funds were not sent, to investors in the Terminating Funds, contrary to the criteria in section 5.6(1)(f)(ii) of NI 81-102; and

- (d) The Proposed Mergers, other than the Proposed Mergers of Corporate Funds, will be completed on a taxable basis and not as a "qualifying exchange" or as a tax deferred transaction as would be required to meet the criteria in section 5.6(1)(b) of NI 81-102.

24. Except as noted above, the Proposed Mergers will comply with all of the other criteria for pre-approved reorganizations and transfers set out in section 5.6 of NI 81-102.

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 Requested Approval is granted provided that, in respect of the Exemptive Relief:

- (a) In satisfaction of the simplified prospectus delivery requirement in subsection 5.6(1)(f)(ii) of NI 81-102, Northwest sends securityholders of a terminating fund a tailored simplified prospectus consisting of:
 - (i) The current Part A of the simplified prospectus of the applicable continuing fund, and
 - (ii) The current Part B of the simplified prospectus of the applicable continuing fund;
- (b) The management information circular sent to securityholders in connection with a Merger prominently discloses that securityholders can obtain the most recent interim and annual financial statements of the applicable continuing fund by accessing the SEDAR website at www.sedar.com, by accessing Northwest's website, by calling Northwest's toll-free telephone numbers or by submitting (by fax or mail) a request to Northwest;
- (c) Upon a request by a securityholder of a terminating fund for financial statements, Northwest will make best efforts to provide the securityholder with financial statements of the applicable continuing fund in a timely manner so that the securityholder can make an informed decision regarding the Merger;
- (d) Each applicable terminating fund and the applicable continuing fund with respect to a Merger have an unqualified audit report in respect of their last completed financial period; and
- (e) The management information circular sent to securityholders in connection with a Merger provides sufficient information about the Merger to permit securityholders to make an informed decision about the Merger.

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

**Schedule A –
Terminating Funds and Continuing Funds and NAVs as at August 31, 2009**

	Terminating Fund	Continuing Fund
1.	Northwest Canadian Bond Fund – \$211,078,515	Ethical Income Fund – \$313,817,216
2.	Northwest Quadrant Conservative Portfolio –\$12,218,471	Credential Select Conservative Portfolio – \$17,610,674
3.	Northwest Quadrant Income Portfolio – \$19,519,529	
4.	Northwest Quadrant Growth Portfolio – \$5,375,495	Northwest Quadrant Balanced Growth Portfolio – \$79,989,502
5.	Northwest Quadrant Global Growth Portfolio –\$1,642,748	
6.	Northwest Quadrant Global Equity Portfolio – \$592,043	Credential Select High Growth Portfolio – \$35,163,324
7.	Northwest Quadrant All Equity Portfolio – \$20,095,210	
8.	Ethical Monthly Income Fund – \$60,065,548	Ethical Balanced Fund – \$312,949,225
9.	Ethical Canadian Index Fund – \$48,636,074	Ethical Growth Fund – \$301,044,767
10.	Ethical Canadian Stock Fund – \$727,466	
11.	Ethical Advantage 2015 Fund – \$24,456,954	Ethical Advantage 2010 Fund – \$11,463,579
12.	Ethical Advantage 2020 Fund – \$35,380,119	
13.	Ethical Advantage 2030 Fund – \$24,884,621	
14.	Ethical Advantage 2040 Fund – \$10,644,637	
15.	Credential Money Market Fund – \$75,962,082	Northwest Money Market Fund – \$41,197,629
16.	Northwest Quadrant Growth Corporate Class Portfolio – \$5,772,028	Northwest Quadrant Balanced Growth Corporate Class Portfolio – \$21,485,268
17.	Northwest Quadrant Global Growth Corporate Class Portfolio – \$356,103	
18.	Northwest Quadrant All Equity Corporate Class Portfolio – \$3,967,106	Northwest Quadrant Global Equity Corporate Class Portfolio – \$268,133

2.1.2 Western GeoPower Corp. – s. 1(10)

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.

Ontario Statutes

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

November 18, 2009

Stikeman Elliott LLP
5300 Commerce Court West
199 Bay Street
Toronto, ON M5L 1B9

Dear Sirs/Mesdames:

Re: Western GeoPower Corp. (the Applicant) – Application for a decision under the securities legislation of Ontario, Alberta, and Québec (the Jurisdictions) that the Applicant is not a reporting issuer

The Applicant has applied to the local securities regulatory authority or regulator (the **Decision Maker**) in each of the Jurisdictions for a decision under the securities legislation (the **Legislation**) of the Jurisdictions that the Applicant is not a reporting issuer.

As the Applicant has represented to the Decision Makers that,

- (a) the outstanding securities of the Applicant, 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;
- (b) no securities of the Applicant are traded on a marketplace as defined in National Instrument 21-101 *Marketplace Operation*;
- (c) the Applicant is applying for a decision that it is not a reporting issuer in all of the jurisdictions in Canada in which it is currently a reporting issuer; and
- (d) the Applicant is not in default of any of its obligations under the Legislation as a reporting issuer,

each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the decision has been met and orders that the Applicant is not a reporting issuer.

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

2.1.3 TigerTel Communications Inc. – s. 1(10)

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.

Ontario Statutes

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

November 19, 2009

TigerTel Communications Inc.
2800 Skymark Avenue, Suite 308
Mississauga, ON L4W 5A6

Dear Sirs/Mesdames:

Re: TigerTel Communications Inc. (the Applicant) – application for a decision under the securities legislation of Ontario and Alberta (the Jurisdictions) that the Applicant is not a reporting issuer

The Applicant has applied to the local securities regulatory authority or regulator (the **Decision Maker**) in each of the Jurisdictions for a decision under the securities legislation (the **Legislation**) of the Jurisdictions that the Applicant is not a reporting issuer.

As the Applicant has represented to the Decision Makers that:

- (a) the outstanding securities of the Applicant, 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;
- (b) no securities of the Applicant are traded on a marketplace as defined in National Instrument 21-101 *Marketplace Operation*;
- (c) the Applicant is applying for a decision that it is not a reporting issuer in all of the jurisdictions in Canada in which it is currently a reporting issuer; and
- (d) the Applicant is not in default of any of its obligations under the Legislation as a reporting issuer,

each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the decision has been met and orders that the Applicant is not a reporting issuer.

“Michael Brown”
Assistant Manager, Corporate Finance
Ontario Securities Commission

2.1.4 Grey Island Systems International Inc. – s. 1(10)

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Issuer deemed to no longer be a reporting issuer under securities legislation.

Applicable Legislative Provisions

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

November 19, 2009

Grey Island Systems International Inc.
76 Stafford Street
Toronto, Ontario
M6J 2S1

Dear Sirs/Mesdames:

Re: Grey Island Systems International Inc. (the Applicant) – application for a decision under the securities legislation of Alberta and Ontario (the Jurisdictions) that the Applicant is not a reporting issuer

The Applicant has applied to the local securities regulatory authority or regulator (the **Decision Maker**) in each of the Jurisdictions for a decision under the securities legislation (the **Legislation**) of the Jurisdictions that the Applicant is not a reporting issuer.

As the Applicant has represented to the Decision Makers that:

- (a) the outstanding securities of the Applicant, 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;
- (b) no securities of the Applicant are traded on a marketplace as defined in National Instrument 21-101 *Marketplace Operation*;
- (c) the Applicant is applying for a decision that it is not a reporting issuer in all of the jurisdictions in Canada in which it is currently a reporting issuer; and
- (d) the Applicant is not in default of any of its obligations under the Legislation as a reporting issuer,

each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the decision has been met and orders that the Applicant is not a reporting issuer.

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

2.1.5 Western Canadian Coal Corp.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – National Instrument 51-102 Continuous Disclosure Obligations – Relief from the requirement to include certain financial statements in a business acquisition report – The issuer has acquired a UK company, which has significant equity investments in other UK companies – The business acquisition report will include all required financial statements except the pro forma consolidated interim income statement of the issuer – The information needed to prepare this statement is not available – The statement would not be useful to investors, as it would not include any financial information about the acquired company not already included in the other financial statements filed.

Applicable Legislative Provisions

National Instrument 51-102 Continuous Disclosure Obligations, ss. 8.4, 13.1.

September 28, 2009

**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
WESTERN CANADIAN COAL CORP.
(the Filer)**

DECISION

Background

- 1 The securities regulatory authority or regulator in each of the Jurisdictions (Decision Maker) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) that the Filer be exempted from complying with section 8.4(5) of National Instrument 51-102, *Continuous Disclosure Obligations* (NI 51-102), pursuant to which a business acquisition report must include a pro forma income statement for the interim period for which the Filer has filed financial statements that started after the most recently completed financial year for which the Filer has filed financial statements and ended immediately before the date of acquisition (the Requested Relief).

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 Alberta, Saskatchewan, Manitoba, New Brunswick, Nova Scotia, Newfoundland and Labrador and Prince Edward Island; and
- (c) the decision is the decision of the principal regulator and evidences the decision of the other securities regulatory authority or regulator in Ontario.

Interpretation

- 2 Terms defined in National Instrument 14-101 Definitions have the same meaning as is used in this decision, unless otherwise defined.

Representations

- 3 This decision is based on the following facts represented by the Filer:
1. the Filer is a company incorporated under the laws of British Columbia;
 2. the Filer's registered office is located at 1600 - 925 West Georgia Street, Vancouver, British Columbia, V6C 3L2 and its head office is located at 900 - 580 Hornby Street, Vancouver, British Columbia, V6C 3B6;
 3. the Filer's primary business is acquiring, exploring and developing coal mining properties for the international metallurgical coal markets, with a current focus on coal mining in northeastern British Columbia, West Virginia and Wales;
 4. the Filer is a reporting issuer each of the provinces of Canada, except Québec, and is not in default of its reporting issuer obligations in any jurisdiction;
 5. the Filer's year end for accounting purposes is March 31;
 6. the Filer's common shares are listed on the Toronto Stock Exchange (TSX) and the Alternative Investment Market of the London Stock Exchange (AIM) under the symbol "WTN"; certain share purchase warrants and convertible debentures of the Filer are also listed on the TSX under the symbol "WTN.WT" and "WTN.DB", respectively;
 7. as disclosed in a press release dated May 20, 2009 and a material change report dated May 26, 2009, the Filer and Cambrian Mining plc (Cambrian) entered into a combination agreement, pursuant to which the Filer agreed to acquire all of the issued and outstanding ordinary shares of Cambrian (the Combination);
 8. as disclosed in a press release dated July 13, 2009 and a material change report dated July 23, 2009, the Combination was completed on July 13, 2009 and the Filer became the sole beneficial holder of all of the ordinary shares of Cambrian; in connection with the Combination, the name of Cambrian was changed from Cambrian Mining plc to Cambrian Mining Limited;
 9. Cambrian is a corporation incorporated under the laws of the United Kingdom. Cambrian's registered office is located at 27 Albemarle Street, London W1S 4DW United Kingdom;
 10. prior to the Combination, Cambrian was a public company in the United Kingdom whose shares were admitted to trading on AIM under the symbol "CBM";
 11. Cambrian's year end for accounting purposes is June 30;
 12. as a United Kingdom based company, Cambrian only prepares and files annual and half-year financial statements and is not required to prepare, and has not previously prepared, quarterly financial statements (i.e. March 31, 2009 interim financial statements);
 13. the Combination was a "significant acquisition" for the Filer, within the meaning of section 8.3 of National Instrument 51-102, *Continuous Disclosure Obligations* (NI 51-102), for which the Filer is required to file a business acquisition report (BAR) in accordance with section 8.2 of NI 51-102 within 90 days after the date of the Combination;
 14. pursuant to section 8.4 of NI 51-102, the Filer is required to include the following financial statements in the BAR:
 - (a) the audited annual financial statements of Cambrian for the years ended June 30, 2009 and 2008 together with the notes thereto and the auditors report thereon (the Audited Annual Financial Statements);
 - (b) a pro forma consolidated balance sheet of the Filer as at June 30, 2009 (the Pro Forma Balance Sheet);
 - (c) the unaudited pro forma consolidated statement of operations of the Filer for the year ended March 31, 2009, which combine the consolidated statement of operations of the Filer for the year ended March 31, 2009 with the consolidated statement of operations of Cambrian for the year ended June

- 30, 2009 (the Pro Forma Income Statement and together with the Pro Forma Balance Sheet, the Pro Forma Annual Financial Statements); and
- (d) the unaudited pro forma consolidated income statement of the Filer for the three month period ended June 30, 2009 (the Pro Forma Interim Income Statement);
15. the Filer will include the Audited Annual Financial Statements and the Pro Forma Annual Financial Statements in the BAR;
16. pursuant to section 8.4 of NI 51-102, the Pro Forma Annual Financial Statements will be prepared based on the Filer's audited annual consolidated financial statements for the year ended March 31, 2009, the Filer's unaudited interim consolidated balance sheet as at June 30, 2009 and Cambrian's audited annual financial statements for the year ended June 30, 2009;
17. the Pro Forma Annual Financial Statements will include information regarding Cambrian up to June 30, 2009; the Pro Forma Interim Income Statement would not include any additional financial information relating to Cambrian not already included in the annual consolidated financial statements for the year ended June 30, 2009 and reflected in the Pro Forma Annual Financial Statements;
18. Cambrian has ownership positions in two public companies based in the United Kingdom that are equity-accounted for by Cambrian, and which companies do not report on a quarterly basis; the Filer and Cambrian do not have any degree of control over the financial reporting of the investee companies and, accordingly, Cambrian is not in a position to include financial information relating to the investee companies in a quarterly interim consolidated financial statement for the three months ended June 30, 2009; as a result, it is not possible for the Filer to prepare a complete Pro Forma Interim Income Statement;
19. the financial information of Cambrian for the period ended June 30, 2009 will be included in the Pro Forma Annual Financial Statements, which will provide sufficient financial information relating to Cambrian for the purposes of the BAR; and
20. the interim consolidated financial statements of the Filer for the six month period ended September 30, 2009 will be filed prior to November 15, 2009 and will incorporate financial information relating to Cambrian on a consolidated basis.

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 decision of the Decision Makers under the Legislation is that the Requested Relief is granted provided that the Filer files a BAR for the Combination that includes the Audited Annual Financial Statements and the Pro Forma Annual Financial Statements.

"Andrew S. Richardson, CA"
Acting Director, Corporate Finance
British Columbia Securities Commission

2.1.6 Dimensional Fund Advisors Canada ULC et al.

Headnote

Multilateral Instrument 11-102 *Passport System* – National Instrument 81-102 *Mutual Funds* – A mutual fund manager seeks approval of proposed current fund mergers and future fund mergers under the approval requirements in NI 81-102 – The continuing fund will include a component of the fundamental investment objective of the terminating fund in the continuing funds' objectives; the funds' independent review committee approved the merger; unitholders will vote on the proposed merger; terminating fund unitholders will receive alternate prospectus level disclosure; the tax consequences of the merger are as beneficial to unitholders as if the merger was on a tax-deferred basis; unitholders can redeem their units of the terminating fund before the merger. – Future fund mergers comply with the pre-approved merger requirements in NI 81-102 except that the Manager will provide alternate prospectus level disclosure instead of the prospectus and financial statements for the terminating funds.

Applicable Legislative Provisions

National Instrument 81-102 *Mutual Funds*, s. 5.5.

November 16, 2009

**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
DIMENSIONAL FUND ADVISORS CANADA ULC
(the Filer or Dimensional)**

AND

**IN THE MATTER OF
DFA U.S. SMALL CAP FUND
DFA INTERNATIONAL SMALL CAP FUND
(together, the Terminating Funds)**

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (Decision Maker) has received an application from the Filer and the Terminating Funds for a decision under the securities legislation of the Jurisdictions (the Legislation) for:

- (a) approval of the merger of the DFA U.S. Small Cap Fund into the DFA U.S. Value Fund, and the merger of the DFA International Small Cap Fund into the DFA International Value Fund (the Current Mergers) under subsection 5.5(1)(b) of National Instrument 81-102 *Mutual Funds* (NI 81-102); and
- (b) approval under paragraph 5.5(1)(b) of NI 81-102 of any merger, after the date of this decision, of mutual funds managed by the Filer or an affiliate that meet all of the criteria for pre-approval of mergers under section 5.6 of NI 81-102 except for the financial statement delivery requirement and the simplified prospectus delivery requirement of sub-paragraph 5.6(1)(f)(ii) of NI 81-102 (the Future Mergers).

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

- (a) the British Columbia Securities Commission is the principal regulator (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 Alberta, Saskatchewan, Manitoba, Quebec, New Brunswick, Nova Scotia, Newfoundland and Labrador, Prince Edward Island, Northwest Territories, Nunavut and Yukon, and
- (c) the decision is the decision of the principal regulator and evidences the decision of the securities regulatory authority or regulator in Ontario pursuant to Section 104(2)(c) of the Securities Act (Ontario).

Interpretation

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

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

1. the Filer is a corporation continued under the *Nova Scotia Companies Act*; the head office of the Filer is located in British Columbia;
2. the Filer is the manager, trustee, principal portfolio advisor and promoter of the DFA U.S. Value Fund, the DFA International Value Fund (together, the Continuing Funds) and the Terminating Funds; the head office of the Funds is located in British Columbia;
3. each of the Terminating Funds and the Continuing Funds (collectively, the Funds) is a separate open-end mutual fund organized as a trust under the

- laws of British Columbia pursuant to a master declaration of trust;
4. units of the Funds are currently offered for sale in all of the provinces and territories of Canada under a simplified prospectus and annual information form, as amended;
5. the Funds are reporting issuers under the applicable securities legislation of each province and territory of Canada and are not on the list of defaulting reporting issuers maintained under such securities legislation;
6. each of the Funds follows the standard investment restrictions and practices established under the Legislation;
7. the net asset value per unit for each class of units of each of the Funds is calculated at the close of trading on each valuation day (normally 4:00 p.m. Toronto time); for each of the Funds, a valuation day is any day that the Toronto Stock Exchange is open for business, unless the fund is not accepting orders to purchase, switch or redeem units on that day;
8. the board of directors of the Filer approved the Current Mergers on September 17, 2009; a press release and material change report in respect of the Current Mergers was subsequently filed on SEDAR;
9. as required by National Instrument 81-107 *Independent Review Committee for Investment Funds* (NI 81-107), the Filer has presented the terms of the Merger to the independent review committee of each of the Funds for review; the independent review committee has provided its positive recommendation that the Current Mergers will achieve a fair and reasonable result for the Funds;
10. unitholders of the Terminating Funds will continue to have the right to redeem or transfer their units of the Terminating Funds at any time up to the close of business on the business day prior to the effective date of the Current Mergers;
11. a notice of meeting, management information circular and a proxy (collectively, the Meeting Materials) in connection with the Current Mergers were mailed to unitholders of the Terminating Funds on or about October 7, 2009 and will subsequently be filed on SEDAR;
12. unitholders of the Terminating Funds approved the Current Mergers at special meetings held on November 5, 2009; implicit in the approval by unitholders of the Current Mergers is the adoption by the Terminating Funds of the investment objectives of the Continuing Funds;
13. the Filer anticipates that the Current Mergers will be implemented on or about November 17, 2009;
14. following the Current Mergers, the Continuing Funds will continue as a publicly offered open-end mutual funds and the Terminating Funds will be wound up as soon as reasonably practicable;
15. the following steps will be carried out to effect the Current Mergers, which are proposed to occur on or about November 17, 2009 (the Merger Date):
 - (a) prior to the Current Mergers, the investment portfolios of each of the Terminating Funds will be modified in certain ways to facilitate the Current Mergers; these changes may include the sale of securities in a Terminating Fund's portfolio that do not meet the investment objectives and investment strategies of the applicable Continuing Fund and holding a higher than normal level of cash, money market instruments and other short term investments; the Terminating Funds will seek to invest cash in exchange traded funds or derivatives (such as futures) for the purpose of gaining exposure to equity markets while maintaining liquidity; the equity markets and securities underlying the exchange traded funds and derivatives purchased during this period may provide the funds with exposure to certain equity markets and issuers that the funds would typically not invest in; as a result, for a brief period of time prior to the Current Mergers each of the Terminating Funds may not be fully invested in accordance with its investment objectives;
 - (b) the value of the Terminating Funds' portfolio and other assets will be determined at the close of business on the effective date of the Current Mergers, in accordance with the declaration of trust of each of the Terminating Funds;
 - (c) the Continuing Funds will acquire the investment portfolio and other assets of the Terminating Funds in exchange for units of the Continuing Funds;
 - (d) the Continuing Funds will not assume liabilities of the Terminating Funds and the Terminating Funds will retain sufficient assets to satisfy their estimated liabilities, if any, as of the date of the Current Mergers;
 - (e) each of the Terminating Funds will distribute a sufficient amount of its net income and net realized capital gains to

- unitholders to ensure that it will not be subject to tax for its current tax year ending on the date of the Current Mergers;
- (f) the units of the Continuing Funds received by the Terminating Funds will have an aggregate net asset value equal to the respective value of the portfolio assets and other assets that the Continuing Funds acquire from the Terminating Funds, and the units of the Continuing Funds will be issued at the applicable series net asset value per unit as of the close of business on the effective date of the Current Mergers;
 - (g) immediately thereafter, the units of the Continuing Funds received by the Terminating Funds will be distributed to unitholders of the Terminating Funds in exchange for their units in the Terminating Funds on a dollar-for-dollar and class-by-class basis;
 - (h) as soon as reasonably possible following the Current Mergers, the Terminating Funds will be wound up;
16. the Terminating Funds and the Continuing Funds are, and are expected to continue to be at all material times, mutual fund trusts under the *Income Tax Act* (Canada) (the Tax Act) and, accordingly, units of each of the Funds are "qualified investments" under the Tax Act for registered retirement savings plans, registered retirement income funds, deferred profit sharing plans, registered education savings plans, registered disability savings plans and tax-free savings accounts;
 17. the Filer will pay all costs and reasonable expenses relating to the solicitation of proxies and holding the unitholder meetings in connection with the Current Mergers, as well as the costs of implementing the Current Mergers;
 18. approval of the Principal Regulator for the Current Mergers is required because the Current Mergers do not satisfy all of the criteria for pre-approved reorganizations and transfers as set out in section 5.6 of NI 81-102 because the fundamental investment objectives of the Terminating Funds are not substantially similar to the fundamental investment objectives of the Continuing Funds and because the Current Mergers are not tax deferred transactions as described in section 5.6(1)(b) of NI 81-102;
 19. the tax implications of the Current Mergers as well as the differences between the Terminating Funds and the Continuing Funds are described in the Meeting Materials delivered to unitholders of the Terminating Funds prior to the unitholder meetings;
 20. the Filer believes that the Current Mergers will be beneficial to unitholders of the Terminating Funds for the following reasons:
 - (a) unitholders of the Terminating Funds may have the potential to enjoy increased economies of scale with respect to operating costs and administrative expenses as part of a larger continuing fund;
 - (b) by merging the Terminating Funds instead of terminating them (which is one option that would be considered by the Filer if the Current Mergers were not approved) there will be a savings for the Terminating Funds in brokerage charges associated with the liquidation of the Terminating Funds' portfolio on a wind-up; the unitholders of the Terminating Funds will not be responsible for the costs associated with the Current Mergers;
 - (c) the Current Mergers will eliminate the administrative and regulatory costs of operating the Terminating Funds as separate mutual funds;
 - (d) each of the Continuing Funds will have a portfolio of greater value, allowing for increased portfolio diversification opportunities;
 - (e) for both the Class A and Class F units of the Terminating Funds a lower management fee is charged to unitholders of the corresponding classes of the Continuing Funds after the Current Mergers (the Funds do not pay a management fee in respect of Class I and Class I (H) units as each investor and those units pay the negotiated management fee directly to the Filer).

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 Current Mergers and the Future Mergers (collectively, the Mergers) are approved provided that:

- (a) the information circular sent to securityholders in connection with a Merger provides sufficient information about the Merger to permit securityholders to make an informed decision about the Merger;

- (b) the management information circular sent to unitholders in connection with a Merger prominently discloses that unitholders can obtain the most recent interim and annual financial statements of the applicable Continuing Fund by contacting their dealer, by calling Dimensional collect, by emailing Dimensional, or by accessing the SEDAR website at www.sedar.com ;
- (c) upon request by a unitholder for financial statements, Dimensional makes best efforts to provide the unitholder with financial statements of the applicable continuing fund in a timely manner so that the unitholder can make an informed decision regarding a Merger;
- (d) each applicable terminating fund and the applicable continuing fund with respect to a Merger has an unqualified audit report in respect of its last completed financial period; and
- (e) the material sent to securityholders in respect of a Merger includes a tailored simplified prospectus consisting of:
 - (i) the current Part A of the simplified prospectus of the applicable continuing fund, and
 - (ii) the current Part B of the simplified prospectus of the applicable continuing fund.

This Decision, as it relates to the jurisdiction of a Decision Maker, will terminate one year after the publication in final form of any legislation or rule of that Decision Maker dealing with matters in paragraph 5.5(1)(b) of NI 81-102.

