The Ontario Securities Commission

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

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Notices / News Releases

1.1 Notices

1.1.1 Current Proceedings Before The Ontario Securities Commission

DECEMBER 18, 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
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Patrick J. LeSage	—	PJL
Carol S. Perry	—	CSP
Charles Wesley Moore (Wes) Scott	—	CWMS

SCHEDULED OSC HEARINGS

December 21-23, 2009, January 11-18, January 20-29, 2010 10:00 a.m.	**Rene Pardo, Gary Usling, Lewis Taylor Sr., Lewis Taylor Jr., Jared Taylor, Colin Taylor and 1248136 Ontario Limited** s. 127 M. Britton / J. Feasby in attendance for Staff Panel: JDC/KJK
January 19, 2010 2:00 p.m.	
January 7, 2010 10:00 a.m.	**Paul Iannicca** s. 127 H. Craig in attendance for Staff Panel: DLK
January 7, 2010 10:00 a.m.	**Nest Acquisitions and Mergers and Caroline Frayssignes** s. 127(1) and 127(8) C. Price in attendance for Staff Panel: CSP
January 7, 2010 10:00 a.m.	**IMG International Inc., Investors Marketing Group International Inc., and Michael Smith** s. 127 C. Price in attendance for Staff Panel: CSP
January 8, 2010 10:00 a.m.	**Sulja Bros. Building Supplies, Ltd. (Nevada), Sulja Bros. Building Supplies Ltd., Kore International Management Inc., Petar Vucicevich and Andrew DeVries** s. 127 and 127.1 M. Britton in attendance for Staff Panel: JEAT

January 11, 2010 10:00 a.m.	**Firestar Capital Management Corp., Kamposse Financial Corp., Firestar Investment Management Group, Michael Ciavarella and Michael Mitton** s. 127 H. Craig in attendance for Staff Panel: DLK
January 12, 2010 10:00 a.m.	**Shallow Oil & Gas Inc., Eric O'Brien, Abel Da Silva, Gurdip Singh Gahunia aka Michael Gahunia and Abraham Herbert Grossman aka Allen Grossman** s. 127(7) and 127(8) M. Boswell in attendance for Staff Panel: DLK
January 12, 2010 10:30 a.m.	**Abel Da Silva** s.127 M. Boswell in attendance for Staff Panel: DLK
January 14, 2010 10:00 a.m.	**Coventree Inc., Geoffrey Cornish and Dean Tai** s. 127 J. Waechter in attendance for Staff Panel: JEAT
January 15, 2010 10:00 a.m.	**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** s. 127 H. Daley in attendance for Staff Panel: CSP
January 18, 2010; January 20-29, 2010 10:00 a.m. January 19, 2010 2:30 p.m.	**New Life Capital Corp., New Life Capital Investments Inc., New Life Capital Advantage Inc., New Life Capital Strategies Inc., 1660690 Ontario Ltd., L. Jeffrey Pogachar, Paola Lombardi and Alan S. Price** s. 127 S. Kushneryk in attendance for Staff Panel: DLK/MCH
January 19, 2010 2:30 p.m. January 20 – February 1, 2010; February 3-12, 2010 10:00 a.m. February 2, 2010 2:30 p.m.	**Borealis International Inc., Synergy Group (2000) Inc., Integrated Business Concepts Inc., Canavista Corporate Services Inc., Canavista Financial Center Inc., Shane Smith, Andrew Lloyd, Paul Lloyd, Vince Villanti, Larry Haliday, Jean Breau, Joy Statham, David Prentice, Len Zielke, John Stephan, Ray Murphy, Alexander Poole, Derek Grigor and Earl Switenky** s. 127 and 127.1 Y. Chisholm in attendance for Staff Panel: PJL/PLK