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

2.1.7 Fidelity Investments Canada ULC – s. 27

Headnote

Section 27 of the Securities Act (Ontario) – amendment of the terms and conditions placed upon registration pursuant to previous decision exempting mutual fund dealer and portfolio manager from the requirement to be a member of the Mutual Fund Dealers Association of Canada – definition of “Permitted Client” expanded to include relatives related, through their relationship to their spouses, to an Executive or Employee or to an Executive or Employee of a Service Provider – definition of “Registrant” amended to reflect change of name.

Statute Cited

Securities Act (Ontario), R.S.O. 1990, c. S.5, as am.

Rule Cited

Ontario Securities Commission Rule 31-506 SRO Membership – Mutual Fund Dealers (revoked).
National Instrument 31-103 Registration Requirements and Exemptions.

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

AND

**IN THE MATTER OF
FIDELITY INVESTMENTS CANADA ULC**

**DECISION
(Section 27 of the Act)**

UPON the Director having received an application (the **Application**) pursuant to section 27 of the Act from Fidelity Investments Canada ULC (the **Filer**) to amend the terms and conditions (the **Existing Terms and Conditions**) placed upon the Filer’s registration as a mutual fund dealer pursuant to a decision of the Director dated March 14, 2002 (the **Original Decision**) and subsequently varied in a decision of the Director dated December 23, 2002 (the **Variation Decision**), so as to:

- (a) expand the scope of the extended family members who may be its clients to include relatives related, through their relationship to their spouses, to an Executive or Employee (each as defined in the Existing Terms and Conditions) of the Filer or to an Executive or Employee of a Service Provider (as defined in the Existing Terms and Conditions) of the Filer by amending the definition of “Permitted Client”; and
- (b) reflect the change of name of the Filer from its former name of “Fidelity Investments Canada Limited” by amending the definition of “Registrant”;

UPON considering the Application and the recommendation of staff of the Ontario Securities Commission;

AND UPON the Filer having represented to the Director that:

1. The Filer is a corporation continued under the laws of Alberta, having its head office in Toronto.
2. The Filer is registered under the Act as a dealer in the category of mutual fund dealer and as an adviser in the category of portfolio manager. The Filer is also registered under the *Commodity Futures Act* (Ontario) as an adviser in the category of commodity trading manager.
3. The Filer is the manager of a number of mutual funds that it has established and will be the manager of other mutual funds it expects to establish in the future.
4. The securities of the mutual funds managed by the Filer are generally sold to the public through other registered dealers.
5. The Filer’s trading activities as a mutual fund dealer currently represent and will continue to represent activities that are incidental to its principal business activities.

6. Pursuant to the Original Decision, the Filer was exempted, under its former name of "Fidelity Investments Canada Limited", from the requirement to be a member of the Mutual Fund Dealers Association (the MFDA) under Ontario Securities Commission Rule 31-506 *SRO Membership – Mutual Fund Dealers*, now revoked and replaced by section 9.2 of National Instrument 31-103 *Registration Requirements and Exemptions*, subject to a proviso that the Filer comply with terms and conditions on its registration as a mutual fund dealer set out in Schedule "A" to the Original Decision.
7. Subsequently, pursuant to the Variation Decision, the terms and conditions on the Filer's registration as a mutual fund dealer pertaining to the deadline in respect of certain permitted activities for a transitional period were modified.
8. The Existing Terms and Conditions refer to the Filer's former name of "Fidelity Investments Canada Limited", which has changed to its current name on September 26, 2007, at the time the corporation was continued into Alberta.
9. The Existing Terms and Conditions permits the Filer to accept a wide range of extended family members who are blood relatives of an Executive or Employee (each as defined in the Existing Terms and Conditions) of the Filer or of a Service Provider (as defined in the Existing Terms and Conditions) as its clients in respect of trades in mutual fund securities, but does not permit the Filer to accept as clients relatives related to such persons through their relationship to their spouses (as defined in the Existing Terms and Conditions) who have the same degree of familial connection to the spouse.
10. This aspect of the Existing Terms and Conditions prevents the Filer from accepting as clients members of the extended families of the individuals referred to in paragraph 9 who, the Filer submits, ought to be permitted as clients under the exemption from the requirement to obtain MFDA membership given the way in which extended facilities function in modern society.
11. Any person or company that is not currently a client of the Filer will, before they are accepted as a client of the Filer, receive written notice from the Filer that:

The Filer is not currently a member, and does not intend to become a member, of the Mutual Fund Dealers Association of Canada (the MFDA); consequently, clients of the Filer will not have available to them investor protection benefits that would otherwise derive from membership of the Filer in the MFDA, including coverage under the MFDA Investor Protection Corporation (being the investor protection plan for clients of members of the MFDA).

Accordingly, the individuals who are proposed to be added to the scope of eligible clients would receive the above notice.
12. The Filer has agreed to the imposition of terms and conditions (the **New Terms and Conditions**), set out in the attached Schedule A, as a condition of its registration under the Act as a dealer in the category of mutual fund dealer in replacement of the Existing Terms and Conditions.

AND UPON the Director being satisfied that the Filer is suitable for registration under the Act and that the proposed amendment to registration is not otherwise objectionable;

IT IS THE DECISION of the Director, pursuant to section 27 of the Act, that the Existing Terms and Conditions to the Filer's registration as a mutual fund dealer be replaced with the New Terms and Conditions.

November 19, 2009

"Erez Blumberger"
Manager, Registrant Regulation

Schedule "A"

TERMS AND CONDITIONS OF REGISTRATION

OF

**FIDELITY INVESTMENTS CANADA ULC
AS A MUTUAL FUND DEALER**

Definitions

1. For the purposes hereof, except as otherwise defined below or unless the context otherwise requires, defined terms contained in National Instrument 14-101 *Definitions* have the same meaning in this Schedule "A".

2. For the purposes hereof, unless the context otherwise requires:

- (a) "Act" means the *Securities Act*, R.S.O. 1990, c. S.5, as amended;
- (b) "Adviser" means an adviser as defined in subsection 1(1) of the Act;
- (c) "Client Name Trade" means, for the Registrant, a trade to, or on behalf of, a person or company, in securities of a mutual fund, that is managed by the Registrant or an affiliate of the Registrant, where the person or company is shown on the records of the mutual fund or of another mutual fund managed by the Registrant or an affiliate of the Registrant as the holder of securities of such mutual fund, and the trade consists of:
 - (A) a purchase, by the person or company, through the Registrant, of securities of the mutual fund; or
 - (B) a redemption, by the person or company, through the Registrant, of securities of the mutual fund;

and where, the person or company is either a client of the Registrant that was not solicited by the Registrant or was an existing client of the Registrant on the Effective Date;

- (d) "Commission" means the Ontario Securities Commission;
- (e) "Effective Date" means November 19, 2009;
- (f) "Employee", for the Registrant, means:
 - (A) an employee of the Registrant;
 - (B) an employee of an affiliated entity of the Registrant; or
 - (C) an individual that is engaged to provide, on a bona fide basis, consulting, technical, management or other services to the Registrant or to an affiliated entity of the Registrant, under a written contract between the Registrant or the affiliated entity and the individual or a consultant company or consultant partnership of the individual, and, in the reasonable opinion of the Registrant, the individual spends or will spend a significant amount of time and attention on the affairs and business of the Registrant or an affiliated entity of the Registrant;
- (g) "Employee", for a Service Provider, means an employee of the Service Provider or an affiliated entity of the Service Provider, provided that, at the relevant time, in the reasonable opinion of the Registrant, the employee spends or will spend, a significant amount of time and attention on the affairs and business of:
 - (A) the Registrant or an affiliated entity of the Registrant; or
 - (B) a mutual fund managed by the Registrant or an affiliated entity of the Registrant;
- (h) "Executive", for the Registrant, means a director, officer or partner of the Registrant or of an affiliated entity of the Registrant;

- (i) “Executive”, for a Service Provider, means a director, officer or partner of the Service Provider or of an affiliated entity of the Service Provider;
- (j) “Exempt Trade”, for the Registrant, means:
 - (i) a trade in securities of a mutual fund that is made between a person or company and an underwriter acting as purchaser or between or among underwriters; or
 - (ii) a trade in securities of a mutual fund for which the Registrant would be required to be registered under the Act as a dealer in the category of exempt market dealer;
- (k) “Fund-on-Fund Trade”, for the Registrant, means a trade that consists of:
 - (i) a purchase, through the Registrant, of securities of a mutual fund that is made by another mutual fund;
 - (ii) a purchase, through the Registrant, of securities of a mutual fund that is made by a counterparty, an affiliated entity of the counterparty or an other person or company, pursuant to an agreement to purchase the securities to effect a hedge of a liability relating to a contract for a specified derivative or swap made between the counterparty and another mutual fund; or
 - (iii) a sale, through the Registrant, of securities of a mutual fund that is made by another mutual fund where the party purchasing the securities is:
 - (A) a mutual fund managed by the Registrant or an affiliated entity of the Registrant; or
 - (B) a counterparty, affiliated entity or other person or company that acquired the securities pursuant to an agreement to purchase the securities to effect a hedge of a liability relating to a contract for a specified derivative or swap made between the counterparty and another mutual fund; and

where, in each case, at least one of the referenced mutual funds is a mutual fund that is managed by either the Registrant or an affiliated entity of the Registrant;
- (l) an “In Furtherance Trade” means, for the Registrant, a trade by the Registrant that consists of any act, advertisement, or solicitation, directly or indirectly in furtherance of an other trade in securities of a mutual fund, where the other trade consists of:
 - (i) a purchase or sale of securities of a mutual fund that is managed by the Registrant or an affiliated entity of the Registrant; or
 - (ii) a purchase or sale of securities of a mutual fund where the Registrant acts as the principal distributor of the mutual fund; and

where, in each case, the purchase or sale is made by or through an other registered dealer if the Registrant is not otherwise permitted to make the purchase or sale pursuant to these terms and conditions;
- (m) “Mutual Fund Instrument” means National Instrument 81-102 Mutual Funds, as amended;
- (n) “Permitted Client”, for the Registrant, means a person or company that is a client of the Registrant, and that is, or was at the time the person or company became a client of the Registrant:
 - (i) an Executive or Employee of the Registrant;
 - (ii) a Related Party of an Executive or Employee of the Registrant;
 - (iii) a Related Party of the spouse of an Executive or Employee of the Registrant;
 - (iv) a Service Provider of the Registrant or an affiliated entity of a Service Provider of the Registrant;
 - (v) an Executive or Employee of a Service Provider of the Registrant;
 - (vi) a Related Party of an Executive or Employee of a Service Provider of the Registrant; or

- (vii) a Related Party of the spouse of an Executive or Employee of a Service Provider of the Registrant;
 - (o) "Permitted Client Trade" means, for the Registrant, a trade to a person who is a Permitted Client or who represents to the Registrant that he or she is a person included in the definition of Permitted Client, in securities of a mutual fund that is managed by the Registrant or an affiliate of the Registrant, and the trade consists of a purchase or redemption, by the person, through the Registrant, of securities of the mutual fund;
 - (p) "Registered Plan" means a registered pension plan, deferred profit sharing plan, registered retirement savings plan, registered retirement income fund, registered education savings plan or other deferred income plan registered under the Income Tax Act (Canada);
 - (q) "Registrant" means Fidelity Investment Canada ULC;
 - (r) "Regulation" means R.R.O. 1990, Reg. 1015, as amended, made under the Act;
 - (s) "Related Party", for a person, means an other person who is:
 - (i) the spouse of the person;
 - (ii) the issue of:
 - (A) the person,
 - (B) the spouse of the person, or
 - (C) the spouse of any person that is the issue of a person referred to in subparagraphs (A) or (B) above;
 - (iii) the parent, grandparent or sibling of the person, or the spouse of any of them;
 - (iv) the issue of any person referred to in paragraph (iii) above; or
 - (v) a Registered Plan established by, or for the exclusive benefit of, one, some or all of the foregoing;
 - (vi) a trust where one or more of the trustees is a person referred to above and the beneficiaries of the trust are restricted to one, some, or all of the foregoing; or
 - (vii) a corporation where all the issued and outstanding shares of the corporation are owned by one, some, or all of the foregoing;
 - (t) "securities", for a mutual fund, means shares or units of the mutual fund;
 - (u) "Seed Capital Trade" means a trade in securities of a mutual fund made to a person or company referred to in any of subparagraphs 3.1(1)(a)(i) to 3.1(1)(a)(iii) of the Mutual Fund Instrument; and
 - (v) "Service Provider", for the Registrant, means:
 - (i) a person or company that provides or has provided professional, consulting, technical, management or other services to the Registrant or an affiliated entity of the Registrant;
 - (ii) an Adviser to a mutual fund that is managed by the Registrant or an affiliated entity of the Registrant; or
 - (iii) a person or company that provides or has provided professional, consulting, technical, management or other services to a mutual fund that is managed by the Registrant or an affiliated entity of the Registrant
3. For the purposes hereof, a person or company is considered to be an "affiliated entity" of another person or company if one is a subsidiary entity of the other or if both are subsidiary entities of the same person or company, or if each of them is controlled by the same person or company.

4. For the purposes hereof, a person or company is considered to be controlled by a person or company if:
- (a) in the case of a person or company
 - (i) voting securities of the first-mentioned person or company carrying more than 50 percent of the votes for the election of directors are held, otherwise than by way of security only, by or for the benefit of the other person or company; and
 - (ii) the votes carried by the securities are entitled, if exercised, to elect a majority of the directors of the first-mentioned person or company;
 - (b) in the case of a partnership that does not have directors, other than a limited partnership, the second-mentioned person or company holds more than 50 percent of the interests in the partnership; or
 - (c) in the case of a limited partnership, the general partner is the second-mentioned person or company.
5. For the purposes hereof, a person or company is considered to be a subsidiary entity of another person or company if:
- (a) it is controlled by
 - (i) that other; or
 - (ii) that other and one or more persons or companies, each of which is controlled by that other; or
 - (iii) two or more persons or companies, each of which is controlled by that other; or
 - (b) it is a subsidiary entity of a person or company that is that other's subsidiary entity.
6. For the purposes hereof:
- (a) "issue", "niece", "nephew" and "sibling" includes any person having such relationship through adoption, whether legally or in fact;
 - (b) "parent" and "grandparent" includes a parent or grandparent through adoption, whether legally or in fact;
 - (c) "registered dealer" means a person or company that is registered under the Act as a dealer in a category that permits the person or company to act as dealer for the subject trade; and
 - (d) "spouse", for an Employee or Executive, means a person who, at the relevant time, is the spouse of the Employee or Executive.
7. Any terms that are not otherwise defined in National Instrument 14-101 Definitions or specifically defined above shall, unless the context otherwise requires, have the meaning:
- (a) specifically ascribed to such term in the Mutual Fund Instrument; or
 - (b) if no meaning is specifically ascribed to such term in the Mutual Fund Instrument, the same meaning the term would have for the purposes of the Act.

Restricted Registration

Permitted Activities

8. The registration of the Registrant as a mutual fund dealer under the Act shall be for the purposes only of trading by the Registrant in securities of a mutual fund where the trade consists of:
- (a) a Client Name Trade;
 - (b) an Exempt Trade;
 - (c) a Fund-on-Fund Trade;
 - (d) an In Furtherance Trade;

(e) a Permitted Client Trade; or

(f) a Seed Capital Trade;

provided that, in the case of all trades that are only referred to in clauses (a) or (e), the trades are limited and incidental to the principal business of the Registrant.

2.1.8 Barclays Global Investors Canada Limited et al.

Headnote

Multilateral Instrument 11-102 Passport System – National Instrument 81-102 Mutual Funds – A mutual fund manager seeks approval of proposed current fund mergers and future fund mergers under the approval requirements in NI 81-102 – The continuing fund will include a component of the fundamental investment objective of the terminating fund in the continuing funds' objectives; the funds' independent review committee approved the merger; unitholders will vote on the proposed merger; terminating fund unitholders will receive alternate prospectus level disclosure; the tax consequences of the merger are as beneficial to unitholders as if the merger was on a tax-deferred basis; unitholders can redeem their units of the terminating fund before the merger. – Future fund mergers comply with the pre-approved merger requirements in NI 81-102 except that the Manager will provide alternate prospectus level disclosure instead of the prospectus and financial statements for the terminating funds.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, s. 5.5.

November 17, 2009

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO

AND

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

AND

IN THE MATTER OF
BARCLAYS GLOBAL INVESTORS
CANADA LIMITED (BGICL) AND
BARCLAYS GLOBAL INVESTORS, N.A. (BGINA)
(the Filers)

AND

IN THE MATTER OF
THE NI 81-102 FUNDS (as defined below) AND
THE POOLED FUNDS (as defined below)

DECISION

Background

The securities regulatory authority or regulator in Ontario received an application (the **Application**) from the Filers under the securities legislation of the principal regulator (the **Legislation**) for a decision providing an exemption from the requirements that prohibit a mutual fund from knowingly making or holding an investment in any person or company who is a substantial security holder of the mutual fund, its management company or distribution company or in an issuer in which any person or company who is a substantial security holder of the mutual fund, its management company or its distribution company has a significant interest (in each case, a **Related Issuer**), in order to permit:

- (i) existing mutual funds and future mutual funds of which BGICL is the investment fund manager to which National Instrument 81-102 – *Mutual Funds* (**NI 81-102**) applies (each, an **NI 81-102 Fund** and, collectively, the **NI 81-102 Funds**) and existing mutual funds and future mutual funds of which BGICL is the investment fund manager to which NI 81-102 does not apply (each, a **Pooled Fund** and, collectively the **Pooled Funds**) to purchase certain non-exchange-traded debt securities of a Related Issuer in the secondary market; and
- (ii) a Pooled Fund to purchase exchange-traded securities of a Related Issuer in the secondary market.

(the **Exemption Sought**).

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions:

- (a) the Ontario Securities Commission is the principal regulator for the Application; and
- (b) the Filers have provided notice that Section 4.7(1) of Multilateral Instrument 11-102 – *Passport System* (**MI 11-102**) is intended to be relied upon in Alberta, British Columbia, Saskatchewan, New Brunswick, Nova Scotia and Newfoundland and Labrador (the **Passport Jurisdictions**).

Interpretation

Terms defined in MI 11-102, National Instrument 14-101 – Definitions, NI 81-102 and National Instrument 81-107 – *Independent Review Committee for Investment Funds* (**NI 81-107**), have the same meaning if used in this decision, unless otherwise defined.

Representations

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

1. The head office of BGICL is located in Toronto, Ontario. The head office of BGINA is located in San Francisco, California.
2. BGICL is registered as a portfolio manager in Ontario and in each of the Passport Jurisdictions (together, the **Jurisdictions**), as a commodity trading manager in Ontario and as an exempt market dealer in Ontario and Newfoundland and Labrador. BGICL expects that, in due course, it will be registered as an exempt market dealer in each of the Jurisdictions and as an investment fund manager in Ontario and in one or more Passport Jurisdictions as necessary.
3. BGINA is registered as a portfolio manager in Ontario (operating under OSC Rule 35-502 conditions for international advisers). BGINA expects that, in due course, it will rely on the international adviser exemption in NI 31-103 or obtain registration as a portfolio manager in one or more Jurisdictions as necessary.
4. BGICL is, or will be, the investment fund manager of each of the NI 81-102 Funds and the Pooled Funds (each, a **Fund**, and collectively, the **Funds**), each of which is, or will be, organized under the laws of Ontario.
5. Each of the existing NI 81-102 Funds is a reporting issuer in each of the Jurisdictions and is listed on the Toronto Stock Exchange.
6. None of the Pooled Funds are, or will be, a reporting issuer in any of the Jurisdictions.
7. One or more of the Funds is, or will be, an index fund, the investment objective of which is to replicate the performance of an index.
8. A Filer is, or will be, the portfolio manager of each of the Funds.
9. BGINA is, or may be, the sub-adviser of each of the Funds.
10. Each of the Filers is currently, indirectly, a subsidiary of Barclays Bank PLC (**Barclays Bank**) which is wholly-owned by Barclays PLC (**Barclays**).
11. Barclays Bank has entered into an agreement to sell (the **Transaction**) its interest in the Barclays Global Investors asset management business, including the iShares business, which includes selling all of its securities of BGICL and BGINA, directly or indirectly, to BlackRock, Inc. (**BlackRock**).
12. Following the closing of the Transaction it has been announced that:
 - (i) BlackRock will hold, directly or indirectly, all of the outstanding securities of BGICL and BGINA; and
 - (ii) The PNC Financial Services Group, Inc. (**PNC**) will hold, indirectly through its holding in BlackRock, approximately 32.8% of the outstanding voting securities of BGICL and BGINA and approximately 24.6% of the outstanding securities of BGICL and BGINA.

13. Each of BlackRock and PNC is a reporting issuer in the United States, the equity securities of which are listed on the New York Stock Exchange.
14. BlackRock, which will be a Related Issuer with respect to a Fund because it will be a substantial security holder of BGICL, currently manages fixed income, cash management, equity and alternative investment products on behalf of institutional and individual investors worldwide. BlackRock also offers risk management, investment system outsourcing and financial advisory services to institutional investors worldwide.
15. PNC will be a Related Issuer with respect to a Fund because it will be a substantial security holder of BGICL and BGINA.
16. Any issuer in which BlackRock or PNC holds a significant interest will also be a Related Issuer.
17. BGICL will establish an independent review committee (IRC) (the members of which may also be members of the IRC of the NI 81-102 Funds) in respect of each Pooled Fund. The IRC of the Pooled Fund will be composed by BGICL in accordance with section 3.7 of NI 81-107 and will be expected to comply with the standard of care set out in section 3.9 of NI 81-107, as if NI 81-107 applied to the Pooled Fund.
18. The mandate of the IRC established in respect of the Pooled Funds includes, or will include, reviewing and approving purchases of securities issued by a Related Issuer. Further, the IRC of the Pooled Fund will not approve the purchase of securities in a Related Issuer unless it has made the determination set out in section 5.2(2) of NI 81-107.
19. Section 6.2 of NI 81-107 provides an exemption for the NI 81-102 Funds to invest in exchange-traded securities of Related Issuers in the secondary market. That exemption does not apply to the Pooled Funds and does not permit any of the Funds to purchase non-exchange-traded securities issued by Related Issuers. Some securities issued by a Related Issuer, such as debt securities, are not listed and traded.
20. Some of the Related Issuers are, or may be, issuers of non-exchange-traded debt securities that have an "approved credit rating" within the meaning of NI 81-102. The Filers consider that the Funds should have access to such securities for the following reasons:
 - (a) There is currently and has been for several years a very limited supply of such securities; to limit the supply available to the Funds even further by removing debt issued by a Related Issuer puts the Funds at a competitive disadvantage and may increase the cost a Fund pays for available securities.
 - (b) Diversification is reduced to the extent that a Fund is limited with respect to investment opportunities.
 - (c) To the extent that a Fund is trying to track or outperform a benchmark, it is important for the Fund to be able to purchase any securities included in the benchmark; debt securities of the Related Issuers may be included in a number of debt indices.
21. BGICL and BGINA are seeking the Exemption Sought because securities of BlackRock, PNC or other Related Issuers that are exchange-traded may be appropriate for the Pooled Funds to invest in and debt securities of BlackRock, PNC or other Related Issuers that are non-exchange-traded may be appropriate for the Funds to invest in.
22. In respect of the Funds which are index funds, the Exemption Sought is required because exchange-traded and non-exchange-traded securities of BlackRock, PNC or other Related Issuers may be included in an index which a Fund seeks to replicate.
23. Each purchase of non-exchange-traded debt securities of a Related Issuer will occur in the secondary market and not under primary distributions or treasury offerings of a Related Issuer.
24. Each non-exchange-traded debt security of a Related Issuer purchased by a Fund will have, at the time of the purchase, an "approved credit rating" by an "approved credit rating organization" within the meaning of those terms in NI 81-102.
25. If a Fund's purchase of non-exchange-traded debt securities issued by a Related Issuer involves an inter-fund trade with another fund to which NI 81-107 applies, the provisions of section 6.1(2) of NI 81-107 will apply to such transaction.

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:

- (a) to permit an NI 81-102 Fund or a Pooled Fund to make and hold an investment in non-exchange-traded debt securities of a Related Issuer in the secondary market on the following conditions:
 - A. the purchase or holding is consistent with, or is necessary to meet, the investment objective of the Fund;
 - B. the applicable IRC of the Fund has approved the transaction in accordance with Section 5.2(2) of NI 81-107;
 - C. BGICL complies with section 5.1 of NI 81-107 and BGICL and the applicable IRC of the Fund comply with section 5.4 of NI 81-107 for any standing instructions the applicable IRC provides in connection with the transaction;
 - D. the price payable for the security is not more than the ask price of the security;
 - E. the ask price of the security is determined as follows:
 - (1) if the purchase occurs on a marketplace, the price payable is determined in accordance with the requirements of that marketplace; or
 - (2) if the purchase does not occur on a marketplace,
 - A. the Fund may pay the price for the security at which an independent, arm's-length seller is willing to sell the security, or
 - B. if the Fund does not purchase the security from an independent, arm's-length seller, consistent with Commentary 7 of Section 6.1 of NI 81-107, the Fund must pay the price quoted publicly by an independent marketplace or obtain, immediately before the purchase, at least one quote from an independent, arm's-length purchaser or seller and not pay more than that quote;
 - F. the transaction complies with any applicable "market integrity requirements" as defined in NI 81-107; and
 - G. no later than the 90th day after the end of each financial year, BGICL files with the securities regulatory authority or regulator the particulars of any such investments.
- (b) to permit a Pooled Fund to make and hold an investment in exchange-traded securities of a Related Issuer in the secondary market on the following conditions:
 - A. the purchase or holding is consistent with, or is necessary to meet, the investment objective of the Pooled Fund;
 - B. the IRC of the Pooled Fund has approved the transaction in accordance with Section 5.2(2) of NI 81-107;
 - C. the purchase is made on an exchange on which the securities are listed and traded; and
 - D. no later than the 90th day after the end of each financial year, BGICL files with the securities regulatory authority or regulator the particulars of any such investments.

"James Turner"
Vice-Chair
Ontario Securities Commission

"Margot Howard"
Commissioner
Ontario Securities Commission

2.1.9 Fidelity Investments Canada ULC and Pyramis Global Advisors, LLC

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Exemption granted to permit in-specie subscriptions and redemptions by separately managed accounts and pooled funds in mutual funds and pooled funds where portfolio manager of managed accounts is also portfolio manager of the mutual funds and the pooled funds.

Applicable Legislative Provisions

National Instrument 31-103 Registration Requirements, ss. 13.5(2)(b)(ii), 13.5(2)(b)(iii).
National Instrument 81-107 Independent Review Committee for Investment Funds, s. 6.1(4).

November 13, 2009

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO

AND

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

AND

IN THE MATTER OF
FIDELITY INVESTMENTS CANADA ULC
(FIC)

AND

PYRAMIS GLOBAL ADVISORS, LLC
(Pyramis)

(FIC and Pyramis are collectively, the Filers)

DECISION

Background

The principal regulator in the Jurisdiction (the **Principal Regulator**) has received an application from the Filers under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) for a decision providing an exemption from the prohibition in the Legislation that prohibits a registered adviser from knowingly causing an investment portfolio managed by it, including an investment fund for which it acts as an adviser, to purchase or sell a security from or to the investment portfolio of an associate of a responsible person, or from or to the investment portfolio of an investment fund for which a responsible person acts as an adviser (collectively the **Trading Prohibition Exemption Sought**), to permit **In-Specie Transactions** (as defined below) between (i) NI 81-102 Funds and Pooled Funds, (ii) NI 81-102 Funds and Managed Accounts, (iii) Pooled Funds and Pooled Funds and (iv) Pooled Funds and Managed Accounts (each as defined below).

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 Filers have 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, Manitoba, Quebec, Nova Scotia, New Brunswick, Prince Edward Island, Newfoundland and Labrador, Northwest Territories, Yukon and Nunavut (collectively, with Ontario, the **Jurisdictions**).

Interpretation

Defined terms contained in National Instrument 14-101 *Definitions* and MI 11-102 have the same meaning if used in this Decision. Certain other defined terms have the meanings given to them above or below under "Representations".

Representations

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

1. FIC is a corporation incorporated under the laws of Canada and subsequently continued, and thereafter amalgamated, under the laws of Ontario and thereafter continued under the laws of Alberta as an unlimited liability company and having its registered head office in Toronto, Ontario.
2. Pyramis is a limited liability company formed under the laws of the state of Delaware and having its head office in Smithfield, Rhode Island, U.S.A.
3. FIC is registered under the securities legislation of the Jurisdictions as a dealer in the category of mutual fund dealer and as an adviser in the categories of investment counsel and portfolio manager. FIC is also registered under the Commodity Futures Act as an adviser in the category of commodity trading manager.
4. Pyramis is registered under the securities legislation of Ontario as a non-Canadian advisor in the categories of investment counsel and portfolio manager and commodity trading manager (non-resident) and with the U.S. Securities Exchange Commission as an investment adviser.
5. FIC is the manager (and in some instances also the trustee) of certain existing investment funds that are subject to National Instrument 81-102 *Mutual Funds (NI 81-102)* (the **Existing NI 81-102 Funds**) and may be the manager (and in some instances also the trustee) of other investment funds to be established hereafter that will be subject to NI 81-102 (the **Future NI 81-102 Funds**, and collectively with the Existing NI 81-102 Funds, the **NI 81-102 Funds**, individually, an **NI 81-102 Fund**) and each of the Filers is, or may in the future be, the portfolio manager/investment counsel of one or more of the NI 81-102 Funds. Affiliates of the Filers act or may act as sub-advisors in respect of the NI 81-102 Funds.
6. The securities of each of the NI 81-102 Funds are or will be qualified for distribution pursuant to a simplified prospectus and annual information form that have been prepared or will be prepared and filed in accordance with the securities legislation of each of Ontario and one or more of the applicable provinces and territories of Canada (the **Prospectus**).
7. Each NI 81-102 Fund has or will have an independent review committee (**IRC**) established in accordance with the requirements of NI 81-107.
8. Either of FIC or Pyramis will be the portfolio manager/investment counsel, of certain existing investment funds (the **Existing Pooled Funds**) and investment funds to be established hereafter under the laws of Ontario (the **Future Pooled Funds**), the securities of which are offered pursuant to exemptions from the prospectus and, where available, registration requirements in the Jurisdictions (the Existing Pooled Funds and the Future Pooled Funds are collectively, the **Pooled Funds**. Affiliates of the Filers act or may act, as sub-advisors in respect of the Pooled Funds. FIC is or will be the manager and trustee of the Pooled Funds.
9. Set out in Schedule A hereto are the Existing NI 81-102 Funds and the Existing Pooled Funds.
10. The Pooled Funds together with the NI 81-102 Funds are collectively referred to herein as the "**Fidelity Funds**" and individually as a "**Fidelity Fund**".
11. The Filers, each NI 81-102 Fund, and each Pooled Fund are not in default of securities legislation in any jurisdiction of Canada.
12. The Filers and their affiliates offer discretionary portfolio management services to individuals, corporations and other entities (**Clients**) seeking wealth management or related services under a written agreement (**Managed Account Agreement**) in connection with a managed account (**Managed Account**) of the Client with one or the other of the Filers.
13. Pursuant to Managed Account Agreements entered into with the Clients, the Filers or their affiliates acting as sub-advisors, make investment decisions for each Managed Account and have full discretionary authority to trade in securities for each Managed Account without obtaining the specific consent or instructions of the Client to the trade.

14. The portfolio management/investment counsel services provided by the Filers to each Client consist of the following:
 - (a) each Client executes a Managed Account Agreement whereby the Client authorizes the respective Filer to supervise, manage and direct purchases and sales in the Client's Managed Account, at the Filer's full discretion on a continuing basis;
 - (b) the respective Filer's qualified employees (or employees of affiliates of the Filers) perform investment research, securities selection and portfolio management functions with respect to all securities, investments, cash and cash equivalents and other assets in the Managed Account;
 - (c) each Managed Account holds securities and other investments as selected by the respective Filer or of its affiliates in its sole discretion; and
 - (d) each Filer retains overall responsibility for the advice provided to its Clients and has designated a senior officer to oversee and supervise the Managed Account.
15. Each Filer's minimum Managed Account size is generally \$7.5 million, which may be waived at the Filers' discretion.
16. Investments in individual securities may at certain times not be appropriate in certain circumstances for a Filers' Clients. Consequently, a Filer may, where authorized under the Managed Account Agreement, from time to time invest Client assets in securities of any one or more of the Fidelity Funds in order to give their Clients the benefit of asset diversification, access to investment products with very high minimum investment levels and economies of scale regarding minimum commission charges on portfolio trades and generally to facilitate portfolio management.
17. The Filers wish to be able to enter into transactions that permit payment, in whole or in part, for units or shares of a Fidelity Fund (**Fund Securities**) purchased by a Managed Account to be made by making good delivery of securities, held by such Managed Account, to a Fidelity Fund, provided those securities meet the investment criteria of the Fidelity Fund.
18. Similarly, following a redemption of Fund Securities by a Managed Account, the Filers wish to be able to enter into transactions that permit payment, in whole or in part, of redemption proceeds to be satisfied by making good delivery of securities held in the investment portfolio of a Fidelity Fund to such Managed Account, provided those securities meet the investment criteria of the Managed Account. The Filers anticipate that such transactions will occur following a redemption of Fund Securities where a Managed Account invested in such Fidelity Fund has experienced a change in circumstances which results in the Managed Account being an ideal candidate for direct holdings of individual securities rather than Fund Securities.
19. In addition to purchases and redemptions of Fund Securities by a Managed Account being satisfied by making good delivery of securities, the Filers wish to be able to enter into such transactions for purchases and redemptions of Fund Securities between a Pooled Fund and a NI 81-102 Fund and between two Pooled Funds. This will occur where, as part of its portfolio management, a Pooled Fund wishes to obtain exposure to certain investments or category of asset classes invested in by a Fidelity Fund by investing in Fund Securities of the Fidelity Fund. The Filers wish to be able to enter into transactions that permit payment, in whole or in part, for the Fund Securities to be made by making good delivery of securities held by the Pooled Fund to the Fidelity Fund in which it seeks to invest. Similarly, following a redemption of Fund Securities, the Filers wish to be able to enter into transactions that permit payment, in whole or in part, of the redemption proceeds to be satisfied by making good delivery of securities held in the investment portfolio of the Fidelity Fund provided those securities meet the investment criteria of the Pooled Fund. (The transactions described in paragraphs 17 to 19 are hereinafter individually referred to as **In-Specie Transactions**).
20. Clients will consent to In-Specie Transactions with the Fidelity Funds prior to entering into In-Specie Transactions.
21. At the time of an In Specie Transaction, FIC, as manager of the NI 81-102 Funds, will have in place policies and procedures in connection with the NI 81-102 Funds engaging in In-Specie Transactions with the Pooled Funds and the Managed Accounts.
22. The Filers will value the securities under an In-Specie Transaction using the same values to be used on that day to calculate the net asset value for the purpose of the issue price or redemption price of Fund Securities.
23. The NI 81-102 Funds that may engage in In-Specie Transactions will include disclosure in that regard in the Prospectus of the NI 81-102 Funds.
24. None of the Fund Securities which are the subject of an In-Specie Transaction will be securities of related issuers of the Filers.

25. A Fidelity Fund will keep written records of the In-Specie Transactions, including records of each purchase and sale of securities and the terms thereof for a period of five years commencing after the end of the fiscal year in which the trade occurred, the most recent two years in a reasonably accessible place.
26. Since each Filer is the portfolio manager/investment counsel of the Managed Accounts and the Fidelity Funds, each Filer would be considered a "responsible person" within the meaning of the applicable provisions of the legislation in each of the Jurisdictions. Each Fidelity Fund is or will be an "associate" of FIC under applicable Legislation because FIC, as portfolio manager of a Fidelity Fund, serves or may serve as trustee of a Fidelity Fund or in a similar capacity.
27. Prior to entering into an In-Specie Transaction involving a Fidelity Fund and/or Managed Account, the proposed transaction will be reviewed to ensure that the conditions of the Trading Prohibition Exemption Sought are or will be met at the time of the transaction and to determine that the transaction represents the business judgment of the entity that is exercising its discretion on behalf of the Fidelity Fund and/or the Managed Account, uninfluenced by considerations other than the best interests of the Fidelity Fund and/or Managed Account.
28. In the absence of the Trading Prohibition Exemption Sought, the Filers would be prohibited from (a) causing a Managed Account to execute an In-Specie Transaction with a Fidelity Fund; and (b) causing a Fidelity Fund to execute an In-Specie Transaction with a Managed Account or with a Pooled Fund.

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 Trading Prohibition Exemption Sought is granted provided that:

- (a) in connection with an In Specie Transaction where a Managed Account acquires Fund Securities:
 - (i) where the Fidelity Fund is a NI 81-102 Fund,
 - (a) the manager of the NI 81-102 Fund obtains the approval of the IRC of the NI 81-102 Fund in respect of an In-Specie Transaction in accordance with the terms of section 5.2(2) of NI 81-107; and
 - (b) the manager of the NI 81-102 Fund and the IRC of the NI 81-102 Fund comply with the requirements of section 5.4 of NI 81-107 for any standing instructions the IRC provides in respect of an In-Specie Transaction;
 - (ii) the Filer or its affiliate (as applicable) obtains the prior written consent of the Client of the Managed Account before it engages in any In-Specie Transaction;
 - (iii) the Fidelity Fund would, at the time of payment, be permitted to purchase the securities;
 - (iv) the securities are acceptable to the portfolio manager of the Fidelity Fund and consistent with the Fidelity Fund's investment objective;
 - (v) the value of the securities is at least equal to the issue price of the Fund Securities of the Fidelity Fund for which they are used as payment, valued as if the securities were portfolio assets of that Fidelity Fund;
 - (vi) the account statement next prepared for the Managed Account describes the securities delivered to the Fidelity Fund and the value assigned to such securities;
 - (vii) the Fidelity Fund will keep written records of each In-Specie Transaction in a financial year of the Fidelity Fund, reflecting details of the securities delivered to the Fidelity Fund and the value assigned to such securities, for five years after the end of the financial year, the most recent two years in a reasonable accessible place;
- (b) in connection with an In Specie Transaction where a Managed Account redeems Fund Securities:
 - (i) where the Fidelity Fund is a NI 81-102 Fund,

- (a) the manager of the NI 81-102 Fund, obtains the approval of the IRC of the NI 81-102 Fund in respect of an In-Specie Transaction in accordance with the terms of section 5.2(2) of NI 81-107; and
 - (b) the manager of the NI 81-102 Fund and the IRC of the NI 81-102 Fund comply with the requirements of section 5.4 of NI 81-107 for any standing instructions the IRC provides in respect of an In-Specie Transaction;
 - (ii) the Filer or its affiliate (as applicable) obtains the prior written consent of the Client of the Managed Account before it engages in an In-Specie Transaction;
 - (iii) the securities are acceptable to the portfolio manager of the Managed Account and consistent with the Managed Account's investment objective;
 - (iv) the value of the securities is equal to the amount at which those securities were valued in calculating the net asset value per security used to establish the redemption price;
 - (v) the Client of the Managed Account has not provided notice to terminate the Managed Account Agreement;
 - (vi) the account statement next prepared for the Managed Account describes the securities delivered to the Managed Account and the value assigned to such securities;
 - (vii) the Fund will keep written records of each In-Specie Transaction in a financial year of the Fidelity Fund, reflecting details of the securities delivered by the Fidelity Fund and the value assigned to such securities, for five years after the end of the financial year, the most recent two years in a reasonably accessible place; and
- (c) in connection with an In Specie Transaction where a Pooled Fund purchases Fund Securities:
- (i) where the Fidelity Fund is a NI 81-102 Fund,
 - (a) the manager of the NI 81-102 Fund, obtains the approval of the IRC of the NI 81-102 Fund in respect of an In-Specie Transaction in accordance with the terms of section 5.2(2) of NI 81-107; and
 - (b) the manager of the NI 81-102 Fund and the IRC of the NI 81-102 Fund comply with the requirements of section 5.4 of NI 81-107 for any standing instructions the IRC provides in respect of an In-Specie Transaction;
 - (ii) the Fidelity Fund would, at the time of payment, be permitted to purchase the securities;
 - (iii) the securities are acceptable to the portfolio manager of the Fidelity Fund and consistent with such Fidelity Fund's investment objective;
 - (iv) the value of the securities is equal to the issue price of the Fund Securities of the Fidelity Fund, valued as if the securities were portfolio assets of that Fidelity Fund;
 - (v) the Fidelity Fund will keep written records of each In-Specie Transaction in a financial year of the Fidelity Fund, reflecting details of the securities delivered to the Fidelity Fund and the value assigned to such securities, for five years after the end of the financial year, the most recent two years in a reasonable accessible place; and
- (d) in connection with an In Specie Transaction where a Pooled Fund redeems Fund Securities:
- (i) where the Fidelity Fund is a NI 81-102 Fund,
 - (a) the manager of the NI 81-102 Fund, obtains the approval of the IRC of the NI 81-102 Fund in respect of an In-Specie Transaction in accordance with the terms of section 5.2(2) of NI 81-107; and

- (b) the manager of the NI 81-102 Fund and the IRC of the NI 81-102 Fund comply with the requirements of section 5.4 of NI 81-107 for any standing instructions the IRC provides in respect of an In-Specie Transaction;
 - (ii) the securities are acceptable to the portfolio manager of the Pooled Fund and consistent with the Pooled Fund's investment objective;
 - (iii) the value of the securities is equal to the amount at which those securities were valued in calculating the net asset value per security used to establish the redemption price;
 - (iv) the Fidelity Fund will keep written records of each In-Specie Transaction in a financial year of the Fidelity Fund, reflecting details of the securities delivered by the Fidelity Fund and the value assigned to such securities, for five years after the end of the financial year, the most recent two years in a reasonably accessible place;
- (e) the Filer or its affiliate (as applicable) does not receive any compensation in respect of any In-Specie Transaction and, in respect of any delivery of securities further to an In-Specie Transaction, the only charges paid by the Managed Account or the applicable Fidelity Fund is the commission charged by the dealer executing the trade and/or any administrative charges levied by the custodian.

"Darren McKall"
Assistant Manager, Investment Funds Branch
Ontario Securities Commission

SCHEDULE A

LIST OF EXISTING NI 81-102 FUNDS

Fidelity Canadian Disciplined Equity[®] Fund
Fidelity Canadian Growth Company Fund
Fidelity Canadian Large Cap Fund
Fidelity Canadian Opportunities Fund
Fidelity Dividend Fund
Fidelity Special Situations Fund
Fidelity True North[®] Fund
Fidelity American Disciplined Equity[®] Fund
Fidelity American Opportunities Fund
Fidelity American Value Fund
Fidelity Growth America Fund
Fidelity Small Cap America Fund
Fidelity AsiaStar[™] Fund
Fidelity China Fund
Fidelity Emerging Markets Fund
Fidelity Europe Fund
Fidelity Far East Fund
Fidelity Global Disciplined Equity[®] Fund
Fidelity Global Dividend Fund
Fidelity Global Fund
Fidelity Global Opportunities Fund
Fidelity Global Real Estate Fund
Fidelity International Disciplined Equity[™] Fund
Fidelity International Value Fund
Fidelity Japan Fund
Fidelity Latin America Fund
Fidelity NorthStar[®] Fund
Fidelity Overseas Fund
Fidelity Global Consumer Industries Fund
Fidelity Global Financial Services Fund
Fidelity Global Health Care Fund
Fidelity Global Natural Resources Fund
Fidelity Global Technology Fund
Fidelity Global Telecommunications Fund
Fidelity Canadian Asset Allocation Fund
Fidelity Canadian Balanced Fund
Fidelity Monthly Income Fund
Fidelity Global Asset Allocation Fund
Fidelity Global Monthly Income Fund
Fidelity ClearPath[™] 2005 Portfolio
Fidelity ClearPath[™] 2010 Portfolio
Fidelity ClearPath[™] 2015 Portfolio
Fidelity ClearPath[™] 2020 Portfolio
Fidelity ClearPath[™] 2025 Portfolio
Fidelity ClearPath[™] 2030 Portfolio
Fidelity ClearPath[™] 2035 Portfolio
Fidelity ClearPath[™] 2040 Portfolio
Fidelity ClearPath[™] 2045 Portfolio
Fidelity ClearPath[™] Income Portfolio
Fidelity Canadian Bond Fund
Fidelity Canadian Money Market Fund
Fidelity Canadian Short Term Bond Fund
Fidelity American High Yield Fund
Fidelity American High Yield Currency Neutral Fund
Fidelity U.S. Money Market Fund
Fidelity Global Bond Fund
Fidelity Global Bond Currency Neutral Fund
Fidelity Income Trust Fund
Fidelity Monthly High Income Fund

Fidelity Canadian Disciplined Equity[®] Class
Fidelity Canadian Growth Company Class
Fidelity Canadian Opportunities Class
Fidelity Dividend Class
Fidelity True North[®] Class
Fidelity American Disciplined Equity[®] Class
Fidelity American Opportunities Class
Fidelity Growth America Class
Fidelity Small Cap America Class
Fidelity AsiaStar[™] Class
Fidelity China Class
Fidelity Europe Class
Fidelity Far East Class
Fidelity Global Disciplined Equity[®] Class
Fidelity Global Class
Fidelity Global Dividend Class
Fidelity Global Real Estate Class
Fidelity International Disciplined Equity[™] Class
Fidelity Japan Class
Fidelity NorthStar[®] Class
Fidelity Global Consumer Industries Class
Fidelity Global Financial Services Class
Fidelity Global Health Care Class
Fidelity Global Natural Resources Class
Fidelity Global Technology Class
Fidelity Global Telecommunications Class
Fidelity Canadian Asset Allocation Class
Fidelity Canadian Balanced Class
Fidelity Income Class Portfolio
Fidelity Global Income Class Portfolio
Fidelity Balanced Class Portfolio
Fidelity Global Balanced Class Portfolio
Fidelity Growth Class Portfolio
Fidelity Global Growth Class Portfolio
Fidelity Canadian Short Term Income Class

LIST OF EXISTING POOLED FUNDS

Pyramis International Growth Trust
Pyramis Canadian Core Equity Trust
Pyramis Canadian Bond Trust
Pyramis Canadian Systematic Equity Trust
Pyramis U.S. Large Cap Core Trust
Pyramis U.S. Large Cap Core Non-Registered Trust
Pyramis Select Emerging Markets Equity Trust
Pyramis Select International Equity Trust
Pyramis Select International Plus Trust
Pyramis Concentrated International Small Cap Trust
Pyramis Select Global Equity Trust
Pyramis Canadian Long Bond Trust
Pyramis Canadian Bond Core Plus Trust
Pyramis Currency Hedged Global Bond Trust
Pyramis Global Bond Trust
Pyramis Currency Hedged Emerging Markets Debt Trust
Pyramis Emerging Markets Equity Trust
Pyramis Strategic Balanced Trust
Pyramis International Growth Plus Trust
Pyramis ClearPath[™] Institutional 2010 Portfolio
Pyramis ClearPath[™] Institutional 2015 Portfolio
Pyramis ClearPath[™] Institutional 2020 Portfolio
Pyramis ClearPath[™] Institutional 2025 Portfolio
Pyramis ClearPath[™] Institutional 2030 Portfolio
Pyramis ClearPath[™] Institutional 2035 Portfolio

Decisions, Orders and Rulings

Pyramis ClearPath™ Institutional 2040 Portfolio
Pyramis ClearPath™ Institutional 2045 Portfolio
Pyramis ClearPath™ Institutional Income Portfolio
Pyramis Canadian Long Bond Core Plus Trust
Pyramis Currency Hedged International Growth Trust
Pyramis Currency Hedged Select Global Equity Trust
Pyramis Currency Hedged U.S. Large Cap Core Non-Registered Trust

2.1.10 AlphaPro Management Inc. and Horizons AlphaPro Gartman ETF

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – a commodity pool subject to National Instrument 81-104 Commodity Pools granted exemptions from National Instrument 81-102 Mutual Funds to engage in short selling of securities up to 40% of net assets, subject to certain conditions and requirements.

Rules Cited

National Instrument 81-102 Mutual Funds , ss. 2.6(a) and (c), 6.1(1), 19.1.
National Instrument 81-104 Commodity Pools , s. 10.1.

November 19, 2009

**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
ALPHAPRO MANAGEMENT INC.
(the Filer)**

AND

**IN THE MATTER OF
HORIZONS ALPHAPRO GARTMAN ETF
(the ETF)**

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer, the manager of the ETF for a decision under the securities legislation of the Jurisdiction (the **Legislation**) for exemptive relief from sections 2.6(a), 2.6(c) and 6.1(1) of National Instrument 81-102 *Mutual Funds* (**NI 81-102**) to permit the ETF to sell securities short, provided the aggregate market value of all securities sold short by the ETF does not exceed 40% of the net assets of the ETF on a daily marked-to-market basis, except as otherwise permitted by National Instrument 81-104 *Commodity Pools* (**NI 81-104**), to provide a security interest over the ETF's assets in connection with such short sales and to deposit the ETF's assets with Borrowing Agents (as defined below) as security for such transactions (the **Exemption Sought**).

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

1. the Ontario Securities Commission (the **Commission**) is the principal regulator for this application; and;
2. 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 each other province and territory of Canada.