January 20, 2010 9:00 a.m.	**IBK Capital Corp. and William F. White** s. 127 M. Vaillancourt in attendance for Staff Panel: DLK
January 25-26, 2010 10:00 a.m.	**Lehman Cohort Global Group Inc., Anton Schnedl, Richard Unzer, Alexander Grundmann and Henry Hehlsinger** s. 127 H. Craig in attendance for Staff Panel: JEAT/CSP
February 1, February 3-12, February 17-26, 2010 10:00 a.m.	**Irwin Boock, Stanton Defreitas, Jason Wong, Saudia Allie, Alena Dubinsky, Alex Khodjiaints 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** s. 127 and 127.1 H. Craig in attendance for Staff Panel: TBA
February 2, 2010 2:30 p.m.	**Paladin Capital Markets Inc., John David Culp and Claudio Fernando Maya** s. 127 C. Price in attendance for Staff Panel: DLK
February 3, 2010 10:00 a.m.	**Uranium308 Resources Inc., Uranium308 Resources PLC., Michael Friedman, George Schwartz, Peter Robinson, Alan Marsh Shuman and Innovative Gifting Inc.** s. 127 M. Boswell in attendance for Staff Panel: DLK
February 5, 2010 10:00 a.m.	**Hillcorp International Services, Hillcorp Wealth Management, Suncorp Holdings, 1621852 Ontario Limited, Steven John Hill, John C. McArthur, Daryl Renneberg and Danny De Melo** s. 127 A. Clark in attendance for Staff Panel: TBA
February 8-12, 2010 10:00 a.m.	**Goldbridge Financial Inc., Wesley Wayne Weber and Shawn C. Lesperance** s. 127 J. Feasby in attendance for Staff Panel: TBA
February 17 – March 1, 2010 10:00 .m.	**M P Global Financial Ltd., and Joe Feng Deng** s. 127(1) M. Britton in attendance for Staff Panel: DLK/MCH
February 17, 2010 10:00 a.m.	**Maple Leaf Investment Fund Corp. and Joe Henry Chau** s. 127 J. Superina in attendance for Staff Panel: TBA
February 25, 2010 10:00 a.m.	**Tulsiani Investments Inc. and Sunil Tulsiani** s. 127 J. Superina in attendance for Staff Panel: TBA

March 1-8, 2010 10:00 a.m.	**Teodosio Vincent Pangia** s. 127 J. Feasby in attendance for Staff Panel: TBA
March 3, 2010 10:00 a.m.	**Brilliante Brasilcan Resources Corp., York Rio Resources Inc., Brian W. Aidelman, Jason Georgiadis, Richard Taylor and Victor York** s. 127 S. Horgan in attendance for Staff Panel: TBA
March 10, 2010 10:00 a.m.	**Global Energy Group, Ltd. And New Gold Limited Partnerships** s. 127 H. Craig in attendance for Staff Panel: TBA
March 25-26, 2010 10:00 a.m.	**Gold-Quest International, 1725587 Ontario Inc. carrying on business as Health and Harmoney, Harmoney Club Inc., Donald Iain Buchanan, Lisa Buchanan and Sandra Gale** s. 127 H. Craig in attendance for Staff Panel: TBA
March 29, 2010 – April 9, 2010 10:00 a.m.	**Shane Suman and Monie Rahman** s. 127 and 127(1) C. Price in attendance for Staff Panel: JEAT/PLK
April 13, 2010 2:30 p.m.	**Axcess Automation LLC, Axcess Fund Management, LLC, Axcess Fund, L.P., Gordon Alan Driver and David Rutledge, Steven M. Taylor and International Communication Strategies** s. 127 M. Adams in attendance for Staff Panel: TBA
May 3-28, 2010 10:00 a.m.	**Sextant Capital Management Inc., Sextant Capital GP Inc., Sextant Strategic Opportunities Hedge Fund L.P., Otto Spork, Robert Levack and Natalie Spork** s. 127 S. Kushneryk in attendance for Staff Panel: TBA
May 31 – June 4, 2010 10:00 a.m.	**Lyndz Pharmaceuticals Inc., James Marketing Ltd., Michael Eatch and Rickey McKenzie** s. 127(1) and (5) J. Feasby in attendance for Staff Panel: TBA
June 29, 2010 10:00 a.m.	**Oversea Chinese Fund Limited Partnership, Weizhen Tang and Associates Inc., Weizhen Tang Corp., and Weizhen Tang** s. 127 and 127.1 M. Britton in attendance for Staff Panel: TBA
TBA	**Yama Abdullah Yaqeen** s. 8(2) J. Superina in attendance for Staff Panel: TBA
TBA	**Microsourceonline Inc., Michael Peter Anzelmo, Vito Curalli, Jaime S. Lobo, Sumit Majumdar and Jeffrey David Mandell** s. 127 J. Waechter in attendance for Staff Panel: TBA
TBA	**Frank Dunn, Douglas Beatty, Michael Gollogly** s. 127 K. Daniels in attendance for Staff Panel: TBA