Interpretation

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

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

1. A long form prospectus dated February 26, 2009 for the Horizons AlphaPro Gartman Fund (the **Fund**) has been receipted by the securities regulatory authorities or regulator in each province and territory of Canada. The Fund will automatically convert into the ETF if after September 30, 2009, the daily weighted average trading price (or, in the event there has been no trading on a particular day, the average of the closing bid and ask prices) of the Class A units of the Fund (each a **Class A Unit**) is greater than a discount of 2% of the net asset value per Class A Unit for that day or exceeds their issue price of \$10.00, in each case for a period of 10 consecutive trading days, but in any event no later than March 31, 2010.
2. The ETF will be a mutual fund established under the laws of Ontario.
3. The ETF will be a "commodity pool" for purposes of NI 81-104 and its securities will be offered pursuant to a long form prospectus as required by NI 81-104.
4. The Filer will be the manager of the ETF. The head office of the Filer is located in Ontario.
5. The ETF filed a final prospectus dated October 14, 2009 under SEDAR project #1475168 in all of the provinces and territories of Canada and received a receipt from the Commission on the same date. As a result, the ETF is a reporting issuer in all of the provinces and territories of Canada.
6. Neither the Filer, the Fund nor the ETF are in default of the securities legislation in any of the provinces or territories of Canada.
7. JovInvestment Management Inc. (**JovInvestment**), an affiliate of the Filer, will be the investment manager of the ETF.
8. The ETF will be an actively managed exchange traded fund and its securities will be listed on the Toronto Stock Exchange (the **TSX**).
9. The Fund will convert into the ETF and begin trading on the TSX on November 19, 2009.
10. The investment objective of the ETF will be to provide investors with the opportunity for capital appreciation through exposure to the investment strategies of The Gartman Letter, L.C. (**Gartman**), which was founded by Dennis Gartman. The ETF will use equity securities, futures contracts and exchange-traded funds to provide the ETF with long and short exposure to multiple asset classes which may include but are not limited to global equities, commodities, fixed income and currencies.
11. JovInvestment will retain the services of Gartman as sub-adviser to the ETF.
12. The net assets of the ETF will be invested in an actively managed portfolio of investments that Gartman believes will provide the greatest opportunity for consistent capital appreciation through all market and business cycles. The ETF will invest in a variety of portfolio securities and instruments which may include, but are not limited to, equity securities, futures contracts and exchange-traded funds, including exchange-traded funds managed by BetaPro Management Inc., an affiliate of the Filer.
13. The ETF will invest in equity securities and exchange-traded funds, including inverse exchange-traded funds, to gain exposure to the global equity markets, individual issuers, industry sectors and industry sub-sectors. The ETF will also use exchange-traded funds and derivative instruments such as standardized futures contracts to obtain exposure to equity indices, foreign securities, financial instruments and traditional commodities including, but not limited to, metals, energy and agricultural products.
14. As a commodity pool, in addition to its investment options under NI 81-104, which will allow the ETF to invest in currency and commodity forwards, future contracts, options and other over-the-counter derivatives, in a manner that a typical mutual fund cannot, the ETF wants to have the ability to sell securities short, provided the aggregate market value of all securities sold short by the ETF does not exceed 40% of the net assets of the ETF on a daily marked-to-market basis, except as otherwise permitted by NI 81-104.
15. The Fund's investment objectives and strategies are the same as the ETF's will be, and the Fund is currently engaged in short selling of equity securities in aggregate up to a maximum of 40% of the net assets of the Fund.

16. The investment practices of the ETF will, except to the extent that exemptive relief has been obtained or as permitted by NI 81-104, comply in all respects with the requirements of Part 2 of NI 81-102.
17. Each short sale made by the ETF will comply with its investment objective.
18. In order to effect short sales of securities, the ETF will borrow securities from either its custodian or a dealer (in either case, a **Borrowing Agent**), which Borrowing Agent may be acting either as principal for its own account or as agent for other lenders of securities.
19. The ETF will implement the following controls when conducting short sales of securities:
 - (a) securities will be sold short for cash, with the ETF assuming the obligation to return to the Borrowing Agent the securities borrowed to effect the short sale;
 - (b) the short sales will be effected through market facilities through which the securities sold short are normally bought and sold;
 - (c) the ETF will receive cash for securities sold short within normal trading settlement periods for the market in which the short sale is effected;
 - (d) the equity securities sold short will be liquid securities that are listed and posted for trading on a stock exchange, and
 - (i) the issuer of the security has a market capitalization of not less than Cdn. \$500 million, or the equivalent thereof, of such security at the time the short sale is effected; or
 - (ii) the investment advisor has pre-arranged to borrow for the purposes of such short sale;
 - (e) JovInvestment will monitor the short positions of the ETF at least as frequently as daily;
 - (f) the ETF deposits its assets with the Borrowing Agent as security in connection with the short sale transaction;
 - (g) the ETF keeps proper books and records of all short sales and all of its assets deposited with Borrowing Agents as security;
 - (h) the ETF has developed written policies and procedures for the conduct of short sales;
 - (i) the ETF has disclosed in its prospectus a description of (i) short selling, (ii) how the ETF engages in short selling, (iii) the risks associated with short selling, and (iv) in the investment strategy section of the prospectus, the ETF's strategy with respect to short selling and the exemptive relief obtained with respect to such short selling; and
 - (j) the ETF has disclosed in its prospectus the following information:
 - (i) that there are written policies and procedures in place that set out the objectives and goals for short selling and the risk management procedures applicable to short selling;
 - (ii) who is responsible for setting and reviewing the policies and procedures referred to in the preceding paragraph, how often the policies and procedures are reviewed, and the extent and nature of the involvement of the Filer, JovInvestment, an affiliate or other applicable parties in the risk management process;
 - (iii) the trading limits and other controls on short selling and who is responsible for authorizing the trading and placing limits or other controls on the trading;
 - (iv) whether there are individuals or groups that monitor the risks independent of those who trade; and
 - (v) whether risk measurement procedures or simulations are used to test the portfolio under stress conditions.

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:

1. the aggregate market value of all securities sold short by the ETF does not exceed 40% of the net assets of the ETF on a daily marked-to-market basis, except as otherwise permitted by NI 81-104;
2. at the time securities of a particular issuer are sold short, the aggregate market value of all short positions of the ETF in that issuer, whether direct short positions or indirect short positions through specified derivatives, will not exceed 10% of the net assets of the ETF;
3. despite condition 2, the ETF shall not include in the determination referred to in condition 2 a security or an instrument that is a component of, but that represents less than 10% of,
 - (i) a stock or bond index that is the underlying interest of a specified derivative; or
 - (ii) the securities held by the issuer of an index participation unit;
4. the ETF holds "cash cover" (as defined in NI 81-102) in an amount, including the ETF's assets deposited with Borrowing Agents as security in connection with short sale transactions, that is at least 150% of the aggregate market value of all equity securities sold short by the ETF on a daily marked-to-market basis;
5. no proceeds from short sales of securities by the ETF will be used by the ETF to purchase long positions in securities other than cash cover;
6. the ETF maintains appropriate internal controls regarding its short sales, including written policies and procedures, risk management controls and proper books and records;
7. any short sale made by the ETF will be subject to compliance with its investment objective;
8. for short sale transactions in Canada, every dealer that holds assets of the ETF as security in connection with short sale transactions by the ETF will be a registered dealer in Canada and a member of a self-regulatory organization that is a participating member of the Canadian Investor Protection Fund;
9. for short sale transactions outside of Canada, every dealer that holds assets of the ETF as security in connection with short sale transactions by the ETF will:
 - (i) be a member of a stock exchange and, as a result, be subject to a regulatory audit; and
 - (ii) have a net worth in excess of the equivalent of Cdn. \$50 million determined from its most recent audited financial statements that have been made public;
10. except where the Borrowing Agent is the custodian or a sub-custodian of the ETF, when the ETF deposits its assets with a Borrowing Agent as security in connection with a short sale transaction, the amount of the assets of the ETF deposited with the Borrowing Agent does not, when aggregated with the amount of the assets of the ETF already held by the Borrowing Agent as security for outstanding short sale transactions by the ETF, exceed 10% of the net assets of the ETF, taken at market value at the time of the deposit; and
11. the security interest provided by the ETF over any of its assets that is required to enable the ETF to effect short sale transactions will be made in accordance with industry practice for that type of transaction and relate only to obligations arising under such short sale transactions.

"Rhonda Goldberg"
Manager, Investment Funds
Ontario Securities Commission

2.1.11 HSBC Investment Funds (Canada) Inc. and HSBC Global Asset Management (Canada) Limited

Headnote

National Policy 11-203 Process for Exemptive Relief in Multiple Jurisdictions – Relief from requirement to deliver a renewal prospectus to mutual fund investors who purchase units pursuant to pre-authorized investment plans, subject to certain conditions.

Applicable Legislative Provisions

Securities Act (Ontario), ss. 71, 147.

November 24, 2009

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
HSBC INVESTMENT FUNDS (CANADA) INC.
AND HSBC GLOBAL ASSET MANAGEMENT
(CANADA) LIMITED
(the Filers)

AND

IN THE MATTER OF
THE HSBC POOLED FUNDS AND THE
HSBC MUTUAL FUNDS
(collectively, the Funds)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filers for a decision (the **Exemption Sought**) under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) that the requirement in the Legislation to deliver the latest prospectus and any amendment to said prospectus (the **Delivery Requirement**) not apply in respect of a purchase and sale of securities of the Funds pursuant to a pre-authorized investment plan, including employee purchase plans, capital accumulation plans, or any other contract or arrangement for the purchase of a specified amount of securities on a regularly scheduled basis (an **Investment Plan**).

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

- (a) the Ontario Securities Commission is the principal regulator (**Principal Regulator**) for this application, and
- (b) the Filers have provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in Alberta, Saskatchewan, Manitoba, Quebec, New Brunswick, Nova Scotia, and Newfoundland and Labrador.

Interpretation

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

Representations

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

1. HSBC Investment Funds (Canada) Inc. is a corporation governed by the Canada Business Corporations Act, with its head office in Vancouver, British Columbia. HSBC Investment Funds (Canada) Inc. is the manager, trustee and principal distributor of the HSBC Mutual Funds.
2. HSBC Global Asset Management (Canada) Limited is a corporation governed by the Canada Business Corporations Act, with its head office in Vancouver, British Columbia. HSBC Global Asset Management (Canada) Limited is the manager and investment advisor of the Funds.
3. The Funds are open-ended mutual fund trusts established under the laws of British Columbia.
4. The Funds are reporting issuers under the laws of each of the provinces of Canada other than Prince Edward Island (collectively, the **Jurisdictions**). None of the Funds is in default of any of the requirements of securities legislation of the Jurisdictions.
5. Securities of the HSBC Mutual Funds are currently qualified for distribution in each of the Jurisdictions under a simplified prospectus and annual information form dated December 16, 2008.
6. Securities of the HSBC Pooled Funds are currently qualified for distribution in each of the Jurisdictions under a simplified prospectus and annual information form dated November 21, 2008.
7. The HSBC Pooled Funds are currently sold only to investors as part of a discretionary management service provided by HSBC Global Asset Management (Canada) Limited or its affiliates. The HSBC Pooled Funds are distributed by HSBC Investment Funds (Canada) Inc. and HSBC Securities (Canada) Inc., and where permitted by applicable securities laws, by HSBC Global Asset Management (Canada) Limited. The HSBC Pooled Funds may also be distributed through other broker dealers, mutual fund dealers or approved advisors that may or may not be affiliated with HSBC Global Asset Management (Canada) Limited.
8. The HSBC Mutual Funds are distributed by HSBC Investment Funds (Canada) Inc. and its affiliates. The HSBC Mutual Funds may also be distributed through broker dealers or mutual fund dealers that may or may not be affiliated with the HSBC Investment Funds (Canada) Inc. (together with HSBC Investment Funds (Canada) Inc., HSBC Securities (Canada) Inc., HSBC Global Asset Management (Canada) Limited, and such other dealers or approved advisors described above under item 7, **Distributors**).
9. Each of the Funds may offer investors the opportunity to invest in a Fund on a regular or periodic basis pursuant to an Investment Plan.
10. Under the terms of an Investment Plan, an investor instructs a Distributor to accept additional contributions on a pre-determined frequency and/or periodic basis and to apply such contributions on each scheduled investment date to additional investments in specified Funds. The investor authorizes a Distributor to debit a specified account or otherwise makes funds available in the amount of the additional contributions. An investor may terminate the instructions, or give amended instructions, at any time.
11. An investor who establishes an Investment Plan (a **Participant**) receives a copy of the current simplified prospectus relating to the Funds at the time an Investment Plan is established.
12. Pursuant to the Legislation, a Distributor not acting as agent of the purchaser, who receives an order or subscription for a security of a Fund offered in a distribution to which the Delivery Requirement applies, must, unless it has previously done so, send by prepaid mail or deliver to the purchaser the latest prospectus and any amendment to the prospectus filed either before entering into an agreement of purchase and sale resulting from the order or subscription or not later than midnight on the second day, exclusive of Saturdays, Sundays and holidays, after entering into such agreement.
13. Pursuant to the Legislation, an agreement referred to in paragraph 12 above is not binding on the purchaser if a Distributor receives notice of the intention of the purchaser not to be bound by the agreement of purchase and sale within a specified time period (a **Withdrawal Right**).
14. As a result of exemptive relief from the Delivery Requirement, Withdrawal Rights will not apply in respect of purchases made by Participants pursuant to an Investment Plan.

15. The terms of an Investment Plan are such that an investor can terminate the instructions to the Distributor at any time. Therefore, there is no agreement of purchase and sale until a scheduled investment date arrives and the instructions have not been terminated. At this point, the securities are purchased.
16. A Distributor not acting as agent for the applicable investor is required to mail or deliver to all Participants who purchase securities of Funds pursuant to an Investment Plan, the current simplified prospectus of the applicable Funds at the time the investor enters into the Investment Plan and thereafter, any new prospectus or amendment thereto (a **Renewal Prospectus**) filed pursuant to the Legislation.
17. There is significant cost involved in the annual printing and mailing or delivery of the Renewal Prospectus to Participants. The annual cost of production of a Renewal Prospectus is borne by the applicable Fund. In addition, mailing costs are incurred.
18. Unitholders of the Funds who are currently Participants will be sent a notice (**Notice**) advising them:
 - (a) of the terms of the relief and that Participants will not receive any Renewal Prospectus of the Funds unless one is requested;
 - (b) that they may request the Renewal Prospectus by calling a toll-free number or by e-mail or by fax and the Applicants will send the Renewal Prospectus to any Participant that requests it. Participants will receive with the Notice a request form (a **Request Form**) under which a Participant may request, at no cost to the Participant, to receive the Renewal Prospectus;
 - (c) that the Renewal Prospectus may be found either on the SEDAR website or on the applicable Fund's website;
 - (d) that they can subsequently request the current Renewal Prospectus and any amendments thereto by contacting the applicable Applicant and the Applicants will provide a toll-free telephone number for contacting it for this purpose;
 - (e) that they will not have Withdrawal Rights in respect of purchases pursuant to an Investment Plan, but they will have the right of action for damages or rescission in the event any Renewal Prospectus contains a misrepresentation (a **Misrepresentation Right**), whether or not they request a copy of the Renewal Prospectus; and
 - (f) that they will continue to have the right to terminate the Investment Plan at any time before a scheduled investment date.
19. Future investors who choose to become Participants and invest in any Funds will be advised, in the documents they receive with respect to their participation in the Investment Plan or in the simplified prospectus of the Funds (in the section of the prospectus that describes the Investment Plan):
 - (a) of the terms of the relief granted, and that Participants will not receive a Renewal Prospectus unless they request it at the time they initially invest in an Investment Plan or subsequently request it from the Applicants;
 - (b) that a Renewal Prospectus and any amendments thereto may be found either on the SEDAR website or on the applicable Fund's website;
 - (c) that they will not have a Withdrawal Right with regard to purchases made pursuant to an Investment Plan, other than in respect of the initial purchase and sale, but they will have a Misrepresentation Right, whether or not they request the Renewal Prospectus; and
 - (d) that they have the right to terminate an Investment Plan at any time before a scheduled investment date.
20. Participants will also be advised annually in writing, as part of an account statement sent by the Distributor or otherwise, how they can request a current Renewal Prospectus and any amendments thereto and that they have a Misrepresentation Right.

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:

- (a) in respect of purchases and sales of securities of the Funds to Participants who purchase the securities pursuant to an Investment Plan which is in existence on the date of this decision:
 - (i) Participants who are current securityholders of the Funds are sent the Notice and Request Form described in paragraph 18 above;
 - (ii) under the terms of the Investment Plan, a Participant can terminate participation in the Investment Plan at any time;
 - (iii) Participants are advised annually in writing (in an account statement sent by the Distributor or otherwise) how they can request the current Renewal Prospectus and any amendments thereto and that they have a Misrepresentation Right; and
 - (iv) the Misrepresentation Right in the Legislation of a Jurisdiction is maintained in respect of a Participant whether or not a Renewal Prospectus is requested or received.
- (b) in respect of purchases and sales of securities of the Funds to Participants who purchase the securities pursuant to an Investment Plan which is established after the date of this decision:
 - (i) Participants are advised, in the simplified prospectus of the applicable Funds or in the documents they receive in respect of their participation in the Investment Plan, of the information described in paragraph 19 above;
 - (ii) under the terms of the Investment Plan, a Participant can terminate participation in the Investment Plan at any time;
 - (iii) Participants are advised annually in writing (in an account statement sent by the Distributors or otherwise) how they can request the current Renewal Prospectus and any amendments thereto and that they have a Misrepresentation Right; and
 - (iv) the Misrepresentation Right in the Legislation of a Jurisdiction is maintained in respect of a Participant whether or not a Renewal Prospectus is requested or received.

The decision, as it relates to the jurisdiction of the Principal Regulator, will terminate one year after the publication in final form of any legislation or rule dealing with the Delivery Requirement.

“Margot C Howard”
Ontario Securities Commission

“Paulette Kennedy”
Ontario Securities Commission

2.2 Orders

2.2.1 Wabi Exploration Inc. – 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 continuous disclosure materials required by Ontario securities law – defaults subsequently remedied by bringing continuous disclosure filings up-to-date – cease trade order revoked.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 127, 144.

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

AND

**IN THE MATTER OF
WABI EXPLORATION INC.
(The "Applicant")**

**ORDER
(Section 144)**

WHEREAS the securities of the Applicant are currently subject to a temporary cease trade order made by the Director dated September 11, 2007 pursuant to paragraph 2 of subsection 127(1) and subsection 127(5) of the Act, as extended by a further order made by the Director dated September 21, 2007, pursuant to paragraph 2 of subsection 127(1) of the Act (collectively, the "**Cease Trade Order**"), ordering that trading in securities of the Applicant cease until the Cease Trade Order is revoked;

AND WHEREAS the Applicant has made an application to the Ontario Securities Commission (the "**OSC**") pursuant to section 144(1) of the Act for an order revoking the Cease Trade Order;

AND WHEREAS Applicant has represented to the OSC that:

1. The Applicant was formed by articles of amalgamation under the *Business Corporations Act* (Ontario) on May 9, 2000.
2. The Applicant's registered and head office is located at 105 Airdrie Road, Toronto, Ontario M4G 1M4.
3. The Applicant is a reporting issuer in Ontario and Quebec. The Applicant is not a reporting issuer or its equivalent in any other jurisdiction in Canada.

4. The Applicant's authorized capital consists of an unlimited number of common shares (the "**Common Shares**") and an unlimited number of special shares (the "**Special Shares**"), issuable in series, of which 12,336,512 Common Shares and no Special Shares are issued and outstanding.
5. The Applicant has been inactive since January 2005.
6. The Cease Trade Order was issued due to the failure of the Applicant to file its audited financial statements and management's discussion and analysis relating to the audited financial statements for the year ended April 31, 2007, on or before the filing deadline of August 28, 2007, as required by section 4.2 of National Instrument 51-102 – *Continuous Disclosure Obligations*.
7. In addition to the Cease Trade Order, the Applicant is subject to an order issued by the Autorité des marchés financiers (the "**AMF**") on September 14, 2007, as extended by a further order dated October 1, 2007 (the "**AMF Cease Trade Order**"), for failure of the Applicant to file its audited financial statements and management's discussion and analysis relating to the audited financial statements for the year ended April 31, 2007. The Applicant is not the subject of any cease trade orders in any other jurisdiction.
8. The Applicant is concurrently applying to the OSC and the AMF for a full revocation of each of the Cease Trade Order and the AMF Cease Trade Order.
9. On October 1, 2007, the Applicant filed on SEDAR: (i) the audited financial statements for the year ended April 30, 2007; (ii) the management's discussion and analysis for the year ended April 30, 2007; and (iii) the certificates required under Multilateral Instrument 52-109 – *Certification of Disclosure in Applicants' Annual and Interim Filings*.
10. On November 21, 2007, the Applicant completed a non-brokered private placement of 5,000,000 units of the Applicant at a price of \$0.01 per unit for total proceeds of \$50,000. Each unit consisted of one common share of the Applicant (each, a "**Common Share**"), and one common share purchase warrant (each, a "**Warrant**"). Each Warrant shall entitle the subscriber to purchase one Common Share at an exercise price of \$0.05 per Common Share for a period of two years following the close of the financing. Mr. James Brady, the President and a director of the Applicant was the sole subscriber. Proceeds from the financing were used to satisfy accounts payable of the Applicant.

11. The Applicant has no securities, including debt securities, that are currently listed or quoted on any exchange or market in Canada or elsewhere.
12. The Applicant has filed an undertaking with the OSC that it will hold an annual meeting of shareholders within three months of the date of this order.
13. Other than the Cease Trade Order, the Applicant has not previously been subject to a cease trade order by the OSC.
14. The Applicant is up-to-date with all of its other continuous disclosure obligations and has paid all outstanding participation fees, filing fees and late fees associated with those obligations owing to OSC. The Applicant is not in default of any of the requirements of the Act or the rules and regulations made thereunder.
15. The Applicant's SEDAR and SEDI profiles are up-to-date.
16. The Applicant is not considering, nor is it involved in any discussions relating to a reverse take-over, merger, amalgamation or other form of combination or transaction similar to any of the foregoing.
17. Upon the issuance of this revocation order, the Applicant will issue and file a new release and a material change report on SEDAR.

AND UPON considering the application and the recommendations of staff of the OSC;

AND UPON the Director 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.

DATED this 19th day of November, 2009.

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

2.2.2 TSX Inc. – s. 15.1 of NI 21-101 Marketplace Operation

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

AND

**IN THE MATTER OF
TSX INC.**

**ORDER
(Section 15.1 of
National Instrument 21-101 ("NI 21-101"))**

UPON the application (the "Application") of TSX Inc. (the "Applicant") to the Director for an order pursuant to section 15.1 of NI 21-101 exempting the Applicant from the requirement in paragraph 3.2(1)(b) of NI 21-101 to file an amendment to the information previously provided in Form 21-101F1 (the "Form") regarding Exhibit N (fees) 45 days before implementation of the fee change (the "45 day filing requirement");

AND UPON the Applicant filing an updated Form on October 23, 2009, describing the fee change (the "Fee Change");

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

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

1. The Applicant operates the Toronto Stock Exchange and is a recognized stock exchange in Ontario with its head office in Toronto;
2. The Applicant would like to implement the Fee Change on December 1, 2009;
3. The Applicant intends to provide advance notice to the industry prior to implementing the Fee Change;
4. The Applicant wishes to continue to preserve the integrity of its market making program. The primary purpose of the Fee Change is to foster trading activities among its market makers that is consistent with its market making program, and the TSX believes that this purpose warrants a shorter implementation period for such Fee Change; and
5. The policy rationale behind the 45 day filing requirement, which the Applicant understands is to provide Commission staff with an opportunity to analyze the changes and determine if any objections should be raised prior to implementation, can be met in a shorter period.

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

IT IS ORDERED by the Director:

- (a) pursuant to section 15.1 of NI 21-101 that the Applicant is exempted from the 45 day filing period for the Fee Change.

DATED this 23rd day of November, 2009.

"Susan Greenglass"
Acting Director
Ontario Securities Commission

2.2.3 W.J.N. Holdings Inc. et al. – ss. 127(1), 127(8)

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

AND

**IN THE MATTER OF
W.J.N. HOLDINGS INC., MSI CANADA INC.,
360 DEGREE FINANCIAL SERVICES INC.,
DOMINION INVESTMENTS CLUB INC.,
LEVERAGEPRO INC., PROSPOREX INVESTMENT
CLUB INC., PROSPOREX INVESTMENTS INC.,
PROSPOREX LTD., PROSPOREX INC., NETWORTH
FINANCIAL GROUP INC., NETWORTH MARKETING
SOLUTIONS, DOMINION ROYAL CREDIT UNION,
DOMINION ROYAL FINANCIAL INC.,
WILTON JOHN NEALE, EZRA DOUSE,
ALBERT JAMES, ELNONIETH "NONI" JAMES,
DAVID WHITELY, CARLTON IVANHOE LEWIS,
MARK ANTHONY SCOTT, SEDWICK HILL,
TRUDY HUYNH, DORLAN FRANCIS,
VINCENT ARTHUR, CHRISTIAN YEBOAH,
AZUCENA GARCIA, ANGELA CURRY,
AND PROSPOREX FOREX SPV TRUST**

**TEMPORARY ORDER
(Subsections 127(1) and (8))**

WHEREAS on March 11, 2009 the Ontario Securities Commission (the "Commission") made a Temporary Order pursuant to subsections 127(1) and (5) of the *Securities Act*, R.S.O. 1990 c. S.5 (the "*Act*") that (a) pursuant to clause 2 of subsection 127(1) of the *Act* all trading in securities of MSI Canada Inc., Prosporex Investment Club Inc. and Dominion Investment Club Inc. shall cease; (b) pursuant to clause 2 of the subsection 127(1) of the *Act* trading in any securities by all of the respondents shall cease; and (c) pursuant to clause 3 of subsection 127(1) of the *Act* any exemptions contained in Ontario securities law do not apply to the respondents (the "Temporary Order");

AND WHEREAS on March 24, 2009 the Commission ordered that the Temporary Order of March 11, 2009 be extended to July 24, 2009, subject to an exception concerning the respondent Sedwick Hill;

AND WHEREAS on July 23, 2009 the Commission extended the Temporary Order to November 25, 2009 and adjourned the hearing to November 24, 2009 at 2:30 p.m.;

AND WHEREAS on August 25, 2009 the Commission varied the Temporary Order to remove the exception that had applied to the respondent Sedwick Hill and extended the Temporary Order, as varied to November 24, 2009;

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

AND WHEREAS by Commission Order made August 31, 2009, pursuant to subsection 3.5(3) of the *Act*, each of W. David Wilson, James E. A. Turner, David L. Knight, Carol S. Perry, Patrick J. LeSage, James D. Carnwath and Mary Condon, acting alone, is authorized to make orders under subsection 127 (8) of the *Act*;

IT IS ORDERED THAT that:

- (1) Prosporex Forex SPV Trust is added as a respondent to this proceeding;
- (2) the Temporary Order, as varied is extended to January 18, 2010; and
- (3) a hearing in this proceeding will take place on January 15, 2010 at 10:00 a.m.

DATED at Toronto this 24th day of November, 2009.

“Carol S. Perry”

2.2.4 MFC Global Investment Management (U.S.), LLC – s. 80 of the CFA

Headnote

Section 80 of the Commodity Futures Act (Ontario) – Relief from the adviser registration requirements of subsection 22(1)(b) of the CFA granted to sub-adviser not ordinarily resident in Ontario in respect of advice regarding trades in commodity futures contracts and commodity futures options traded on commodity futures exchanges and cleared through clearing corporations, subject to certain terms and conditions. Relief mirrors exemption available in section 7.3 of OSC Rule 35-502 Non Resident Advisers (Rule 35-502) made under the Securities Act (Ontario).

Statutes Cited

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

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

AND

IN THE MATTER OF
MFC GLOBAL INVESTMENT
MANAGEMENT (U.S.), LLC

ORDER
(Section 80 of the CFA)

UPON the application (the **Application**) of MFC Global Investment Management (U.S.), LLC (the **Sub-Adviser**) to the Ontario Securities Commission (the **Commission**) for an order, pursuant to section 80 of the CFA, that the Sub-Adviser (including its directors, officers and employees) be exempt, for a period of five years, from the adviser registration requirements of paragraph 22(1)(b) of the CFA when acting as an adviser for Elliott & Page Limited (the **Principal Adviser**) in respect of the Funds (as defined below) regarding commodity futures contracts and commodity futures options (collectively, **Contracts**) traded on commodity futures exchanges and cleared through clearing corporations;

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

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

1. The Sub-Adviser is a limited liability company formed under the laws of the State of Delaware, United States of America.
2. The Sub-Adviser is currently registered as an investment adviser under the *Investment Advisers Act of 1940* (U.S.), as amended, and is exempted from registration as a commodity trading adviser or commodity pool operator with the U.S. Commodity Futures Trading Commission (the **CFTC**). The Sub-Adviser is not registered in any capacity under the securities legislation of any jurisdiction in Canada nor under the CFA.
3. The Principal Adviser is a corporation incorporated under the laws of Ontario and is registered under the *Securities Act* (Ontario) (the **OSA**) as a dealer in the category of exempt market dealer, mutual fund dealer and as an adviser in the categories of investment counsel and portfolio manager, and under the CFA as an adviser in the category of commodity trading manager.
4. The Principal Adviser is the investment manager of (i) investment funds, the securities of which are qualified by prospectus for distribution to the public in Ontario and the other provinces and territories of Canada (the **Investment Funds**), (ii) pooled funds, the securities of which are sold on a private placement basis in Ontario and the other provinces and territories of Canada to accredited investors pursuant to prospectus exemptions and registration exemptions (where available) contained in National Instrument 45-106 *Prospectus and Registration Exemptions* (the **Pooled Funds**), (iii) managed accounts of institutional clients who have entered into investment management agreements with the Principal Adviser (the **Managed Accounts**) and (iv) such other Investment Funds, Pooled Funds and Managed Accounts as may be established in the future and for which the Principal Adviser engages the Sub-Adviser to provide advisory services (each of the funds and managed accounts in (i), (ii), (iii) and (iv) is referred to individually as a **Fund** and collectively as the **Funds**).

5. The Funds may, as part of their investment program, invest in Contracts.
6. The Principal Adviser may, pursuant to a written agreement with each Fund:
 - (a) act as an adviser (as defined in the OSA) to the Fund in respect of securities; and
 - (b) act as an adviser (as defined in the CFA) to the Fund in respect of Contractsby exercising discretionary authority in respect of the investment portfolio of the Funds, with discretionary authority to purchase or sell on behalf of the Funds:
 - (i) securities; and
 - (ii) Contracts.
7. In connection with the Principal Adviser acting as an adviser to the Funds in respect of the purchase or sale of securities and Contracts, the Principal Adviser will, pursuant to a written agreement made between the Principal Adviser and the Sub-Adviser, retain the Sub-Adviser to act as an adviser to it (the **Proposed Advisory Services**) by exercising discretionary authority on behalf of the Principal Adviser, in respect of the investment portfolio of the Funds, including discretionary authority to buy or sell Contracts for the Funds, provided that:
 - (a) in each case, the Contract must be cleared through an acceptable clearing corporation; and
 - (b) such investments are consistent with the investment objectives and strategies of the Funds.
8. Paragraph 22(1)(b) of the CFA prohibits a person or company from acting as an adviser unless the person or company is registered as an adviser under the CFA, or is registered as a partner or an officer of a registered adviser and is acting on behalf of a registered adviser. Under the CFA, "adviser" means a person or company engaging in or holding himself, herself or itself out as engaging in the business of advising others as to trading in "contracts", and "contracts" means commodity futures contracts and commodity futures options.
9. By providing the Proposed Advisory Services, the Sub-Adviser will be acting as an adviser with respect to commodity futures contracts and commodity futures options and, in the absence of being granted the requested relief, would be required to register as an adviser under the CFA.
10. There is presently no rule under the CFA that provides an exemption from the adviser registration requirement in paragraph 22(1)(b) of the CFA for a person or company acting as an adviser in respect of commodity futures contracts and commodity futures options that is similar to the exemption from the adviser registration requirement in section 25(3) of the OSA for acting as an adviser (as defined in the OSA) in respect of securities that is provided under section 7.3 of OSC Rule 35-502 *Non Resident Advisers* (**Rule 35-502**).
11. The relationship among the Principal Adviser, the Sub-Adviser and the Funds satisfies the requirements of section 7.3 of Rule 35-502.
12. As would be required under section 7.3 of Rule 35-502:
 - (a) the duties and obligations of the Sub-Adviser will be set out in a written agreement with the Principal Adviser;
 - (b) the Principal Adviser will contractually agree with the Funds to be responsible for any loss that arises out of the failure of the Sub-Adviser:
 - (i) to exercise the powers and discharge the duties of its office honestly, in good faith and in the best interests of the Principal Adviser and the Funds; or
 - (ii) to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances (together with (i), the **Assumed Obligations**); and
 - (c) the Principal Adviser cannot be relieved by the Funds from its responsibility for any loss that arises out of the failure of the Sub-Adviser to meet the Assumed Obligations.
13. The Sub-Adviser is not resident of any province or territory of Canada.

14. The Sub-Adviser is, or will be, appropriately registered or licensed or is, or will be, entitled to rely on appropriate exemptions from such registrations or licences, to provide advice for the Funds pursuant to the applicable legislation of its principal jurisdiction.
15. The Sub-Adviser will only provide the Proposed Advisory Services so long as the Principal Adviser is, and remains, registered under the CFA as an adviser in the category of commodity trading manager (or a successor category of registration or exempt from such registration).
16. The prospectus for each Investment Fund will include the following disclosure:
 - (a) a statement that the Principal Adviser is responsible for any loss that arises out of the failure of the Sub-Adviser to meet the Assumed Obligations; and
 - (b) a statement that there may be difficulty in enforcing any legal rights against the Sub-Adviser (or the individual representatives of the Sub-Adviser) advising the Investment Fund, because such entity is resident outside of Canada and all or substantially all of its assets are situated outside of Canada.
17. Prior to purchasing any securities of one or more of the Investment Funds or Pooled Funds directly from the Principal Adviser or entering into an investment management agreement with the Principal Adviser for a managed account, all investors who are Ontario residents will receive written disclosure that includes:
 - (a) a statement that the Principal Adviser is responsible for any loss that arises out of the failure of the Sub-Adviser to meet the Assumed Obligations; and
 - (b) a statement that there may be difficulty in enforcing any legal rights against the Sub-Adviser (or the individual representatives of the Sub-Adviser) advising the relevant Fund, because such entity is resident outside of Canada and all or substantially all of its assets are situated outside of Canada.

AND UPON being satisfied that it would not be prejudicial to the public interest for the Commission to grant the exemption requested on the basis of the terms and conditions proposed;

IT IS ORDERED, pursuant to section 80 of the CFA, that the Sub-Adviser (including its directors, officers and employees) is exempt from the adviser registration requirement in paragraph 22(1)(b) of the CFA in respect of the Proposed Advisory Services provided to the Principal Adviser, for a period of five years, provided that at the relevant time that such activities are engaged in:

- (a) the Principal Adviser is registered under the CFA as an adviser in the category of commodity trading manager;
- (b) the Sub-Adviser is appropriately registered or licensed, or is entitled to rely on appropriate exemptions from such registrations or licences, to provide advice for the Funds pursuant to the applicable legislation of its principal jurisdiction;
- (c) the obligations and duties of the Sub-Adviser are set out in a written agreement with the Principal Adviser;
- (d) the Principal Adviser has contractually agreed with the respective Fund to be responsible for any loss that arises out of any failure of the Sub-Adviser to meet the Assumed Obligations;
- (e) the Principal Adviser cannot be relieved by a Fund or its securityholders from its responsibility for any loss that arises out of the failure of the Sub-Adviser to meet the Assumed Obligations; and
- (f) the prospectus for each Investment Fund will include the following disclosure:
 - (i) a statement that the Principal Adviser is responsible for any loss that arises out of the failure of the Sub-Adviser to meet the Assumed Obligations; and
 - (ii) a statement that there may be difficulty in enforcing any legal rights against the Sub-Adviser (or the individual representatives of the Sub-Adviser) advising the Investment Fund, because such entity is resident outside of Canada and all or substantially all of its assets are situated outside of Canada.
- (g) prior to purchasing any securities of one or more of the Investment Funds or Pooled Funds directly from the Principal Adviser or entering into an investment management agreement with the Principal Adviser for a managed account, all investors who are Ontario residents will receive written disclosure that includes:

- (i) a statement that the Principal Adviser is responsible for any loss that arises out of the failure of the Sub-Adviser to meet the Assumed Obligations; and
- (ii) a statement that there may be difficulty in enforcing any legal rights against the Sub-Adviser (or the individual representatives of the Sub-Adviser) advising the relevant Fund, because such entity is resident outside of Canada and all or substantially all of its assets are situated outside of Canada.

November 23, 2009

"Carol S. Perry"
Commissioner
Ontario Securities Commission

"Mary G. Condon"
Commissioner
Ontario Securities Commission

2.2.5 JovInvestment Management Inc. and Barclays Capital Inc. – s. 80 of the CFA

Headnote

Section 80 of the Commodity Futures Act (Ontario) – Relief from the adviser registration requirements of subsection 22(1)(b) of the CFA granted to sub-adviser not ordinarily resident in Ontario in respect of advice regarding trades in commodity futures contracts and commodity futures options, subject to certain terms and conditions. Relief mirrors exemption available in section 7.3 of OSC Rule 35-502 – Non-Resident Advisers (Rule 35-502) made under the Securities Act (Ontario).

Statutes Cited

Commodity Futures Act, R.S.O. 1990, c. C.20, as am., ss. 22(1)(b), 78, 80.
Securities Act, R.S.O. 1990, c. S.5, as am. – Rule 35-502 – Non Resident Advisers.

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

AND

**IN THE MATTER OF
JOVINVESTMENT MANAGEMENT INC.
AND
BARCLAYS CAPITAL INC.**

**ORDER
(Section 80 of the CFA)**

UPON the application (the **Application**) of JovInvestment Management Inc. (the **Principal Adviser**) and Barclays Capital Inc. (the **Sub-Adviser**) to the Ontario Securities Commission (the **Commission**) for an order pursuant to section 80 of the CFA, that the Sub-Adviser be exempt, for a period of five years, from the adviser registration requirement in paragraph 22(1)(b) of the CFA when acting as an adviser for the Principal Adviser in respect of its Clients (as defined below) regarding commodity futures contracts and commodity futures options traded on commodity futures exchanges (collectively, the **Commodity Instruments**) and cleared through clearing corporations.

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

AND UPON the Sub-Adviser and the Principal Adviser having made the applicable representations to the Commission that:

The Parties

1. The Principal Adviser is a corporation incorporated under the laws of Ontario and its principal business office is located in Toronto, Ontario.
2. The Principal Adviser is currently registered as:
 - (a) an adviser in the category of portfolio manager under the *Securities Act* (Ontario) (the **Act**); and
 - (b) as a commodity trading counsel and as a commodity trading manager under the CFA.
3. The Sub-Adviser is a corporation organized under the laws of the State of Connecticut in the United States of America. The head office of the Sub-Adviser is located in New York, New York.
4. The Sub-Adviser is an investment advisor registered with the United States Securities and Exchange Commission pursuant to the *Investment Advisers Act* of 1940.

The Clients

5. The Principal Adviser provides portfolio management services to its clients in Ontario including mutual funds and other investment vehicles (individually each **Client**, collectively, the **Clients**).

6. The Principal Adviser, pursuant to a written agreement with each Client:
 - (a) acts as an adviser in respect of trading securities and Commodity Instruments; and
 - (b) exercises discretionary authority in respect of the investment portfolio of each Client for the purchase and sale of securities and Commodity Instruments.
7. In connection with the Principal Adviser acting as an adviser to each Client in respect of the purchase or sale of Commodity Instruments, the Principal Adviser may, from time to time, pursuant to a written agreement made between the Principal Adviser and the Sub-Adviser, retain the Sub-Adviser to act as an adviser to it (the **Proposed Advisory Services**), by exercising discretionary authority on behalf of the Principal Adviser, in respect of the investment portfolio of each Client, including discretionary authority to buy or sell Commodity Instruments for the Client, provided that:
 - (a) in each case, the Commodity Instruments must be cleared through an acceptable clearing corporation; and
 - (b) such investments are consistent with the investment objectives and strategies of each Client.
8. Paragraph 22(1)(b) of the CFA prohibits a person or company from acting as an adviser unless the person or company is registered as an adviser under the CFA, or is registered as a partner or an officer of a registered adviser and is acting on behalf of a registered adviser. Under the CFA “adviser” means a person or company engaging in or holding himself, herself or itself out as engaging in the business of advising others as to trading in “contracts”, and “contracts” means commodity futures contracts and commodity futures options.
9. By providing the Proposed Advisory Services, the Sub-Adviser will be acting as an adviser with respect to Commodity Instruments, and in the absence of being granted the requested relief, would be required to register as an adviser under the CFA.
10. There is presently no rule or other regulation under the CFA that provides an exemption from the adviser registration requirement in paragraph 22(1)(b) of the CFA for a person or company acting as an adviser in respect of Commodity Instruments that is similar to the exemption from the adviser registration requirement in paragraph 25(1)(c) of the Act for acting as an adviser (as defined in the Act) in respect of securities that is provided under section 7.3 of OSC Rule 35-502 *Non Resident Advisers* (**OSC Rule 35-502**).
11. The relationship among the Principal Adviser, the Sub-Adviser and the Clients satisfy the requirements of section 7.3 of Rule 35-502.
12. As would be required under section 7.3 of OSC Rule 35-502:
 - (a) the duties and obligations of the Sub-Adviser will be set out in a written agreement with the Principal Adviser;
 - (b) the Principal Adviser will contractually agree with each Client to be responsible for any loss that arises out of the failure of the Sub-Adviser:
 - (i) to exercise the powers and discharge the duties of its office honestly, in good faith and in the best interests of the Principal Adviser and the Clients; or
 - (ii) to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances (together with (i), the **Assumed Obligations**); and
 - (c) the Principal Adviser cannot be relieved by the Clients from its responsibility for any loss that arises out of the failure of the Sub-Adviser to meet the Assumed Obligations.
13. The Sub-Adviser is not a resident of any province or territory of Canada.
14. The Sub-Adviser is appropriately registered or licensed, or is entitled to rely on appropriate exemptions from such registrations or licences, to provide advice to the Clients pursuant to the applicable legislation of its principal jurisdiction.
15. The Sub-Adviser will only provide the Proposed Advisory Services so long as the Principal Adviser is, and remains registered under the CFA as a commodity trading counsel and as a commodity trading manager under the CFA.
16. Prior to purchasing any Commodity Instruments for Clients that reside in Ontario, each Client will receive written disclosure that includes:

- (a) a statement that the Principal Adviser is responsible for any loss that arises out of the failure of the Sub-Adviser to meet the Assumed Obligations; and
- (b) a statement that there may be difficulty in enforcing any legal rights against the Sub-Adviser (or the individual representatives of the Sub-Adviser) advising the relevant Client, because such entity is resident outside of Canada and all or substantially all of its assets may be situated outside of Canada.

AND UPON the Commission being satisfied that it would not be prejudicial to the public interest for the Commission to grant the exemption requested on the basis of the terms and conditions proposed;

IT IS ORDERED, pursuant to section 80 of the CFA, that the Sub-Adviser is exempted from the adviser registration requirement in paragraph 22(1)(b) of the CFA, in respect of the Proposed Advisory Services provided to the Principal Adviser for a period of five years, provided that at the relevant time that such activities are engaged in:

- (a) the Principal Adviser is registered under the CFA as a commodity trading counsel and a commodity trading manager;
- (b) the Sub-Adviser is appropriately registered or licensed, or is entitled to rely on appropriate exemptions from such registrations or licences, to provide advice to the Principal Adviser relating to Commodity Instruments pursuant to the applicable legislation of its principal jurisdiction;
- (c) the duties and obligations of the Sub-Adviser are set out in a written agreement with the Principal Adviser;
- (d) the Principal Adviser has contractually agreed with each Client to be responsible for any loss that arises out of any failure of the Sub-Adviser to meet the Assumed Obligations;
- (e) the Principal Adviser cannot be relieved by the Clients from its responsibility for any loss that arises out of the failure of the Sub-Adviser to meet the Assumed Obligations; and
- (f) prior to purchasing any Commodity Instruments for Clients in Ontario, each Client will receive written disclosure that includes:
 - (i) a statement that the Principal Adviser is responsible for any loss that arises out of the failure of the Sub-Adviser to meet the Assumed Obligations; and
 - (ii) a statement that there may be difficulty in enforcing any legal rights against the Sub-Adviser (or the individual representatives of the Sub-Adviser) advising the relevant Client, because such entity is resident outside of Canada and all or substantially all of its assets are situated outside of Canada.

November 24, 2009

"Margot C. Howard"
Commissioner
Ontario Securities Commission

"Paulette Kennedy"
Commissioner
Ontario Securities Commission

2.2.6 Harris Investment Management, Inc. and TBP Investments Management LLC – s. 80 of the CFA

Headnote

Section 80 of the Commodity Futures Act (Ontario) – Relief from the adviser registration requirements of subsection 22(1)(b) of the CFA granted to sub-adviser not ordinarily resident in Ontario in respect of advice regarding trades in commodity futures contracts traded on commodity futures exchanges and cleared through clearing corporations and commodity futures options, subject to certain terms and conditions. Relief mirrors exemption available in section 7.3 of OSC Rule 35-502 Non Resident Advisers (Rule 35-502) made under the Securities Act (Ontario).

Statutes Cited

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

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

AND

**IN THE MATTER OF
HARRIS INVESTMENT MANAGEMENT, INC.
AND
TBP INVESTMENTS MANAGEMENT LLC**

**ORDER
(Section 80 of the CFA)**

UPON the application (the **Application**) of Harris Investment Management, Inc. (the **Principal Adviser**) to the Ontario Securities Commission (the **Commission**) for an order pursuant to section 80 of the CFA, that TBP Investments Management LLC (the **Sub-Adviser**) (including its directors, officers, representatives and employees acting as advisers on its behalf) be exempt, for a period of five years, from the adviser registration requirement in section 22(1)(b) of the CFA in respect of acting as an adviser for the Principal Adviser for the benefit of the Funds (as defined below) regarding commodity futures contracts traded on commodity futures exchanges and cleared through clearing corporations and commodity futures options (collectively, **Contracts**);

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

AND UPON the Principal Adviser having represented to the Commission the following:

The Principal Adviser and the Sub-Adviser

1. The Principal Adviser is a corporation incorporated under the laws of the State of Delaware in the United States of America (U.S.). The principal office of the Principal Adviser is located in Chicago, Illinois, U.S.
2. The Principal Adviser is currently registered as:
 - (a) an adviser in the category of portfolio manager under the *Securities Act* (Ontario) (the **OSA**); and
 - (b) an adviser in the category of commodity trading manager under the CFA.
3. The Sub-Adviser is a limited liability company formed under the laws of the State of Delaware. The principal office of the Sub-Adviser is located in Dallas, Texas, U.S.
4. The Sub-Adviser is registered with the U.S. Securities and Exchange Commission as an investment adviser and with the U.S. Commodity Futures Trading Commission as both a commodity pool operator and a commodity trading advisor.
5. The Sub-Adviser is not registered in any capacity under either the CFA or OSA.

The Funds

6. Pursuant to the terms of an investment management agreement (the **IMA**), the Principal Adviser will be retained to provide investment advice to the T. Boone Pickens Energy Fund (the **TBP Fund**). The IMA will grant the Principal Adviser the authority to appoint sub-advisers to the TBP Fund, provided certain conditions are met.
7. In addition to the TBP Fund, the Principal Adviser may in the future provide advice to other mutual funds, non-redeemable investment funds or similar investment vehicles with respect to which the Sub-Adviser may potentially provide advice, directly or indirectly to the Principal Adviser (each a **Fund** and, collectively with the TBP Fund, the **Funds**). Each Fund is, or will be, offered pursuant to a prospectus or pursuant to appropriate prospectus exemptions contained in National Instrument 45-106 *Prospectus and Registration Exemptions*.
8. The Funds may, as part of their investment program, invest in Contracts.
9. The Principal Adviser may, pursuant to a written agreement with each Fund:
 - (a) act as an adviser (as defined in the OSA) to the Fund in respect of trading securities (as defined in the OSA); and
 - (b) act as an adviser (as defined in the CFA) to the Fund in respect of trading Contracts,by exercising discretionary authority in respect of the investment portfolio of the Fund, with discretionary authority to purchase or sell on behalf of the Fund:
 - (i) securities; and
 - (ii) Contracts.