TBA

Juniper Fund Management Corporation, Juniper Income Fund, Juniper Equity Growth Fund and Roy Brown (a.k.a. Roy Brown-Rodrigues)

s. 127 and 127.1

D. Ferris in attendance for Staff

Panel: TBA

TBA

Merax Resource Management Ltd. carrying on business as Crown Capital Partners, Richard Mellon and Alex Elin

s. 127

H. Craig in attendance for Staff

Panel: TBA

TBA

Gregory Galanis

s. 127

P. Foy in attendance for Staff

Panel: TBA

TBA

Franklin Danny White, Naveed Ahmad Qureshi, WNBC The World Network Business Club Ltd., MMCL Mind Management Consulting, Capital Reserve Financial Group, and Capital Investments of America

s. 127

C. Price in attendance for Staff

Panel: TBA

TBA

Biovail Corporation, Eugene N. Melnyk, Brian H. Crombie, John R. Miszuk and Kenneth G. Howling

s. 127(1) and 127.1

J. Superina, A. Clark in attendance for Staff

Panel: TBA

TBA

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

s. 127

M. Boswell in attendance for Staff

Panel: TBA

TBA

FactorCorp Inc., FactorCorp Financial Inc. and Mark Twerdun

s. 127

C. Price in attendance for Staff

Panel: TBA

TBA

Shane Suman and Monie Rahman

s. 127 and 127(1)

C. Price in attendance for Staff

Panel: TBA

TBA

Berkshire Capital Limited, GP Berkshire Capital Limited, Panama Opportunity Fund and Ernest Anderson

s. 127

E. Cole in attendance for Staff

Panel: TBA

TBA

MRS Sciences Inc. (formerly Morningside Capital Corp.), Americo DeRosa, Ronald Sherman, Edward Emmons and Ivan Cavric

s. 127 and 127(1)

D. Ferris in attendance for Staff

Panel: TBA

TBA	**Barry Landen** s. 127 H. Craig in attendance for Staff Panel: TBA	**ADJOURNED SINE DIE**
TBA	**Imagin Diagnostic Centres Inc., Patrick J. Rooney, Cynthia Jordan, Allan McCaffrey, Michael Shumacher, Christopher Smith, Melvyn Harris and Michael Zelyony** s. 127 and 127.1 J. Feasby in attendance for Staff Panel: TBA	**Global Privacy Management Trust and Robert Cranston** **S. B. McLaughlin** **Livent Inc., Garth H. Drabinsky, Myron I. Gottlieb, Gordon Eckstein, Robert Topol** **Portus Alternative Asset Management Inc., Portus Asset Management Inc., Boaz Manor, Michael Mendelson, Michael Labanowich and John Ogg** **Maitland Capital Ltd., Allen Grossman, Hanouch Ulfan, Leonard Waddingham, Ron Garner, Gord Valde, Marianne Hyacinthe, Diana Cassidy, Ron Catone, Steven Lanys, Roger McKenzie, Tom Mezinski, William Rouse and Jason Snow**
TBA	**Gold-Quest International, Health and Harmoney, Iain Buchanan and Lisa Buchanan** s. 127 H. Craig 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	**Goldpoint Resources Corporation, Lino Novielli, Brian Moloney, Evanna Tomeli, Robert Black, Richard Wylie and Jack Anderson** s. 127(1) and 127(5) M. Boswell in attendance for Staff Panel: TBA	**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** **Hollinger Inc., Conrad M. Black, F. David Radler, John A. Boultbee and Peter Y. Atkinson**

1.1.2 CSA Staff Notice 31-313 – NI 31-103 Registration Requirements and Exemptions and related instruments – Frequently Asked Questions as of December 18, 2009

CSA STAFF NOTICE 31-313

NI 31-103 *REGISTRATION REQUIREMENTS AND EXEMPTIONS* AND RELATED INSTRUMENTS

FREQUENTLY ASKED QUESTIONS AS OF DECEMBER 18, 2009

Background

On September 28, 2009, new National Instrument 31-103 *Registration Requirements and Exemptions* and amendments to related instruments including NI 33-109 *Registration Information* came into force. We have compiled this list of frequently asked questions (FAQs) from the enquiries we have received concerning NI 31-103 and NI 33-109 in order to assist those working with these instruments.