The Proposed Advisory Services

10. The Principal Adviser intends to retain the services of the Sub-Adviser to provide investment advisory and portfolio management services, including discretionary authority to, *inter alia*, buy and sell Contracts and related products for and on behalf of the TBP Fund and potentially other Funds in the future (the **Proposed Advisory Services**).
11. The Principal Adviser intends to enter into a sub-advisory agreement with the Sub-Adviser, whereby the Sub-Adviser will provide the Proposed Advisory Services to the Principal Adviser in connection with the particular Fund.
12. Section 22(1)(b) of the CFA prohibits a person or company from acting as an adviser unless the person or company is registered as an adviser under the CFA, or is registered as a representative, partner or officer of a registered adviser and is acting on behalf of the registered adviser. Under the CFA, "adviser" means a person or company engaging or holding himself, herself or itself out as engaging in the business of advising others as to trading in "contracts", and "contracts" means commodity futures contracts and commodity futures options.
13. By providing the Proposed Advisory Services, the Sub-Adviser will be acting as an adviser with respect to Contracts and, in the absence of the requested relief, would be required to register as an adviser under the CFA.
14. There is presently no rule under the CFA which provides an exemption from the adviser registration requirement in section 22(1)(b) of the CFA for a person or company acting as an adviser in respect of Contracts that is similar to the exemption from the adviser registration requirement in section 25(3) of the OSA for a person or company acting as an adviser (as defined in the OSA) in respect of securities (as defined in the OSA) that is provided under section 7.3 of OSC Rule 35-502 *Non Resident Advisers* (**Rule 35-502**).
15. The relationship among the Principal Adviser, the Sub-Adviser and any Fund satisfies, or will satisfy, the requirements of section 7.3 of Rule 35-502.
16. As would be required under section 7.3 of Rule 35-502:
 - (a) the duties and obligations of the Sub-Adviser will be set out in a written agreement with the Principal Adviser;
 - (b) the Principal Adviser will contractually agree with the Funds to be responsible for any loss that arises out of the failure of the Sub-Adviser:

- (i) to exercise the powers and discharge the duties of its office honestly, in good faith and in the best interests of the Principal Adviser and the Funds; or
 - (ii) to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances (together with (i), the **Assumed Obligations**); and
 - (c) the Principal Adviser cannot be relieved by any Fund from its responsibility for any loss that arises out of the failure of the Sub-Adviser to meet the Assumed Obligations.
17. The Sub-Adviser is not a resident of any province or territory of Canada.
18. The Sub-Adviser will only provide the Proposed Advisory Services so long as the Principal Adviser is registered in Ontario to provide advisory services to the particular Fund.
19. The Sub-Adviser is, or will be, appropriately registered or licensed, or is, or will be, entitled to rely on appropriate exemptions from such registrations or licences, to provide advice for any of the Funds pursuant to the applicable legislation of its principal jurisdiction.
20. Prior to purchasing any securities in any of the Funds from such Fund, all investors in the Funds who are Ontario residents will receive an offering document that includes:
- (a) a statement that the Principal Adviser is responsible for any loss that arises out of the failure of the Sub-Adviser to meet the Assumed Obligations; and
 - (b) a statement that there may be difficulty in enforcing any legal rights against the Sub-Adviser (or the individual representatives of the Sub-Adviser) advising the relevant Fund, because such entity is resident outside of Canada and all or substantially all of its assets are situated outside of Canada.

AND UPON the Commission being satisfied that it would not be prejudicial to the public interest for the Commission to grant the exemption requested on the basis of the terms and conditions proposed;

IT IS ORDERED, pursuant to section 80 of the CFA, that the Sub-Adviser (including its directors, officers, representatives and employees acting as advisers on its behalf) is exempt from the adviser registration requirement in section 22(1)(b) of the CFA in respect of the Proposed Advisory Services provided to the Principal Adviser with respect to the Funds, for a period of five years, provided that at the time that such activities are engaged in:

- (a) the Principal Adviser is registered under the CFA as an adviser in the category of commodity trading manager;
- (b) the Sub-Adviser is appropriately registered or licensed, or is entitled to rely on appropriate exemptions from such registrations or licences, to provide advice for the particular Fund pursuant to the applicable legislation of its principal jurisdiction;
- (c) the obligations and duties of the Sub-Adviser are set out in a written agreement with the Principal Adviser;
- (d) the Principal Adviser has contractually agreed with the respective Fund to be responsible for any loss that arises out of the failure of the Sub-Adviser to meet the Assumed Obligations;
- (e) the Principal Adviser cannot be relieved by a Fund or its securityholders from its responsibility for any loss that arises out of the failure of the Sub-Adviser to meet the Assumed Obligations; and
- (f) prior to purchasing any securities in any of the Funds from such Fund, all investors in the Fund who are resident in Ontario will receive an offering document that includes:
 - (i) a statement that the Principal Adviser is responsible for any loss that arises out of the failure of the Sub-Adviser to meet the Assumed Obligations; and
 - (ii) a statement that there may be difficulty in enforcing any legal rights against the Sub-Adviser (or the individual representatives of the Sub-Adviser) for the particular Fund, because such entity is resident outside of Canada and all or substantially all of their assets are situated outside of Canada.

November 24, 2009.

"Margot Howard"
Commissioner
Ontario Securities Commission

"Paulette Kennedy"
Commissioner
Ontario Securities Commission

Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 OSC Decisions, Orders and Rulings

3.1.1 Phoenix Capital Income Trust and Phoenix Capital Inc.

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

AND

**IN THE MATTER OF
PHOENIX CAPITAL INCOME TRUST AND
PHOENIX CAPITAL INC.**

DECISION

Hearing: November 3, 2009

Decision: November 13, 2009

Panel: James D. Carnwath – Commissioner (Chair of the Panel)
James E. A. Turner – Vice-Chair

Counsel: Mary L. Biggar – for the Applicants, Phoenix Capital Income Trust and Phoenix Capital Inc.
John A. Campion – for Staff of the Commission
Andrew D. Burns
Donald Park

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PART I:	OVERVIEW
PART II:	ISSUES
PART III:	FACTS AND BACKGROUND
PART IV:	APPLICABLE LEGISLATION
PART V:	ANALYSIS

Decision

PART I: OVERVIEW

[1] On September 22, 2009, the Applicants sought to file a draft Notice of Hearing and Statement of Allegations (the “Draft Notice of Hearing”) with the Secretary of the Commission (the “Secretary”).

[2] The Draft Notice of Hearing stated it was a notice for a hearing to be held before the Commission to consider, among other things:

- (a) whether, in the opinion of the Commission, it is in the public interest, pursuant to ss. 127 and 127.1 of the Act, to order that Staff of the Commission be reprimanded;
- (b) whether, in the opinion of the Commission, it is in the public interest, to order Staff to rectify its past non-compliance with Ontario securities law to the extent rectification is practicable...

[3] On September 22, 2009, the Secretary returned the Draft Notice of Hearing to the Applicants. The Applicants were told that Rule 2.1 of the *Rules of Procedure of the Ontario Securities Commission* (2009), 32 O.S.C.B. 1991 (the “Commission

Rules”) did not give the Secretary authority to issue a s. 127 hearing under the *Ontario Securities Act*, R.S.O. 1990 c. S.5, as amended (the “Act”) brought by any person other than Staff of the Commission (“Staff”).

[4] The Applicants now move for directions of the Commission with respect to issuing a Notice of Hearing in the form of the Draft Notice of Hearing pursuant to s. 127 of the Act.

PART II: ISSUES

[5] There are two issues:

- (a) Does a person other than Staff of the Commission have the right to seek a s. 127 hearing in order to obtain the relief requested by the Applicants, on the basis that the hearing would be in the public interest?
- (b) Assuming without deciding that the answer to question (a) is “yes”, do the facts of this case justify ordering the hearing?

PART III: FACTS AND BACKGROUND

[6] On July 27, 2005, the Applicants filed a preliminary prospectus (the “Preliminary Prospectus”) with the Commission and other Canadian jurisdictions. A receipt for the Preliminary Prospectus was issued by the Commission on July 28, 2005.

[7] By letter dated October 19, 2005, Staff advised the Applicants that l’Autorité des marchés financiers (“AMF”) would be acting as principal regulator in respect of the Preliminary Prospectus. The Applicants were told:

This decision is a result of discussion with the AMF regarding a publicly announced investigation on Mount Real Corporation (a Quebec based corporation) and possible links between Phoenix Capital Income Trust and Mount Real Corporation and/or related parties.

[8] On November 1, 2005, the Applicants withdrew the Preliminary Prospectus from a number of jurisdictions, including, among others, the Province of Quebec.

[9] By letter dated November 8, 2005, Staff acknowledged the Applicants’ withdrawal of the Preliminary Prospectus and advised the Commission would now be acting as principal regulator in respect of the Preliminary Prospectus filing. Staff advised the Applicants:

As a result of discussion with [AMF] regarding a publicly announced investigation with respect to Mount Real Corporation and possible links between Phoenix Capital Income Trust and Mount Real Corporation and/or related parties, we are not prepared to recommend to the Director that a receipt be issued until the AMF’s investigation has been concluded.

[10] The Applicants wrote to Staff on January 9, 2006 saying:

Poor drafting resulted in the total rejection of [the Preliminary Prospectus]. This increased our own legal costs to several times the amount of [the] initial estimate, and increased other related costs. As a result of the delay from the AMF investigation, the substantial expenditure on legal fees and other costs associated with the offering may be wasted, resulting in a material erosion of working capital available to complete the offering.

[11] Applicants’ counsel wrote to Staff on March 20, 2006 requesting:

If a receipt is not issued soon, I respectfully request the referral of two questions to the Commission under section 61(4) of the Act, being:

1. Would a further delay of issuing a receipt to Phoenix Capital Income Trust be tantamount to a refusal to issue a receipt?
2. If yes, is Phoenix Capital Income Trust entitled to sufficient disclosure of the nature and evidence of the investigation, so that it can make full answer?

[12] On April 5, 2006, Applicants’ counsel wrote to Staff saying that they intended to re-file the Preliminary Prospectus and asked Staff as follows:

We request a meeting with a Commissioner pursuant to OSC Notice 15-701. Alternatively, I see no alternative but an application to the Divisional Court for judicial review, on the basis that a further delay by the OSC would be tantamount to a refusal without a hearing. ...

[13] Staff replied on April 21, 2006:

We refer to your letter dated March 20, 2006 with respect to the issuance of a receipt for the final prospectus of Phoenix Capital Income Trust (Phoenix) and your request for the referral of two questions to the Commission under section 61(4) of the [Act] or for a meeting with a Commissioner pursuant to OSC Notice 15-701 ... In our view, it would be more appropriate for the Director to make a determination with respect to the issuance of a receipt for the final prospectus of Phoenix, pursuant to section 61 of the Act. Pursuant to section 61(3) of the Act, Phoenix would be given an opportunity to be heard before the Director prior to any decision of the Director to refuse to issue a receipt. If the Director were to refuse to issue a receipt, Phoenix would be entitled to a hearing and review of the Director's decision by the Commission, pursuant to section 8(2) of the Act. Pursuant to section 9(1) of the Act, a decision of the Commission may be appealed to the Divisional Court.

Staff are considering whether to recommend to the Director that she refuse to issue a receipt for the final prospectus of Phoenix, on the basis of links between Phoenix and Mount Real Corporation and/or related parties. In order to assist us in considering this matter, please provide us with responses to the following questions...

[14] Applicants' counsel wrote Staff on May 26, 2006 saying they were:

... instructed to bring an application to the Ontario Superior Court seeking a determination of whether there are any links between Phoenix and Mount Real Corporation and/or related parties which are material to potential investors, or alternatively, an order requiring the OSC to make such a determination within 30 days.

A draft Notice of Application was attached to the letter that Applicants' counsel said he expected to "file with the Divisional Court early next week."

[15] Staff wrote Applicants' counsel on June 5, 2006 and said:

... in the event that Phoenix files a final prospectus [Staff] will recommend to the Director that she refuse to issue a receipt of the final prospectus.

[16] By letter dated June 13, 2006, Applicants' counsel wrote to Staff and the Executive Director of the Commission and requested:

- (a) The Executive Director ... arrange a meeting with a Commissioner pursuant to OSC Notice 15-701. At the meeting, we would attempt to resolve the differences of opinion or interpretation without a hearing, or narrow the issues of concern.
- (b) Alternatively, that the Director [Corporate Finance] refer the following question to the Commission for determination, pursuant to section 61(4) of the [Act] ... 'Are there sufficient links between Phoenix and Mount Real Corporation and/or related parties to deny the receipt of the Phoenix's [sic] prospectus, according to the factors enumerated in section 61 of the [Act]?'

[17] On June 23, 2006 a conference call was held between Staff and Applicants' counsel. Applicants' counsel was invited by Staff to prepare and file a final prospectus.

[18] During October and November 2007, the Applicants issued six statements of claim in the Ontario Superior Court of Justice (the "Statements of Claim"). Each of the Statements of Claim alleges substantially similar facts. Two of the Statements of Claim name four members of Staff as defendants. Four of the Statements of Claim name the Commission as a defendant (the "OSC Claims").

[19] The OSC Claims seek:

A declaration that [Staff] had no basis for recommending against the issuance of a receipt for the prospectus for Phoenix Capital Income Trust (the "Trust") and that the constructive denial of the recommendation of the issuance of a receipt and the interference in the reorganization of the affairs

of Phoenix Capital Inc. ("Phoenix") was a result of negligence and a lack of acting in good faith that resulted in substantial damages to all stakeholders in the Trust and Phoenix...

PART IV: APPLICABLE LEGISLATION

[20] Section 127 of the Act has received extensive consideration by the Supreme Court of Canada in the *Committee for the Equal Treatment of Asbestos Minority Shareholders v. Ontario (Securities Commission)*, [2001] 2 S.C.R. 132 ("Asbestos").

[21] Iacobucci J., writing for the Court, began his analysis of s. 127 by noting that:

The legislature clearly intended that the OSC have a very wide discretion in such matters. The permissive language of s. 127(1) expresses an intent to leave it for the OSC to determine whether and how to intervene in a particular case ... [para. 39].

[22] Iacobucci J. then turned to observe that s. 127 is a regulatory provision. At para. 42:

Second, it is important to recognize that s. 127 is a regulatory provision. In this regard, I agree with Laskin J.A. that "[t]he purpose of the Commission's public interest jurisdiction is neither remedial nor punitive; it is protective and preventive, intended to be exercised to prevent likely future harm to Ontario's capital markets" (p. 272). This interpretation of s. 127 powers is consistent with the previous jurisprudence of the OSC in cases such as *Canadian Tire, supra*, aff'd (1987), 59 O.R. (2d) 79 (Div. Ct.); leave to appeal to C.A. denied (1987), 35 B.L.R. xx, in which it was held that no breach of the Act is required to trigger s. 127. It is also consistent with the objective of regulatory legislation in general. The focus of regulatory law is on the protection of societal interests, not punishment of an individual's moral faults: see *R. v. Wholesale Travel Group Inc.*, [1991] 3 S.C.R. 154, at p. 219. [para. 42]

[23] Iacobucci J. went on to state that s. 127 "Orders in the public interest" were not punitive but rather their purpose was to restrain future conduct that is likely to be prejudicial to the public interest in fair and efficient capital markets. In contradistinction, he found it was for the courts to punish or remedy past conduct under ss. 122 and 128 of the Act respectively.

[24] Iacobucci J. summarized his analysis of s. 127(1) as follows:

In summary, pursuant to s. 127(1), the OSC has the jurisdiction and a broad discretion to intervene in Ontario capital markets if it is in the public interest to do so. However, the discretion to act in the public interest is not unlimited. In exercising its discretion, the OSC should consider the protection of investors and the efficiency of, and public confidence in, capital markets generally. In addition, s. 127(1) is a regulatory provision. The sanctions under the section are preventive in nature and prospective in orientation. Therefore, s. 127 cannot be used merely to remedy Securities Act misconduct alleged to have caused harm or damages to private parties or individuals. [para. 45]

[25] We note that the Applicants had requested on two occasions that the Executive Director arrange a meeting with a Commissioner pursuant to OSC Notice 15-701. The first request was made April 5, 2006 in a letter addressed to a member of Staff. The second request was made in a letter addressed to the Executive Director and others dated June 13, 2006. OSC Staff Notice 15-701 provides that the Commission has implemented a procedure which would enable Staff and an applicant, or an issuer or selling security holder which has filed a preliminary prospectus, to meet with a Commissioner to attempt to resolve serious differences of opinion or interpretation which have arisen between Staff and the applicant, or to narrow the issues in dispute.

PART V: ANALYSIS

- (a) **Does a person other than Staff of the Commission have the right to seek a s. 127 hearing on the basis that the hearing would be in the public interest?**

[26] We find it unnecessary to decide this question on the facts of this case. We are not prepared to find that no person other than Staff can seek the exercise of discretion given to the Commission by s. 127. It is possible to hypothesize a situation where the public interest would require the Commission to grant a third party the right to pursue a s. 127 remedy if it met the requirements identified by Iacobucci J. in *Asbestos*. The Commission has done so in a limited number of circumstances. This is not such a case.

- (b) **Assuming without deciding that the answer to question (a) is "yes", do the facts of this case justify ordering the hearing?**

[27] The answer to question (b) above is “no”. The remedy sought by the Applicants is punitive and retrospective. It does not satisfy the requirement that the proper use of s. 127 is to restrain future conduct that is likely to be prejudicial to the public interest. The sanctions sought by the Applicants are not preventive in nature nor are they prospective in orientation. A review of the Statements of Claim filed by the Applicants in the Superior Court of Justice confirms our view that the Applicants seek to use s. 127 for a purpose found to be improper in *Asbestos*:

Therefore, s. 127 cannot be used merely to remedy Securities Act misconduct alleged to have caused harm or damages to private parties or individuals. [para. 45]

[28] We reject the submission that the Staff “constructively refused” to issue a final receipt under subsection 61(1) of the Act. On the facts before us, the Applicants did not file a final prospectus. Accordingly, no decision was required whether to issue a receipt for a final prospectus. Further, the only person authorized to grant or refuse a receipt for a final prospectus is the “Director”, defined in the Act as the Executive Director of the Commission, a Director or Deputy Director of the Commission, or a person employed by the Commission in a position designated by the Executive Director for the purpose of this definition. There is no evidence of such a refusal by a “Director” in the material. Had there been such a refusal, that decision could have been appealed to the Commission under subsection 8(2) of the Act.

[29] We note that the Applicants attempted to take the benefit of the Commission’s policy as expressed in OSC Notice 15-701, referred to above. The notice directs an applicant to “advise the Executive Director of a desire to meet with a Commissioner” to attempt to resolve or narrow the issues in dispute. It then provides that if both the Executive Director and the applicant issuer agree that “a meeting may be helpful”, the Executive Director will arrange such a meeting. The Applicants do not appear to have received a response from the Executive Director to its letter of June 13, 2006, saying that such a meeting would not be helpful. The Applicants deserved to receive a response.

Dated at Toronto this 13th day of November, 2009.

“James D. Carnwath”

“James E. A. Turner”

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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
Pixman Nomadic Media Inc.	09 Nov 09	20 Nov 09	20 Nov 09	
Shermag Inc.	20 Nov 09	02 Dec 09		
Wabi Exploration Inc.	11 Sept 07	21 Sept 07	21 Sept 07	19 Nov 09

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
Strategic Resource Acquisition Corporation	23 Sept 09	05 Oct 09	05 Oct 09	24 Nov 09	

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
Spylogics International Corp.	02 June 09	15 June 09	15 June 09		
Strategic Resource Acquisition Corporation	23 Sept 09	05 Oct 09	05 Oct 09	24 Nov 09	
Coalcorp Mining Inc.	07 Oct 09	19 Oct 09	19 Oct 09		
Garrison International Ltd.	29 Oct 09	10 Nov 09	10 Nov 09		
Toxin Alert Inc.	06 Nov 09	18 Nov 09	18 Nov 09		

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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 SecuritiesSource (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	# of Purchasers	Issuer/Security	Total Purchase Price (\$)	# of Securities Distributed
10/30/2009	16	20/20 Diversified Income Trust - Units	110,700.00	N/A
11/09/2009	2	460 Two Nations Fredericton Inc. - Units	2,134,041.00	2,134,041.00
10/26/2009	5	Abitex Resources Inc. - Units	157,000.05	1,046,667.00
10/31/2009	34	ACM Commercial Mortgage Fund - Units	4,042,224.31	N/A
09/30/2009	2	Affinity Gold Corp. - Common Shares	135,000.00	N/A
11/12/2009	3	Allied Northern Capital Corporation - Common Shares	180,000.00	480,000.00
11/06/2009	10	Altair Ventures Incorporated - Flow-Through Shares	512,800.00	2,840,000.00
11/04/2009	7	Argenta Oil & Gas Inc. - Common Shares	248,266.51	4,964,730.00
10/30/2009	36	Argex Silver Capital Inc. - Units	4,987,000.00	N/A
11/02/2009	14	Auramex Resource Corp. - Units	130,500.00	1,740,000.00
11/03/2009 to 11/06/2009	37	Australia Energy Corp. - Common Shares	9,175,000.00	9,175,000.00
09/25/2009	48	Base Resources Inc. - Common Shares	1,077,833.00	N/A
11/06/2009	2	Blueprint Software Systems Inc. - Notes	2,446,029.06	N/A
11/06/2009	19	Blur Sky Uranium Corp. - Units	1,210,000.00	5,500,000.00
10/30/2009 to 11/05/2009	45	Border Petroleum Inc. - Units	750,000.00	15,000,000.00
11/03/2009	18	Brazaauro Resources Corporation - Units	4,978,804.35	7,659,699.00
10/30/2009	18	Bridge Renewable Energy Technologies Inc. - Common Shares	5,000,000.00	9,523,810.00
11/06/2009	1	Brookfield Incorporacoes S.A. - Common Shares	17,197,850.00	4,085,000.00
10/22/2009	11	Cabo Drilling Corp. - Common Shares	24,040.00	200,334.00
11/06/2009 to 11/09/2009	12	Canadian Horizons Blended Mortgage Investment Corporation - Preferred Shares	511,883.00	511,883.00
11/06/2009 to 11/09/2009	40	Canadian Horizons First Mortgage Investment Corporation - Preferred Shares	1,504,746.00	1,504,746.00
10/29/2009 to 11/04/2009	6	CanAlaska Uranium Ltd. - Flow-Through Shares	2,499,930.00	N/A
11/09/2009	8	Canarc Resource Corp. - Units	37,350.25	N/A

Notice of Exempt Financings

Transaction Date	# of Purchasers	Issuer/Security	Total Purchase Price (\$)	# of Securities Distributed
11/06/2009 to 11/09/2009	28	CareVest Blended Mortgage Investment Corporation - Preferred Shares	922,706.00	922,706.00
11/06/2009	39	CareVest Capital Blended Mortgage Investment Corporation - Preferred Shares	2,030,897.00	2,030,897.00
11/06/2009	14	CareVest Capital First Mortgage Investment Corporation - Preferred Shares	303,897.00	303,897.00
11/06/2009 to 11/09/2009	19	CareVest First Mortgage Investment Corporation - Preferred Shares	892,514.00	892,514.00
10/30/2009	32	Central Resources Corp. - Units	550,000.00	5,500,000.00
11/11/2009	9	Chemaphor Inc. - Units	234,950.00	1,566,333.00
11/04/2009	1	Clicksquared Inc. - Loans	2,140,869.19	2,140,869.19
10/30/2009	6	CoolIT Systems Inc. - Preferred Shares	274,438.74	141,925.00
11/09/2009	2	Crown William Mining Corporation - Common Shares	199,900.00	9,995,000.00
11/09/2009	58	Crown William Mining Corporation - Common Shares	250,000.00	5,000,000.00
10/30/2009	15	Deep Creek Oil & Gas Inc. - Common Shares	612,750.00	N/A
11/06/2009 to 11/10/2009	13	Delta Uranium Inc. - Flow-Through Shares	460,914.00	N/A
11/02/2009 to 11/03/2009	6	Development Notes Limited Partnership - Units	1,002,754.00	1,002,754.00
11/06/2009	1	Development Notes Limited Partnership - Units	86,938.00	86,938.00
02/05/2009	1	Dreyfus Bond Market Index Fund - Common Shares	46,678,489.85	3,738,915.44
02/05/2009	1	Dreyfus Small Cap Stock Index Fund - Common Shares	4,243,499.08	292,372.82
02/05/2009	1	Dreyfus / Newton International Equity Fund - Common Shares	4,243,499.08	274,244.77
11/12/2009	2	Dumont Nickel Inc. - Flow-Through Shares	275,000.00	N/A
11/06/2009	25	E3P Technologies Inc. - Common Shares	498,657.00	663,751.00
11/02/2009 to 11/03/2009	3	Edgeworth Mortgage Investment Corporation - Preferred Shares	64,630.00	N/A
10/30/2009	37	Energy Recovery Systems Inc. - Common Shares	582,800.00	5,828,000.00
11/06/2009	20	Excalibur Resources Ltd. - Common Shares	650,750.00	N/A
11/06/2009	6	Explorator Resources Inc. - Units	4,400,000.00	1,000,000.00
11/06/2009	9	Fancamp Exploration Ltd. - Flow-Through Shares	1,500,000.00	3,000,000.00
11/06/2009	9	Fancamp Exploration Ltd. - Flow-Through Shares	1,500,000.00	N/A
11/06/2009	5	Ferro Corporation - Common Shares	8,125,152.00	1,356,000.00