NI 31-103 *Registration Requirements and Exemptions*

NI 31-103 SECTION	QUESTION	ANSWER
PART 1 INTERPRETATION		
1.1 Definitions of terms used throughout this Instrument	**How will accounting terms in NI 31-103 work with International Financial Reporting Standards (IFRS) Amendments?**	Proposed amendments to NI 31-103 necessary to accommodate IFRS were published for comment on October 23, 2009, except in Québec and New Brunswick where the proposed amendments will be published in early 2010. The comment period will end on January 21, 2010.
PART 2 CATEGORIES OF REGISTRATION FOR INDIVIDUALS		
2.2 Client mobility exemption – individuals	**Are sections 2.2 [*Client mobility exemption – individuals*] and 8.30 [*Client mobility exemption – firms*] independent of each other? How do the firm and individual limits work together?**	Sections 2.2 [*Client mobility exemption – individuals*] and 8.30 [*Client mobility exemption – firms*] are independent of each other: individuals may rely on section 2.2 in circumstances where they are not registered in the local jurisdiction even though their firm does not rely on section 8.30 because the firm is registered in the local jurisdiction. The limits are per jurisdiction. For example a firm using the exemption could have 10 clients in each of several local jurisdictions where it is not registered. An individual could also be using the exemption to have 5 clients in each of several jurisdictions where the individual is not registered. The individual limits are per individual. For example several individuals working for a firm could each have 5 clients in the same local jurisdiction, if their firm was registered in the jurisdiction. Even if a firm is registered in a local jurisdiction and has more than 10 clients served by registered individuals it can have unregistered individuals using the exemption in the jurisdiction. If a firm is not registered in a jurisdiction, the firm may not exceed its 10 client limit, shared among its representatives.

NI 31-103 SECTION	QUESTION	ANSWER
2.3 Individuals acting for investment fund managers	**Do permitted individuals of an investment fund manager (IFM) need to file Form 33-109F4 *Registration of Individuals and Review of Permitted Individuals*?**	Although individuals acting on behalf of a registered IFM are not required to register pursuant to section 2.3 of NI 31-103, permitted individuals of an IFM must nonetheless file Form 33-109F4 *Registration of Individuals and Review of Permitted Individuals*. "Permitted individual" is defined in section 1.1 of National Instrument 33-109 *Registration Information*.
PART 3 REGISTRATION REQUIREMENTS – INDIVIDUALS		
Division 1 General proficiency requirements		
3.4 Proficiency – initial and ongoing	**Has the CSA published any additional guidance relating to the proficiency requirement in section 3.4?**	CSA Staff Notice 33-315 *Suitability Obligation and Know Your Product* was published on September 2, 2009. It discusses the requirement for registered individuals to "know your product", which forms part of the ongoing proficiency obligation.
3.6 Mutual fund dealer – chief compliance officer **3.8 Scholarship plan dealer – chief compliance officer** **3.10 Exempt market dealer – chief compliance officer** **3.13 Portfolio manager – chief compliance officer**	**How do proficiency time limits apply to chief compliance officers (CCO) in Québec?**	The CCO category is new in Québec. Prior to September 28, 2009, an individual could act in Québec in a similar capacity, with activities normally performed by a CCO but without however being identified on NRD in this category. Prior to September 28, 2009, the CCO or compliance officer categories existed only in Ontario, British Columbia and New Brunswick (the CCO jurisdictions). In Québec individuals acting as *personne responsable (ou chef) de la conformité* prior to the coming into force of NI 31-103 must register before December 28, 2009 pursuant to subsection 16.9(1) of NI 31-103 and have until September 2010 pursuant to subsection 16.9(3) to meet the proficiency requirements set out in sections 3.6, 3.8, 3.10 and 3.13 as the case may be, for the following reasons: Subsection 16.9(2), when referring to "the individual identified on the National Registration Database as the firm's compliance officer", refers to such compliance officers as were identified prior to September 28, 2009. This section can only apply in the CCO jurisdictions. In these jurisdictions, proficiency requirements applied to the compliance officer. In Québec therefore subsection 16.9(2) of NI 31-103 does not constitute a "grandfathering" clause for individuals acting as *personne responsable (ou chef) de la conformité* prior to September 28, 2009. As a result, there are in Québec the following 2 options:

NI 31-103 SECTION	QUESTION	ANSWER
		1. If the individual acting as *personne responsable (ou chef) de la conformité* in Québec prior to September 28, 2009 was identified as compliance officer or CCO in one of the CCO jurisdictions, the "grandfathering" clause in subsection 16.9(2) applies to this individual. The individual is therefore not required to meet the proficiency requirements of NI 31-103, so long as the individual remains registered as the firm's CCO. 2. If the individual acting as *personne responsable (ou chef) de la conformité* in Québec prior to September 28, 2009 was not identified as compliance officer or CCO in one of the CCO jurisdictions, subsection 16.9(3) applies: the individual is required to meet the proficiency requirements of NI 31-103, but has 12 months to do so.
3.6 Mutual fund dealer – chief compliance officer **3.10 Exempt market dealer – chief compliance officer** **3.13 Portfolio manager – chief compliance officer** **3.14 Investment fund manager – chief compliance officer**	**Can the chief compliance officer (CCO) of a portfolio manager (PM) whose proficiency is grandfathered under subsection 16.9(2) continue to be its CCO if the firm is registered as a mutual fund dealer (MFD), exempt market dealer (EMD) or investment fund manager (IFM)?**	Although PM CCO proficiency set out in section 3.13 is available as an alternative to other proficiency requirements for CCOs of MFDs, EMDs and IFMs in sections 3.6, 3.10 and 3.14, respectively, there is no corresponding provision that would accommodate a PM CCO whose proficiency is grandfathered under subsection 16.9(2) on the basis of different qualifications than are prescribed in section 3.13. This was not our intention, and we will be issuing an order providing an exemption from proficiency requirements for the CCO of an MFD, EMD or IFM where the firm was registered as a PM on the date NI 31-103 came into force and the individual was on that date designated as the CCO of the firm, for so long as they remain registered as the firm's CCO.
3.9 Exempt market dealer – dealing representative	**Will exemptions from the proficiency requirements for exempt market dealer (EMD) dealing representatives in section 3.9 be available?**	We will always consider applications for exemptive relief. However, proficiency is one of the fundamental fitness criteria for individual registrants, so we anticipate granting exemptions from the EMD dealing representative proficiency requirements set out in section 3.9 only in rare cases.
PART 4 RESTRICTIONS ON REGISTERED INDIVIDUALS		
4.2 Associate advising representatives – pre-approval of advice	**If a firm has previously designated an adviser to review the advice of an associate advising representative (AAR), does it need to re-designate an adviser to review the AAR's advice under subsection 4.2(2) ?**	No. If a firm has previously designated an adviser, it does not need to re-designate under NI 31-103 unless: • the firm has hired new AARs subsequent to the original designation, or • the designated advising representative changes

NI 31-103 SECTION	QUESTION	ANSWER
		This also applies in those jurisdictions that did not have the category of associate advising representative but imposed supervision on "junior" advisers through terms and conditions, if an adviser was designated to review the advice.
PART 7 CATEGORIES OF REGISTRATION FOR FIRMS		
7.1 Dealer categories	**A. Can an exempt market dealer (EMD) trade prospectus qualified securities to clients such as accredited investors or those making a minimum purchase in an amount sufficient to qualify for prospectus-exempt distribution?** **B. If so, can the EMD provide the investor with a copy of the prospectus?**	A. Yes. As set out in clause 7.1(2)(d)(ii), an EMD can trade a prospectus-qualified security in circumstances where an exemption from the prospectus requirement would be available. B. Yes, the EMD may provide the investor with a copy of the prospectus.
	Can an exempt market dealer (EMD) underwrite a distribution that is not exempt from the prospectus requirement?	No. As set out in clause 7.1(2)(d)(iv), an EMD may only underwrite a distribution of securities that is made under an exemption from the prospectus requirement.
	Can an exempt market dealer (EMD) underwrite a prospectus-qualified distribution if it only distributes securities to accredited investors or other clients who may purchase securities offered under a prospectus exemption?	No. Although clause 7.1(2)(d)(ii) would permit an EMD to trade in such circumstances, clause 7.1(2)(d)(iv) restricts an EMD to underwriting permitted distributions that are, in fact, made under a prospectus exemption.
	When will the jurisdictions that are participating in the "alternative approach to regulating certain intermediaries in the exempt market" described in Appendix D to the CSA Notice of NI 31-103 (published on July 17, 2009) issue their	The jurisdictions that have agreed to this alternative approach will issue local blanket orders to exempt certain intermediaries from EMD registration shortly before the registration exemptions in NI 45-106 *Prospectus and Registration Exemptions* expire (March 27, 2010).