Notice of Exempt Financings

Transaction Date	# of Purchasers	Issuer/Security	Total Purchase Price (\$)	# of Securities Distributed
10/29/2009	19	Fieldex Exploration Inc. - Common Shares	1,999,999.98	11,111,111.00
11/04/2009 to 11/05/2009	2	First Leaside Expansion Limited Partnership - Units	150,000.00	150,000.00
11/03/2009	2	First Leaside Fund - Trust Units	97,700.00	97,700.00
10/30/2009 to 11/02/2009	2	First Leaside Fund - Trust Units	250,850.00	250,850.00
11/04/2009	1	First Leaside Fund - Trust Units	3,713.00	3,462.00
11/06/2009 to 11/10/2009	4	First Leaside Fund - Trust Units	310,000.00	310,000.00
11/04/2009 to 11/06/2009	2	First Leaside Fund - Trust Units	33,000.00	33,000.00
11/02/2009	1	First Leaside Premier Limited Partnership - Units	160,875.00	150,000.00
11/04/2009 to 11/10/2009	5	First Leaside Premier Limited Partnership - Units	477,711.13	448,399.00
11/02/2009	3	First Leaside Progressive Limited Partnership - Units	547,007.00	547,007.00
11/04/2009	2	First Leaside Progressive Limited Partnership - Units	250,000.00	250,000.00
10/06/2009	1	FV Investment Vehicle LLC - Units	26,775.00	25,000.00
11/02/2009	163	galleon Energy Inc. - Common Shares	17,160,000.00	2,200,000.00
11/02/2009 to 11/06/2009	5	General Motors Acceptance Corporation of Canada Limited - Notes	910,365.93	910,365.93
10/26/2009 to 10/30/2009	10	General Motors Acceptance Corporation of Canada Limited - Notes	4,449,033.85	4,449,033.85
10/30/2009	4	Georgian Capital Markets - Limited Partnership Units	1,310,000.00	N/A
11/05/2009	128	Grayd Resource Corporation - Units	3,500,000.00	N/A
11/06/2009	26	Great Western Minerals Group Ltd. - Warrants	2,510,168.08	N/A
11/04/2009	14	Green Valley Mine Incorporated - Common Shares	65,566.00	3,278,300.00
10/27/2009	57	Greenangel Energy Corp. - Units	1,853,209.80	9,266,249.00
10/30/2009	13	Greengate Power Corporation - Common Shares	665,000.00	665,000.00
11/01/2009	1	Grosvenor Global Long/Short Equity Master Fund Ltd. - Common Shares	537,150.00	500.00
11/02/2009	1	Halo Resources Ltd. - Units	300,000.00	6,000,000.00
10/28/2009	11	Hamilton Thorne Inc. - Units	2,200,000.08	18,098.66
10/29/2009	41	Highland Resources Inc. - Flow-Through Shares	1,372,224.60	N/A
11/06/2009	40	HRT Participacoes em Petroleio S.A. - Common Shares	160,897,126.79	108,411.00

Notice of Exempt Financings

Transaction Date	# of Purchasers	Issuer/Security	Total Purchase Price (\$)	# of Securities Distributed
10/28/2009 to 11/06/2009	35	IGW Real Estate Investment Trust - Trust Units	2,114,939.77	2,126,606.06
10/14/2009	1	Imperial Capital Acquisition Fund IV (Institutional) 2 Limited Partnership - Units	287,110.03	287,110.03
10/14/2009	1	Imperial Capital Acquisition Fund IV (Institutional) 3 Limited Partnership - Limited Partnership Units	287,110.03	287,110.03
10/14/2009	1	Imperial Capital Acquisition Fund IV (Institutional) 4 Limited Partnership - Limited Partnership Units	143,554.95	143,554.95
10/14/2009	1	Imperial Capital Acquisition Fund IV (Institutional) 5 Limited Partnership - Limited Partnership Units	143,554.95	143,554.95
11/10/2009	1	JAKKS Pacific Inc. - Notes	525,900.00	N/A
10/30/2009	23	Jalna Minerals Ltd. - Common Shares	480,000.00	1,200,000.00
10/30/2009	25	Kelso Technologies Inc. - Common Shares	207,396.00	6,713,200.00
10/31/2009	5	Kingwest Avenue Portfolio - Units	147,387.43	6,616.61
10/31/2009	1	Kingwest Canadian Equity Portfolio - Units	200,000.00	19,958.09
10/31/2009	1	Kingwest US Equity Portfolio - Units	53,860.10	4,735.75
10/28/2009	7	Lakewood Mining Co. Ltd. - Units	65,879.00	2,195,966.00
10/26/2009	4	Lateegra Gold Corp. - Common Shares	45,900.00	170,000.00
11/02/2009	472	Legacy Oil+Gas Inc. - Units	110,000,000.00	34,375,000.00
11/04/2009	3	Liquid Computing Corporation - Debentures	424,999.99	N/A
11/04/2009	4	Liquid Computing Inc. - Debentures	557,882.96	N/A
10/30/2009 to 11/03/2009	2	Magenta II Mortgage Investment Corporation - Common Shares	260,306.29	N/A
10/30/2009 to 11/02/2009	2	Magenta Mortgage Investment Corporation - Common Shares	339,485.48	N/A
11/10/2009 to 11/11/2009	4	Magnum Hunter Resources Corporation - Units	4,574,509.60	2,514,000.00
11/06/2009	1	MAp Group - Units	3,762,331.15	1,665,441.00
10/30/2009	29	McConachie Development Limited Partnership - Units	1,598,700.00	159,870.00
10/30/2009	35	McConachie Development Investment Corporation - Units	550,890.00	55,089.00
11/06/2009	31	McConnachie Development Investment Corporation - Units	806,880.00	80,688.00
11/06/2009	31	McConnachie Development Limited Partnership - Units	3,161,780.00	316,178.00
11/03/2009	27	Medallion Resources Ltd. - Units	390,000.00	3,900,000.00
11/03/2009	108	Medoro Resources Ltd. - Warrants	102,960,000.00	128,700,000.00

Notice of Exempt Financings

Transaction Date	# of Purchasers	Issuer/Security	Total Purchase Price (\$)	# of Securities Distributed
11/10/2009	1	Mega Precious Metals Inc. - Common Shares	16,800.00	30,000.00
11/02/2009	14	Mengold Resources Inc. - Units	558,000.00	N/A
11/06/2009 to 11/10/2009	50	Montero Mining and Exploration Ltd. - Common Shares	1,269,307.20	10,577,560.00
10/30/2009	34	MPH Ventures Corp. - Units	653,580.00	10,893,000.00
10/30/2009	11	Nemaska Exploration Inc. - Common Shares	420,437.50	3,736,375.00
11/01/2009	6	New Haven Mortgage Income Fund (1) Inc. - Special Shares	271,000.00	N/A
10/31/2009	5	Newstart Canada - Debt	135,000.00	N/A
10/28/2009	2	Northern Star Mining Corp. - Common Shares	638,000.00	1,100,000.00
10/09/2009	4	NOVA Chemicals Corporation - Notes	28,476,804.40	N/A
10/09/2009	8	NOVA Chemicals Corporation - Notes	45,483,998.21	N/A
10/01/2009	1	NUSA Global Master Fund L.P. - Units	108,390.00	N/A
11/03/2009	75	Open Range Energy Corp. - Receipts	65,012,500.00	N/A
10/27/2009 to 11/02/2009	30	Otis Gold Corp. - Common Shares	2,433,950.35	3,744,539.00
10/30/2009 to 11/02/2009	12	Outlook Resources Inc. - Units	646,000.00	15,525,000.00
11/04/2009	15	Paramount Resources Ltd. - Common Shares	9,065,625.00	500,000.00
11/04/2009	2	Petroamerica Oil Corp. - Units	20,020,000.00	28,600,000.00
11/13/2009	6	Philippine Metals Corp. - Units	149,999.90	500,000.00
11/02/2009	2	PrivateBancorp Inc. - Common Shares	465,709.05	N/A
11/04/2009	26	PT Healthcare Solutions Corp. - Preferred Shares	758,000.00	N/A
11/06/2009	4	Purepoint Uranium Group Inc. - Flow-Through Shares	1,000,000.00	N/A
10/27/2009	55	Quest Uranium Corporation - Common Shares	6,296,148.80	2,737,456.00
11/06/2009 to 11/13/2009	50	Quetzal Energy Ltd. - Units	1,588,277.50	12,706,220.00
10/28/2009	38	Range Royalty Limited Partnership - Limited Partnership Units	9,524,637.50	761,971.00
10/28/2009	201	Range Royalty Trust - Trust Units	27,311,200.00	2,184,896.00
11/03/2009	5	Range Royalty Trust - Trust Units	433,750.00	34,700.00
11/05/2009	2	Reynolds Group DL Escrow Inc./Reynolds Group Escrow LLC - Notes	5,280,182.50	N/A
10/30/2009	1	Royal Bank of Canada - Notes	1,000,000.00	N/A
10/28/2009	2	Ryan Mortgage Income Fund Inc. - Preferred Shares	600,000.00	N/A

Notice of Exempt Financings

Transaction Date	# of Purchasers	Issuer/Security	Total Purchase Price (\$)	# of Securities Distributed
10/30/2009	29	Sernova Corp. - Units	365,900.00	3,659,000.00
10/30/2009	33	Shopster E-Commerce Inc. - Units	636,930.00	3,184,650.00
10/30/2009	17	Skyharbour Resources Ltd. - Common Shares	291,750.00	N/A
11/04/2009	7	Taranis Resources Inc. - Units	250,000.00	2,000,000.00
10/30/2009	5	The McElvaine Investment Trust - Trust Units	47,300.00	3,123.35
11/03/2009	1	Tribute Minerals Inc. - Units	207,000.00	2,300,000.00
10/27/2009	1	Upper Canyon Minerals Corp. - Common Shares	50,000.00	373,134.00
10/30/2009	31	USA Video Interactive Corp. - Units	300,000.00	10,000,000.00
11/10/2009	18	Vault Minerals Inc. - Units	1,363,785.00	0.00
11/03/2009	2	Veeco Instruments Inc. - Common Shares	3,304,860.00	5,750,000.00
11/03/2009	2	Viron Therapeutics Inc. - Preferred Shares	3,000,000.16	3,621,002.00
11/02/2009	3	Vitamin Shoppe, Inc. - Common Shares	1,841,285.74	10,460,488.00
10/30/2009	29	Walton AZ Monte Verde Investment Corporation - Common Shares	497,500.00	49,750.00
10/30/2009	7	Walton AZ Monte Verde Limited Partnership - Limited Partnership Units	869,492.22	81,223.00
11/06/2009	35	Walton AZ Sawtooth Investment Corporation - Common Shares	488,510.00	48,851.00
11/03/2009	27	Walton AZ Verona Investment Corporation - Common Shares	934,260.00	93,426.00
10/30/2009	20	Walton TX Austin Land Investment Corporation - Common Shares	410,550.00	41,055.00
11/06/2009	30	Walton TX Austin Land Investment Corporation - Common Shares	740,610.00	74,061.00
11/06/2009	8	Walton TX Austin Land Limited Partnership - Limited Partnership Units	1,153,424.25	108,191.00
10/30/2009	6	Walton TX Austin Land Limited Partnership - Units	731,322.79	68,316.00
10/27/2009	1	Whitney Holding Corporation - Common Shares	1,703,680.00	N/A
11/06/2009	1	Wimberly Apartments Limited Partnership - Units	16,162.07	21,428.00
11/02/2009	1	Wimberly Apartments Limited Partnership - Units	214,499.79	285,714.00

Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:

Azure Dynamics Corporation
Principal Regulator - Ontario

Type and Date:

Preliminary Short Form Prospectus dated November 18, 2009

NP 11-202 Receipt dated November 18, 2009

Offering Price and Description:

\$* - * Commons Shares rice: \$*

Underwriter(s) or Distributor(s):

Raymond James Ltd.
Cormark Securities Inc.
Paradigm Capital Inc.

Promoter(s):

-

Project #1501395

Issuer Name:

Black Diamond Income Fund
Principal Regulator - Alberta

Type and Date:

Preliminary Short Form Prospectus dated November 20, 2009

NP 11-202 Receipt dated November 20, 2009

Offering Price and Description:

\$25,000,048.00 - 1,644,740 Trust Units Price: \$15.20 per Trust Unit

Underwriter(s) or Distributor(s):

Raymond James Ltd.
BMO Nesbitt Burns Inc.
Acumen Capital Finance Partners Limited
FirstEnergy Capital Corp.
Peters & Co. Limited
Blackmont Capital Inc.
Clarus Securities Inc.

Promoter(s):

-

Project #1502549

Issuer Name:

CNH Capital Canada Wholesale Trust
Principal Regulator - Ontario

Type and Date:

Preliminary Short Form Prospectus dated November 18, 2009

NP 11-202 Receipt dated November 18, 2009

Offering Price and Description:

(1) \$300,000,000 - 300,000 Floating Rate Class A Wholesale Receivables-Backed Notes, Series CW2009-1; and (2) \$25,000,000 - 25,000 Floating Rate Class B Wholesale Receivables-Backed Notes, Series CW2009-1
Price: \$1,000.00 per Floating Rate Class A Wholesale Receivables-Backed Note, Series CW2009-1

\$1,000.00 per Floating Rate Class B Wholesale

Receivables-Backed Note, Series CW2009-1

Underwriter(s) or Distributor(s):

RBC Dominion Securities Inc.

Promoter(s):

CNH Capital Canada Ltd.

Project #1501515

Issuer Name:

Dynamic Canadian Bond Fund
Dynamic Focus+ Diversified Income Fund
Dynamic Focus+ Energy Income Trust Fund
Dynamic Focus+ Small Business Fund
Dynamic High Yield Bond Fund
Dynamic Precious Metals Fund
Dynamic Real Return Bond Fund
Principal Regulator - Ontario

Type and Date:

Preliminary Simplified Prospectuses dated November 13, 2009

NP 11-202 Receipt dated November 18, 2009

Offering Price and Description:

Series A, Series F and Series T and Series OP Securities

Underwriter(s) or Distributor(s):

Goodman & Company, Investment Counsel Ltd,

Promoter(s):

Goodman & Company Investment Counsel Ltd.

Project #1501539

Issuer Name:

EnerVest Diversified Income Trust
Principal Regulator - Alberta

Type and Date:

Preliminary Short Form Prospectus dated November 20, 2009

NP 11-202 Receipt dated

Offering Price and Description:

Warrants to Subscribe for up to • Units at a Subscription Price of \$ •

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #1503025

Issuer Name:

EPCOR Utilities Inc.
Principal Regulator - Alberta

Type and Date:

Preliminary Base Shelf Prospectus dated November 24, 2009

NP 11-202 Receipt dated November 24, 2009

Offering Price and Description:

\$1,000,000,000.00 - Medium Term Notes Debentures (unsecured)

Underwriter(s) or Distributor(s):

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

Promoter(s):

-

Project #1504060

Issuer Name:

Keegan Resources Inc.
Principal Regulator - British Columbia

Type and Date:

Preliminary Short Form Prospectus dated November 23, 2009

NP 11-202 Receipt dated November 23, 2009

Offering Price and Description:

\$35,990,000.00 - 6,100,000 Common Shares Price: \$5.90 per Common Share

Underwriter(s) or Distributor(s):

Dundee Securities Corporation
Clarus Securities Inc.
Canaccord Capital Corporation

Promoter(s):

-

Project #1503257

Issuer Name:

Migao Corporation
Principal Regulator - Ontario

Type and Date:

Preliminary Short Form Prospectus dated November 24, 2009

NP 11-202 Receipt dated November 24, 2009

Offering Price and Description:

\$35,074,000.00 - 4,940,000 Common Shares Price: \$7.10 per Common Share

Underwriter(s) or Distributor(s):

CIBC World Markets Inc.
Cancacord Capital Corporation
GMP Securities L.P.
Dundee Securities Corporation
Jennings Capital Inc.
Research Capital Corporation
UBS Securities Canada Inc.
Wellington West Capital Markets Inc.

Promoter(s):

-

Project #1503748

Issuer Name:

Mountain Province Diamonds Inc.
Principal Regulator - Ontario

Type and Date:

Preliminary Short Form Prospectus dated November 24, 2009

NP 11-202 Receipt dated November 24, 2009

Offering Price and Description:

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

Underwriter(s) or Distributor(s):

Paradigm Capital Inc.
Salman Partners Inc.
Scotia Capital Inc.

Promoter(s):

-

Project #1503758

Issuer Name:

O'Leary Canadian Balanced Income Fund
O'Leary Canadian Diversified Bond Fund
O'Leary Canadian Equity Income Fund
O'Leary Global Balanced Income Fund
O'Leary Global Diversified Bond Fund
O'Leary Global Equity Income Fund
O'Leary Global Infrastructure Fund
O'Leary Money Market Fund
O'Leary Strategic Income Class
O'Leary Strategic Income Fund
Principal Regulator - Quebec

Type and Date:

Preliminary Simplified Prospectuses dated November 19, 2009

NP 11-202 Receipt dated

Offering Price and Description:

Series A,F, H, I, M, and X units and Series A, F, F6, H, H6, I, M and T6 shares

Underwriter(s) or Distributor(s):

-

Promoter(s):

O' Leary Furnds Management Inc.

Project #1502789

Issuer Name:

Pounder Venture Capital Corp.
Principal Regulator - Ontario

Type and Date:

Preliminary CPC Prospectus dated November 19, 2009

NP 11-202 Receipt dated November 20, 2009

Offering Price and Description:

\$200,000.00 - 1,000,000 Common Shares Price: \$0.20 per Common Share

Underwriter(s) or Distributor(s):

Richardson GMP Limited

Promoter(s):

D. Campbell Deacon

Project #1502233

Issuer Name:

RBC Emerging Markets Fund
Principal Regulator - Ontario

Type and Date:

Preliminary Simplified Prospectus dated November 20, 2009

NP 11-202 Receipt dated November 20, 2009

Offering Price and Description:

Series A, Advisor Series, Series D, Series F and Series O Units

Underwriter(s) or Distributor(s):

Royal Mutual Fund Inc.
RBC Direct Investing Inc.
Royal Mutual Funds Inc./RBC Direct Investing Inc.

Promoter(s):

RBC Asset Mangement Inc.

Project #1502637

Issuer Name:

Rogers Communications Inc.

Type and Date:

Preliminary Base Shelf Prospectus dated November 20, 2009

Received on November 20, 2009

Offering Price and Description:

\$US 4,000,000,000.00 - Debt Securities

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #1502633

Issuer Name:

Rogers Communications Inc.
Principal Regulator - Ontario

Type and Date:

Preliminary Base Shelf Prospectus dated November 20, 2009

NP 11-202 Receipt dated November 20, 2009

Offering Price and Description:

\$4,000,000,000.00 - Debt Securities

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #1502639

Issuer Name:

Zungui Haixi Corporation
Principal Regulator - Ontario

Type and Date:

Amended and Restated Preliminary Long Form Prospectus dated November 17, 2009

NP 11-202 Receipt dated November 18, 2009

Offering Price and Description:

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

Underwriter(s) or Distributor(s):

CIBC World Markets Inc.
Canaccord Capital Corporation
GMP Securities L.P.
Research Capital Corporation

Promoter(s):

Mr. Fengyi Cai

Project #1492689

Issuer Name:

407 International Inc.
Principal Regulator - Ontario

Type and Date:

Final Short Form Base Shelf Prospectus dated November 18, 2009

NP 11-202 Receipt dated November 18, 2009

Offering Price and Description:

\$2,000,000,000.00 - Medium-Term Notes (Secured)

Underwriter(s) or Distributor(s):

BMO Nesbitt Burns Inc.
RBC Dominion Securities Inc.
TD Securities Inc.
Scotia Capital Inc.
National Bank Financial Inc.
Casgrain & Company Limited
CIBC World Markets Inc.
Merrill Lynch Canada Inc.

Promoter(s):

-

Project #1497137

Issuer Name:

Agrium Inc.
Principal Regulator - Alberta

Type and Date:

Final Shelf Prospectus dated November 20, 2009

NP 11-202 Receipt dated November 23, 2009

Offering Price and Description:

U.S.\$1,000,000,000.00:

Common Shares
Preferred Shares
Subscription Receipts
Debt Securities
Units

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #1474595

Issuer Name:

Algonquin Power & Utilities Corp.
Principal Regulator - Ontario

Type and Date:

Final Short Form Prospectus dated November 23, 2009

NP 11-202 Receipt dated November 23, 2009

Offering Price and Description:

\$20,033,000.00 - 5,980,000 Common Shares; and
\$55,000,000 principal amount of 7% Convertible
Unsecured Subordinated Debentures due June 30, 2017

Underwriter(s) or Distributor(s):

CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
Canaccord Capital Corporation
National Bank Financial Inc.
Scotia Capital Inc.
TD Securities Inc.
Cormark Securities Inc.
Macquarie Capital Markets Canada Ltd.
Raymond James Ltd.
Research Capital Corporation
Fraser Mackenzie Limited
Clarus Securities Inc.

Promoter(s):

-

Project #1500144

Issuer Name:

Andina Minerals Inc.
Principal Regulator - Ontario

Type and Date:

Amended and Restated Short Form Prospectus dated
November 23, 2009 amending and restating the Short
Form Prospectus dated November 16, 2009

NP 11-202 Receipt dated November 24, 2009

Offering Price and Description:

\$25,000,000.00 - 12,500,000 Units Price: \$2.00 per Unit

Underwriter(s) or Distributor(s):

BMO Nesbitt Burns Inc.
Canaccord Capital Corporation
Haywood Securities Inc.
RBC Dominion Securities Inc.

Promoter(s):

-

Project #1495515

Issuer Name:

BMO Canadian Equity Class
Principal Regulator - Ontario

Type and Date:

Amendment #5 dated November 16, 2009 to the Simplified Prospectus and Annual Information Form dated May 8, 2009

NP 11-202 Receipt dated November 19, 2009

Offering Price and Description:

Series A and Series I @ Net Asset Value

Underwriter(s) or Distributor(s):

BMO Investments Inc.

Promoter(s):

BMO Investments Inc.

Project #1402935

Issuer Name:

BMO American Equity Class
(BMO Guardian American Equity Class Advisor Series and BMO Guardian American Equity Class Series H)
BMO Canadian Equity Class
(BMO Guardian Canadian Equity Class Advisor Series and BMO Guardian Canadian Equity Class Series H)
BMO Emerging Markets Class
(BMO Guardian Emerging Markets Class Advisor Series and BMO Guardian Emerging Markets Class Series H)
Principal Regulator - Ontario

Type and Date:

Amendment #1 dated November 16, 2009 to the Simplified Prospectuses and Annual Information Forms dated November 3, 2009

NP 11-202 Receipt dated November 19, 2009

Offering Price and Description:

BMO Guardian American Equity Class Advisor Series and BMO Guardian American Equity Class Series H, BMO Guardian Canadian Equity Class Advisor Series and BMO Guardian Canadian Equity Class Series H and BMO Guardian Emerging Markets Class Advisor Series and BMO Guardian Emerging Markets Class Series H @ Net Asset Value

Underwriter(s) or Distributor(s):

BMO Investments Inc.

Promoter(s):

BMO Investments Inc.

Project #1480290

Issuer Name:

BMO Guardian Canadian Bond Fund
(Mutual Fund Units, F Class Units and I Class Units)
BMO Guardian Canadian Money Market Fund
(Mutual Fund Units, Classic Units and F Class Units)
BMO Guardian U.S. Money Market Fund
(Mutual Fund Units and Classic Units)
BMO Guardian American Equity Fund Ltd.
(Mutual Fund Shares, F Class Shares and I Class Shares)
GGOF Canadian Equity Fund Ltd.
(Mutual Fund Shares and F Class Shares)
BMO Guardian Emerging Markets Fund
(Mutual Fund Units, F Class Units and I Class Units)
BMO Guardian European Equity Fund
(Mutual Fund Units, F Class Units, I Class Units and T5 Class Units)
BMO Guardian Global Dividend Growth Fund
(Mutual Fund Units, F Class Units and T5 Class Units)
BMO Guardian Global Real Estate Fund
(Mutual Fund Units, F Class Units and T5 Class Units)
BMO Guardian Japanese Equity Fund
(Mutual Fund Units, F Class Units and I Class Units)
BMO Guardian Canadian Resource Fund
(Mutual Fund Units and F Class Units)
BMO Guardian Canadian Balanced Fund
(Mutual Fund Units, F Class Units and T5 Class Units)
BMO Guardian Small Cap Growth and Income Fund
(Mutual Fund Units, F Class Units, T5 Class Units)
BMO Guardian U.S. Diversified Monthly Income Fund
(Mutual Fund Units, F Class Units and T5 Class Units)
Principal Regulator - Ontario

Type and Date:

Amendment #3 dated November 16, 2009 to Final Simplified Prospectus and Annual Information Form (NI 81-101) dated July 8, 2009

NP 11-202 Receipt dated November 20, 2009

Offering Price and Description:

Mutual Fund Units, F Class Units, I Class Units, Classic Units, T5 Class Units, Mutual Fund Shares, F Class Shares and I Class Shares @ Net Asset Value

Underwriter(s) or Distributor(s):

Guardian Group of Funds Ltd.

Jones Heward Investment Management Inc.

Promoter(s):

-

Project #1433556

Issuer Name:

Dynamic Global Value Balanced Fund
Principal Regulator - Ontario

Type and Date:

Amendment #4 dated November 12, 2009 to the Simplified Prospectus dated December 19, 2008
NP 11-202 Receipt dated November 18, 2009

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

Goodman & Company, Investment Counsel Ltd.

Promoter(s):

Goodman & Company, Investment Counsel Ltd.