NI 31-103 SECTION	QUESTION	ANSWER
	exemptions from exempt market dealer (EMD) registration?	
	Must a mutual fund dealer in Québec or Manitoba also have to register as an EMD in Québec in order to sell principal protected notes (PPNs)?	PPNs include the instruments commonly described as market-linked GICs (market-linked GICs) and linked notes (market-linked notes). Market-linked GICs are described as term deposits that guarantee principal through a CDIC-insured (or equivalent) deposit-taking institution, with a return linked to a number of underlying investments, including stock market indices, mutual funds or hedge funds. Market-linked notes are described as debt instruments that provide a principal guarantee through the credit-worthiness of the issuer, with returns linked to a variety of underlying investments, including stock market indices, mutual funds, and hedge funds. If certain conditions are met in connection with the type of PPN being sold, registration in the EMD category is not required for a mutual fund dealer in Québec. The treatment of PPNs in Québec varies according to whether the PPN is a market-linked GIC or a market-linked note: • market-linked GICs are term deposits to which the *Securities Act* (Québec) applies. Paragraph 9° of section 3 of the Act provides that the dealer registration requirement set out in section 148 of the Act does not apply to term deposits. The sale of market-linked GICs does not therefore require registration • market-linked notes are debt securities to which the *Securities Act* (Québec) applies. Paragraph 14° of section 3 of the Act provides that the dealer registration requirement set out in section 148 of the Act does not apply to debt securities issued or guaranteed by a bank or an authorized foreign bank listed in Schedule I, II or III to the *Bank Act*, except a debt security conferring a right of payment ranking lower than a deposit contemplated in paragraph 9° of section 3 and entrusted to the issuer or the guarantor of the debt security PPNs which meet the conditions of these exemptions may be sold in Québec by mutual fund dealers not also registered as EMDs. In Manitoba, market-linked GICs and market-linked notes are securities. The Manitoba Securities Commission has issued relief which will permit registered mutual fund dealers to trade these products without registration as an EMD.
7.3 Investment fund manager category	**When is investment fund manager (IFM) registration required?**	All managers of investment funds must register as IFMs unless an applicable exemption is available. The threshold question is whether a collective investment vehicle is an

NI 31-103 SECTION	QUESTION	ANSWER
	Examples: **A. I manage a real estate investment trust (REIT). Do I need to register as an IFM?** **B. I manage a fund that does not invest in securities. Do I need to register as an IFM?**	"investment fund". The next step is to identify who is the "investment fund manager" for the investment fund. Both terms are defined in local jurisdictions' securities legislation. There is also guidance in section 7.3 of the Companion Policy and in the Companion Policy to NI 81-106 *Investment Fund Continuous Disclosure* (81-106 Companion Policy). Examples: A. No. Subsection 1.2(2), of the 81-106 Companion Policy provides that business income trusts, REITs and royalty trusts are not investment funds. B. If the fund falls within the definition of investment fund, you must register unless otherwise exempt. The definition of investment fund is not restricted to funds that invest in securities. There are, for example, funds that invest in uranium or gold bullion. Note that sections 16.5 and 16.6 provide temporary exemptions for a Canadian investment fund manager registered in its principal jurisdiction and for foreign investment fund managers, respectively.
	Must an otherwise unregistered firm that is temporarily exempt from registration as an investment fund manager (IFM) under section 16.4 comply with the requirements in NI 31-103 if it seeks registration before the temporary exemption expires?	Yes. While section 16.4 provides a one-year exemption from registration, a firm that chooses to register before the end of that period must comply with NI 31-103 as soon as it becomes registered. The transition provisions that provide temporary exemptions from certain IFM requirements (sections 16.8 [*Registration of ultimate designated persons*], 16.9 [*Registration of chief compliance officers*], 16.11 [*Capital requirements*] and 16.13 [*Insurance requirements*]) only apply to firms that were already registered when NI 31-103 came into force.
	If a firm was already registered when NI 31-103 was implemented, will it lose the benefit of the transitional exemptions set out in Part 16 if it adds registration in another category?	No. A firm would not lose the benefit of the transitional exemptions provided in Part 16 for firms that are registered on the day NI 31-103 came into force (sections 16.8 [*Registration of ultimate designated persons*], 16.9 [*Registration of chief compliance officers*], 16.11 [*Capital requirements*] and 16.13 [*Insurance requirements*]) if it adds another registration category to what it had on the day when NI 31-103 came into force. Note also that subsection 16.4(3) provides a one-year transitional exemption from the investment fund manager (IFM) insurance requirement for a registered dealer or adviser that was acting as an IFM when NI 31-103 came into force.

NI 31-103 SECTION	QUESTION	ANSWER
PART 8 EXEMPTIONS FROM THE REQUIREMENT TO REGISTER		
Division 1 Exemptions from dealer and underwriter registration		
8.5 Trades through or to a registered dealer	**Can a foreign dealer rely on the exemption in section 8.5 for trades through or to a registered dealer?**	Yes. The exemption requires only that all trading activity that occurs within the local jurisdiction is done through or to a local registered dealer. On that basis, we would regard the "jitney" of a trade through or to an appropriately registered dealer in a local Canadian jurisdiction by an unregistered dealer who is located in a foreign jurisdiction as a trade solely through a registered dealer in the local jurisdiction, consistent with the exemption in section 8.5. The fact that the transaction is executed through an agency arrangement involving intermediation by a dealer in another jurisdiction does not in itself mean that the "trade" in the local jurisdiction ceases to be made "solely" through a registered dealer. However, if the dealer in the other jurisdiction is engaged in other trading activities in the local jurisdiction in connection with the transaction, it would no longer be a trade solely through a registered dealer and the exemption would not be available. It is important to bear in mind that a "trade" includes acts in furtherance of a trade. For example, the trade would not be solely through a registered dealer if the foreign dealer or its client interacted directly with the (prospective) purchaser in the local jurisdiction. One way this could occur would be if the foreign dealer or its foreign client contacted the potential purchaser in the local jurisdiction and directly solicited the purchase of securities. The unregistered foreign dealer should instead solicit the purchase by contacting the registered dealer in the local jurisdiction, leaving it to the local registered dealer to contact potential purchasers in the local jurisdiction.
	Is this exemption only available to issuers selling their own shares?	No, the exemption is not limited to issuers or sales of one's own shares.
	Can a plan administrator rely on the exemption in section 8.5 in connection with its activity of placing sell orders with brokers in respect of shares of issuers held by plan participants?	Yes, a plan administrator can rely on the exemption in section 8.5 in connection with its activity of placing sell orders with dealers in respect of shares of issuers held by plan participants. The Companion Policy discussion of section 8.5 is not meant to suggest that the exemption is only available in respect of trades in a person or company's own securities.

NI 31-103 SECTION	QUESTION	ANSWER
		Section 8.16 [*Plan administrator*] covers the activity of the plan administrator receiving sell orders from plan participants.
8.18 International dealer	**Must a foreign dealer use the international dealer exemption in section 8.18 to trade through or to a registered dealer?**	No. If a foreign dealer's trading activities fall within the exemption in section 8.5 [*Trades through or to a registered dealer*], it does not need to rely on any other exemption from registration.
	A. Can a registered firm also rely on the international dealer exemption? **B. If so, what notice should it provide to clients?**	A. The exemption in section 8.18 is available to a firm that is registered in a jurisdiction in Canada. B. A registered firm that is relying on the exemption may meet the client notification requirement in clause 8.18(4)(b)(i) by notifying the client that it is not registered in the jurisdiction in respect of the activities for which the exemption is being relied upon.
	If a firm is relying on the exemption in section 8.18 in more than one jurisdiction, must it file a Form 31-103F2 *Submission to Jurisdiction and Appointment of Agent for Service* (as required by subsection 8.18(5)) with *each* regulator or can it use the passport system?	If a firm is relying on the exemption in more than one jurisdiction, it must file a Form 31-103F2 *Submission to Jurisdiction and Appointment of Agent for Service* with the regulator in *each* jurisdiction where it relies on the exemption – see subsection 1.3(2).
	Subsection 8.18(5) requires a firm to notify the regulator each year that it continues to rely on the exemption. Does that mean a firm has to file Form 31-103F2 *Submission to Jurisdiction and Appointment of Agent for Service* every year ?	No. Subsection 8.18(5) does not prescribe the form of annual notice to the regulator, so an email or letter will be acceptable.
	What must an international dealer in Ontario do to rely on subsection 8.18(6)?	To comply with subsection 8.18(6) in Ontario, a firm must pay participation fees under Part 3 of OSC Rule 13-502 *Fees*. By December 1 of each year, the firm must file a completed Form 13-502F4 *Capital Markets Participation Fee Calculation*. The firm must pay its participation fee by cheque, draft, money order or other acceptable means no later than December 31 each year. The filings and payments should be sent to the Ontario Securities Commission (Attention: Manager, Registrant Regulation).