Project #1336671

Issuer Name:

Dynex Power Inc.
Principal Regulator - Ontario

Type and Date:

Final Long Form Prospectus dated November 23, 2009
NP 11-202 Receipt dated November 24, 2009

Offering Price and Description:

Rights to Subscribe for up to 40,195,714 Common Shares -
Subscription Price: \$0.56 per Common Share (upon the exercise of each one (1) Right)

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #1488803

Issuer Name:

Exeter Resource Corporation
Principal Regulator - British Columbia

Type and Date:

Final Short Form Prospectus dated November 19, 2009
NP 11-202 Receipt dated November 19, 2009

Offering Price and Description:

\$50,017,500.00 - 8,550,000 Common Shares PRICE:
\$5.85 PER COMMON SHARE

Underwriter(s) or Distributor(s):

Canaccord Capital Corporation
TD Securities Inc.
BMO Nesbitt Burns Inc.
GMP Securities L.P.
Salman Partners Inc.
Thomas Weisel Partners Canada Inc.
Scotia Capital Inc.

Promoter(s):

-

Project #1495734

Issuer Name:

GLG LIFE TECH CORPORATION
Principal Regulator - British Columbia

Type and Date:

Final Short Form Prospectus dated November 19, 2009
NP 11-202 Receipt dated November 20, 2009

Offering Price and Description:

US\$27,550,000.00 - 3,625,000 Common Shares Price:
US\$7.60 per Common Share

Underwriter(s) or Distributor(s):

Canaccord Capital Corporation
GMP Securities L.P.
Desjardins Securities Inc.
Wellington West Capital Markets Inc.

Promoter(s):

-

Project #1494393

Issuer Name:

Harmony Overseas Equity Pool
Principal Regulator - Ontario

Type and Date:

Amendment #2 dated November 16, 2009 to the Simplified Prospectus and Annual Information Form (NI 81-101) dated July 16, 2009
NP 11-202 Receipt dated November 18, 2009

Offering Price and Description:

Embedded Series, Series F, Series T, Series V and Wrap Series Securities @ Net Asset Value

Underwriter(s) or Distributor(s):

AGF Funds Inc.

Promoter(s):

AGF Funds Inc.

Project #1438740

Issuer Name:

Horizons AlphaPro Seasonal Rotation ETF
Principal Regulator - Ontario

Type and Date:

Final Long Form Prospectus dated November 10, 2009
NP 11-202 Receipt dated November 18, 2009

Offering Price and Description:

Mutual fund trust units at net asset value

Underwriter(s) or Distributor(s):

-

Promoter(s):

AlphaPro Management Inc.

Project #1483660

Issuer Name:

Indigo Exploration Inc.
Principal Regulator - British Columbia

Type and Date:

Final Long Form Prospectus dated November 20, 2009
NP 11-202 Receipt dated November 24, 2009

Offering Price and Description:

Cdn\$600,000.00 - 4,000,000 Common Shares P RICE :
\$0.15 per Share

Underwriter(s) or Distributor(s):

Union Securities Ltd.

Promoter(s):

-

Project #1485683

Issuer Name:

Legacy Oil + Gas Inc.
Principal Regulator - Alberta

Type and Date:

Final Short Form Prospectus dated November 23, 2009
NP 11-202 Receipt dated November 23, 2009

Offering Price and Description:

\$110,000,000.00 - 68,750,000 Class A Shares issuable on
exercise of outstanding Special Warrants

Underwriter(s) or Distributor(s):

GMP Securities L.P.
Macquarie Capital Markets Canada Ltd.
FirstEnergy Capital Corp.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
Cormark Securities Inc.
Scotia Capital Inc.

Promoter(s):

-

Project #1500467

Issuer Name:

Mackenzie Universal Technology Class
of Mackenzie Financial Capital Corporation
Mackenzie Universal World Science & Technology Class
of Mackenzie Financial Capital Corporation
(Series A, F, I and O Securities)
Principal Regulator - Ontario

Type and Date:

Amendment #1 dated November 16, 2009 to the Simplified
Prospectuses and Annual Information Form dated October
30, 2009

NP 11-202 Receipt dated November 24, 2009

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Quadrus Investment Services Ltd.

Promoter(s):

Mackenzie Financial Corporation

Project #1478783

Issuer Name:

Medicago Inc.
Principal Regulator - Quebec

Type and Date:

Final Short Form Prospectus dated November 19, 2009
NP 11-202 Receipt dated November 19, 2009

Offering Price and Description:

Cdn\$10,080,000.00 - 14,000,000 Subscription Receipts
Price: Cdn\$0.72 per Subscription Receipt

Underwriter(s) or Distributor(s):

Paradigm Capital Inc.
Bloom Burton & Co.
Dundee Securities Corporation

Promoter(s):

-

Project #1498122

Issuer Name:

Oromin Explorations Ltd.
Principal Regulator - British Columbia

Type and Date:

Final Short Form Prospectus dated November 23, 2009
NP 11-202 Receipt dated November 23, 2009

Offering Price and Description:

\$6,000,150.00 - 7,059,000 Common Shares Price: \$0.85
per Common Share

Underwriter(s) or Distributor(s):

Research Capital Corporation
Toll Cross Securities Inc.
Clarus Securities Inc.

Promoter(s):

-

Project #1497988

Issuer Name:

Phoenix Technology Income Fund
Principal Regulator - Alberta

Type and Date:

Final Short Form Prospectus dated November 19, 2009
NP 11-202 Receipt dated November 19, 2009

Offering Price and Description:

\$15,000,000.00 - 2,000,000 Trust Units \$7.50 per Trust
Unit

Underwriter(s) or Distributor(s):

Peters & Co. Limited
Cormark Securities Inc.
CIBC World Markets Inc.
FirstEnergy Capital Corp.

Promoter(s):

-

Project #1496756

Issuer Name:

RBC O'Shaughnessy Canadian Equity Fund
(Series A, Advisor Series, Series D and Series F units)
RBC O'Shaughnessy U.S. Growth Fund
(Series A, Series D, Series F and Series O units)
Principal Regulator - Ontario

Type and Date:

Amendment #1 dated November 16, 2009 to the Simplified Prospectuses and Annual Information Form dated July 2, 2009

NP 11-202 Receipt dated November 18, 2009

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

Royal Mutual Funds Inc.
RBC Direct Investing Inc.
Royal Mutual Funds Inc.
RBC Asset Management Inc.
RBC Dominion Securities Inc.
Royal Mutual Funds Inc./RBD Direct Investing Inc.
Royal Mutual Funds Inc./RBC Direct Investing Inc.

Promoter(s):

RBC Asset Management Inc.

Project #1426251

Issuer Name:

REC Minerals Corp.

Type and Date:

Final Long Form Prospectus dated November 20, 2009
Received on November 20, 2009

Offering Price and Description:

A MINIMUM OF 8,000,000 UNITS AND A MAXIMUM OF 10,000,000 UNITS

Underwriter(s) or Distributor(s):

Northern Securities Inc.

Promoter(s):

Kabir Ahmed

Project #1490071

Issuer Name:

Sun Life Assurance Company of Canada
Sun Life Capital Trust II
Principal Regulator - Ontario

Type and Date:

Final Short Form Prospectus dated November 17, 2009
NP 11-202 Receipt dated November 18, 2009

Offering Price and Description:

\$500,000,000.00 - 5.863% Sun Life Exchangeable Capital Securities - Series 2009-1 due December 31, 2108 (SLEECs)

Underwriter(s) or Distributor(s):

Scotia Capital Inc.
RBC Dominion Securities Inc.
BMO NESBITT BURNS INC.
CIBC WORLD MARKETS INC.
HSBC SECURITIES (CANADA) INC.
MERRILL LYNCH CANADA INC.
NATIONAL BANK FINANCIAL INC.
TD SECURITIES INC.

Promoter(s):

Sun Life Assurance Company of Canada

Project #1495752/1495744

Issuer Name:

Temple Real Estate Investment Trust
Principal Regulator - Manitoba

Type and Date:

Final Short Form Prospectus (NI 44-101) dated November 18, 2009

NP 11-202 Receipt dated November 18, 2009

Offering Price and Description:

5 YEAR 8.75% SENIOR SECURED CONVERTIBLE REDEEMABLE DEBENTURES
in the Minimum Aggregate Principal Amount of \$10,000,000 (the "Minimum Offering")
and the Maximum Aggregate Principal Amount of \$15,000,000 (the "Maximum Offering")
\$10.00 per Debenture

Underwriter(s) or Distributor(s):

Wellington West Capital Inc.
Dundee Securities Corporation
Raymond James Ltd.
HSBC Securities (Canada) Inc.
Desjardins Securities Inc.
Blackmont Capital Corporation

Promoter(s):

-

Project #1493690

Issuer Name:

Angiotech Pharmaceuticals, Inc.
Principal Jurisdiction - British Columbia

Type and Date:

Preliminary Base Shelf Prospectus dated July 23, 2009
Withdrawn on November 19, 2009

Offering Price and Description:

US\$250,000,000.00:
Common Shares
Class I Preference Shares
Warrants
Debt Securities
Units

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #1450079

Issuer Name:

Guardian Capital Tactical Yield Fund
Principal Jurisdiction - Ontario

Type and Date:

Preliminary Long Form Prospectus dated September 30, 2009
Withdrawn on November 18, 2009

Offering Price and Description:

\$ * - * Units
Price: \$10.00 per Unit
Minimum Purchase: 200 Units

Underwriter(s) or Distributor(s):

CIBC World Markets Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
Scotia Capital Inc.
National Bank Financial Inc.
Canaccord Capital Corporation
Dundee Securities Corporation
HSBC Securities (Canada) Inc.
Raymond James Ltd.
Blackmont Capital Inc.
GMP Securities L.P.
Manulife Securities Incorporated
Wellington West Capital Markets Inc.
MGI Securities Inc.
WorldSource Securities Inc.

Promoter(s):

Guardian Capital Management Inc.

Project #1481850

Issuer Name:

Navina Diversified Flow-Through Limited Partnership
Principal Jurisdiction - Ontario

Type and Date:

Preliminary Long Form Prospectus dated August 18, 2009
Withdrawn on November 23, 2009

Offering Price and Description:

\$50,000,000.00 (Maximum Offering) - A maximum of
2,000,000 Limited Partnership Units Subscription Price:
\$25 per Unit Minimum Subscription: 200 Units

Underwriter(s) or Distributor(s):

CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
RBC Dominion Securities Inc.
National Bank Financial Inc.
Scotia Capital Inc.
HSBC Securities (Canada) Inc.
GMP Securities L.P.
Manulife Securities Incorporated
Canaccord Capital Corporation
Raymond James Ltd.
Blackmont Capital Inc.
Dundee Securities Corporation
Wellington West Capital Markets Inc.
Haywood Securities Inc.
Research Capital Corporation

Promoter(s):

Navina Capital Corp.

Project #1461414

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Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
Change of Name	From: Cranston, Gaskin, O'Reilly & Vernon To: CGOV Asset Management	Exempt Market Dealer and Portfolio Manager	November 16, 2009
Voluntary Surrender of Registration	BlueCrest Capital Management LLP	Exempt Market Dealer	November 20, 2009
Suspended pursuant to section 28 because the company ceased all registerable activities as of November 19, 2009.	Concordia Capital Management Corp.	Portfolio Manager	November 23, 2009
Change in Registration Category	Jarislowky, Fraser Limited	From: Exempt Market Dealer, Portfolio Manager To: Portfolio Manager	November 24, 2009
Voluntary Surrender of Registration	Rigel Capital, LLC	International Adviser	November 24, 2009

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Chapter 13

SRO Notices and Disciplinary Proceedings

13.1.1 MFDA Hearing Panel Issues Reasons for Decision with Respect to Purisima Dy Hearing

NEWS RELEASE
For immediate release

MFDA HEARING PANEL ISSUES REASONS FOR DECISION WITH RESPECT TO PURISIMA DY HEARING

November 20, 2009 (Toronto, Ontario) – A Hearing Panel of the Central Regional Council of the Mutual Fund Dealers Association of Canada ("MFDA") has issued its Reasons for Decision in connection with the hearing held in Toronto, Ontario on November 9, 2009 in the matter of Purisima Dy.

A copy of the Reasons for Decision is available on the MFDA website at www.mfda.ca.

The MFDA is the self-regulatory organization for Canadian mutual fund dealers, regulating the operations, standards of practice and business conduct of its 145 Members and their approximately 75,000 Approved Persons with a mandate to protect investors and the public interest.

For further information, please contact:
Shaun Devlin
Vice-President, Enforcement
416-943-4672 or sdevlin@mfda.ca

13.1.2 MFDA Issues Notice of Settlement Hearing Regarding Donald J. Cunningham

NEWS RELEASE
For immediate release

MFDA ISSUES NOTICE OF SETTLEMENT HEARING REGARDING DONALD J. CUNNINGHAM

November 20, 2009 (Toronto, Ontario) – The Mutual Fund Dealers Association of Canada ("MFDA") today announced that it has issued a Notice of Settlement Hearing regarding the presentation, review and consideration of a proposed settlement agreement by a Hearing Panel of the MFDA's Central Regional Council.

The settlement agreement will be between staff of the MFDA and Donald James Cunningham (the "Respondent") and involves matters for which the Respondent may be disciplined by a Hearing Panel pursuant to MFDA By-laws. The proposed settlement agreement concerns allegations that, contrary to MFDA Rule 2.5, among other requirements, the Respondent failed to:

- a) adequately fulfill his supervisory responsibilities as a branch manager;
- b) employ adequate supervision to prevent Anthony McPhail, an unregistered individual, from engaging in securities related business with clients; and
- c) conduct reasonable supervisory investigations in response to information that Anthony McPhail was engaging in securities related business with clients.

The settlement hearing is scheduled to take place on December 1, 2009 in the hearing room located at 121 King Street West, 10th Floor, Toronto, Ontario, commencing at 10:00 a.m. (Eastern), or as soon thereafter as the hearing can be held.

The hearing will be open to the public except as may be required for the protection of confidential matters. A copy of the Notice of Settlement Hearing is available on the MFDA website at www.mfda.ca.

The MFDA is the self-regulatory organization for Canadian mutual fund dealers, regulating the operations, standards of practice and business conduct of its 145 Members and their approximately 75,000 Approved Persons with a mandate to protect investors and the public interest.

For further information, please contact:
Shaun Devlin
Vice-President, Enforcement
416-943-4672 or sdevlin@mfda.ca

13.1.3 MFDA Hearing Panel Issues Reasons for Decision with Respect to Douglas Malech Settlement Hearing

NEWS RELEASE
For immediate release

**MFDA HEARING PANEL ISSUES REASONS FOR
DECISION WITH RESPECT TO
DOUGLAS MALECH SETTLEMENT HEARING**

November 23, 2009 (Toronto, Ontario) – A Hearing Panel of the Prairie Regional Council of the Mutual Fund Dealers Association of Canada ("MFDA") has issued its Reasons for Decision in connection with the settlement hearing held in Edmonton, Alberta on September 18, 2009 in the matter of Douglas Malech.

A copy of the Reasons for Decision is available on the MFDA website at www.mfda.ca.

The MFDA is the self-regulatory organization for Canadian mutual fund dealers, regulating the operations, standards of practice and business conduct of its 145 Members and their approximately 75,000 Approved Persons with a mandate to protect investors and the public interest.

For further information, please contact:

Shaun Devlin
Vice-President, Enforcement
416-943-4672 or sdevlin@mfda.ca

13.1.4 MFDA Issues Notice of Settlement Hearing Regarding IOCT Financial Inc. and Michelle Bolhuis

NEWS RELEASE
For immediate release

November 23, 2009 (Toronto, Ontario) – The Mutual Fund Dealers Association of Canada ("MFDA") today announced that it has issued a Notice of Settlement Hearing regarding the presentation, review and consideration of a proposed settlement agreement by a Hearing Panel of the MFDA's Central Regional Council.

The settlement agreement will be between staff of the MFDA and IOCT Financial Inc. and Michelle Anne Bolhuis (the "Respondents") and involves matters for which the Respondents may be disciplined by a Hearing Panel pursuant to MFDA By-laws.

The settlement hearing is scheduled to take place on November 27, 2009 in the hearing room located at 121 King Street West, 10th Floor, Toronto, Ontario, commencing at 10:00 a.m. (Eastern), or as soon thereafter as the hearing can be held. The proposed settlement agreement concerns allegations that, contrary to MFDA Rule 3.4.2(b)(iv) and section 22.1 of MFDA By-law No. 1:

- a) while IOCT was designated in early warning, the Respondents performed financial transactions for which the prior written approval of the MFDA was required without first receiving such approval; and
- b) commencing in January 2008, the Respondent Bolhuis failed to attend an interview requested by MFDA staff during the course of its investigation.

The hearing will be open to the public except as may be required for the protection of confidential matters. A copy of the Notice of Settlement Hearing is available on the MFDA website at www.mfda.ca.

The MFDA is the self-regulatory organization for Canadian mutual fund dealers, regulating the operations, standards of practice and business conduct of its 145 Members and their approximately 75,000 Approved Persons with a mandate to protect investors and the public interest.

For further information, please contact:

Shaun Devlin
Vice-President, Enforcement
416-943-4672 or sdevlin@mfda.ca

13.1.5 TSX Notice of Approval – Housekeeping Amendments to the TSX Company Manual

TORONTO STOCK EXCHANGE
NOTICE OF APPROVAL
HOUSEKEEPING AMENDMENTS TO THE
TORONTO STOCK EXCHANGE COMPANY MANUAL

Introduction

In accordance with the “Protocol for Commission Oversight of Toronto Stock Exchange Rule Proposals” between the Ontario Securities Commission (the “OSC”) and Toronto Stock Exchange (“TSX”), TSX has adopted, and the OSC has approved, amendments (the “Amendments”) to the TSX Company Manual (the “Manual”). The Amendments are housekeeping in nature and therefore are considered non-public interest amendments.

Reasons for the Amendments

Part VI – Section N, Security Holder Rights Plans, contains references to the application of National Instrument 62-202 by the “appropriate securities commissions”, and then in Subsection 636(c), only the OSC is referenced. While all TSX listed issuers are reporting issuers in Ontario, they may have another principal regulator who will be responsible for considering the application of National Instrument 62-202. Subsection 636(c) is therefore being amended to correct the inconsistent reference to the OSC in Subsection 636(c).

Form 11 – Notice of Private Placement (“Form 11”) is being amended to clarify questions concerning broker warrants and insiders and to provide for certification of the form by a director or officer of the issuer. Certain other TSX forms have the same certification requirement and TSX believes this requirement will improve the accuracy of the information submitted as it is frequently provided by legal counsel, rather than the issuer itself.

Part IX – Section 910(A) Paid Distribution News Services (providing full text coverage) is being updated.

Text of Amendments

The Amendments are attached as **Appendix A**.

Effective Date

The Amendments become effective on November 27, 2009.

APPENDIX A
NON-PUBLIC INTEREST AMENDMENTS TO THE TSX COMPANY MANUAL

Sec. 636.

- (c) If a plan can be reasonably perceived to have been proposed or adopted as a response to a specific take-over bid for a listed issuer that has been made or is contemplated, TSX will normally defer its decision on whether to consent to the plan until the OSC appropriate securities commission has had the opportunity to consider whether it will initiate proceedings by virtue of National Policy 62-202 regarding defensive tactics. If the OSC appropriate securities commission chooses not to intervene, TSX will generally not object to the adoption of a poison pill, subject to security holder ratification as described in Subsections 636(a) and (b) and subject to Sections 634, 635 and 637.

Form 11 – Notice of Private Placement

3. (j) description of any broker warrants (or options), including:
- i) number:
- ii) exercise price:
- iii) term to expiry:
- iv) other significant terms:
- (k) description of any anti-dilution provisions which provide an adjustment for events for which not all securities holders are compensated for:
4. If there are any new insiders created as a result of the private placement, please provide the name(s) of the new insider(s). (Note that TSX may require the new insider(s) to complete and clear a Personal Information Form prior to the closing of the private placement.)
15. Certificate – The undersigned, a director or senior officer of the issuer duly authorized by the issuer's board of directors, certifies that this notice is complete and accurate. This notice contains no untrue statement of a material fact and does not omit to state a material fact that is required to be stated or that is necessary to make a statement not misleading in the light of the circumstances in which it is made.

Signature: _____	Date: _____
Name: _____	Title: _____

Section 910

A.
Infolink
GlobeNewswire, Inc.

Chapter 25

Other Information

25.1 Consents

25.1.1 Xceed Mortgage Corporation – s. 4(b) of the Regulation

Headnote

Consent given to an offering corporation under the Business Corporations Act (Ontario) to continue under the Bank Act (Canada).

Statutes Cited

Business Corporations Act, R.S.O. 1990, c. B.16, as am., s. 181.
Securities Act, R.S.O. 1990, c. S.5, as am.

Regulations Cited

Regulation made under the Business Corporations Act, O. Reg. 289/00, as am., s. 4(b).

**IN THE MATTER OF
R.R.O. 1990, REGULATION 289/00
(the "Regulation")
MADE UNDER THE
BUSINESS CORPORATIONS ACT (ONTARIO)
R.S.O. 1990, c. B.16, AS AMENDED
(the "OBCA")**

AND

**IN THE MATTER OF
XCEED MORTGAGE CORPORATION**

**CONSENT
(Subsection 4(b) of the Regulation)**

UPON the application (the "Application") of Xceed Mortgage Corporation (the "Applicant") to the Ontario Securities Commission (the "Commission") requesting the Commission's consent to the continuance of the Applicant as a bank under the *Bank Act*, S.C. 1991, c. 46, as amended (the "Bank Act") as required pursuant to Subsection 4(b) of the Regulation;

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

AND UPON the Applicant having represented to the Commission that:

1. The Applicant was amalgamated under the OBCA by certificate and articles of amalgamation dated June 8, 2004. Its head office is located at 18 King

Street East, 10th Floor, Toronto, Ontario, M5C 1C4.

2. The Applicant is an offering corporation under the OBCA and a reporting issuer under the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act"). All of the issued and outstanding common shares of the Applicant are listed on the Toronto Stock Exchange under the symbol "XMC".
3. The Applicant is not in default of any of the provisions of the OBCA, the Act or the regulations made under the Act.
4. The Applicant is not a party to any proceeding or, to the best of its knowledge, information and belief, any pending proceeding under the OBCA or the Act.
5. The authorized capital of the Applicant consists of an unlimited number of common shares and an unlimited number of preferred shares, of which, as at July 22, 2009, 27,566,157 common shares and no preferred shares were issued and outstanding.
6. The Applicant proposes to submit an application to the Director under the OBCA for authorization to continue as a bank under the Bank Act pursuant to Section 181 of the OBCA (the "Application for Continuance"). Pursuant to Subsection 4(b) of the Regulation, as the Applicant is an offering corporation under the OBCA, the Application for Continuance must be accompanied by a consent from the Commission.
7. Management of the Applicant prepared and mailed to shareholders an information circular dated July 31, 2009 (the "Circular") describing the proposed continuance of the Applicant as a bank under the Bank Act.
8. The Application for Continuance was approved by the shareholders of the Applicant by special resolution at a special meeting of the shareholders held on September 10, 2009 (the "Meeting"). The special resolution was approved at the Meeting by 99.8% of the votes cast.
9. The Applicant intends to submit the Application for Continuance to the Director and to apply to the Minister of Finance of Canada (the "Federal Minister") to issue letters patent continuing the Applicant as a bank under the Bank Act. The Applicant will not submit a formal application for letters patent to the Federal Minister until it receives approval of its application materials from

the Office of the Superintendent of Financial Institutions ("OSFI"). The Applicant is engaged in ongoing discussions with OSFI and is working toward the finalization of its application materials.

10. The Applicant intends to continue as a bank under the Bank Act so it may, among other things, expand and improve the profitability of its mortgage lending business. Continuance as a bank will provide the Applicant with access to retail deposits, an additional source of funding for its mortgage origination activities. This source of funding will enable the Applicant to compete more effectively with other small Canadian banks and trust companies in its industry and reduce significant costs associated with the Applicant's existing business activities.
11. If the Federal Minister issues letters patent continuing the Applicant as a bank under the Bank Act, the Applicant will be governed by the Bank Act and become subject to the regulatory oversight of the Office of the Superintendent of Financial Institutions. The Applicant will continue to be a reporting issuer in each of the provinces of Canada immediately following the continuance.
12. The material rights, duties and obligations of a bank under the Bank Act are similar to those of a corporation incorporated under the OBCA. The Circular contains a description of the principal differences between the OBCA and the Bank Act that management of the Applicant believes are relevant to shareholders.
13. Pursuant to Section 185 of the OBCA, all shareholders of record as of the record date for the Meeting are entitled to dissent rights with respect to the Application for Continuance. The Circular contains a description of these dissent rights.

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

THE COMMISSION HEREBY CONSENTS to the continuance of the Applicant as a bank under the Bank Act.

DATED at Toronto, Ontario this 24th day of November, 2009.

"Margot C. Howard"
Commissioner
Ontario Securities Commission

"Paulette Kennedy"
Commissioner
Ontario Securities Commission

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