NI 31-103 SECTION	QUESTION	ANSWER
8.22 Small security holder selling and purchase arrangements	**How should "market value" be determined?**	Where possible, market value should be determined by reference to a quoted value on a recognized exchange or marketplace. If market value is not quoted on an exchange (e.g. bonds) market value may be determined by reference to quotes that are available through brokers. We recognize that it is not always possible to obtain a market value by these methods. In such cases, we will accept a valuation policy that is consistently applied and is based on measures considered reasonable in the industry, such as value at cost where there has been no material subsequent event (e.g. a market event or new capital raising by the issuer).
Division 2 Exemptions from adviser registration		
8.26 International adviser	**How does a foreign adviser act as a sub-adviser to a registered adviser if dealers and advisers are not "permitted clients" for the purposes of the international adviser exemption?**	Foreign sub-advisers may continue to rely on the sub-adviser exemption that remains in section 7.3 of OSC Rule 35-502 *Non Resident Advisers*, and apply for discretionary relief in other jurisdictions. In Québec, a general exemption has been granted on December 18, 2009 on the same terms and conditions as the exemptive relief available in the other jurisdictions. This general exemption will take effect on December 28, 2009 since the exemption available under section 5 of the Regulation to amend the Securities Regulation (former 194.2 of the Securities Regulation) remains in force only until that date.
	A. Can a registered firm also rely on the international adviser exemption? **B. If so, what notice should it provide to clients?**	A. The exemption in section 8.26 is available to a firm that is registered in the local jurisdiction or elsewhere in Canada. B. A registered firm that is relying on the exemption may meet the client notification requirement in clause 8.26(4)(e)(i) by notifying the client that it is not registered in the jurisdiction in respect of the activities for which the exemption is being relied upon.
	If a firm is relying on the exemption in section 8.26 in more than one jurisdiction, must it file a Form 31-103F2 *Submission to Jurisdiction and Appointment of Agent for Service* (as required by subsection 8.26(5)) with *each* regulator or can it use the passport system?	If a firm is relying on the exemption in more than one jurisdiction, it must file a Form 31-103F2 *Submission to Jurisdiction and Appointment of Agent for Service* with the regulator in *each* jurisdiction where it relies on the exemption – see subsection 1.3(2).

NI 31-103 SECTION	QUESTION	ANSWER
	Subsection 8.26(5) requires a firm to notify the regulator each year that it continues to rely on the exemption. Does that mean a firm has to file Form 31-103F2 *Submission to Jurisdiction and Appointment of Agent for Service* every year ?	No. Subsection 8.26(5) does not prescribe the form of annual notice to the regulator, so an email or letter will be acceptable.
	What must an international adviser in Ontario do to rely on subsection 8.26(6)?	To comply with subsection 8.26(6) in Ontario, a firm must pay participation fees under Part 3 of OSC Rule 13-502 *Fees*. By December 1 of each year, the firm must file a completed Form 13-502F4 *Capital Markets Participation Fee Calculation*. The firm must pay its participation fee by cheque, draft, money order or other acceptable means no later December 31 each year. The filings and payments should be sent to the Ontario Securities Commission (Attention: Manager, Registrant Regulation).
	Do revenues derived from "portfolio management activities" under paragraph 8.26(4)(d) include revenues from sub-advisory activities?	Yes, in making the calculation required under paragraph 8.26(4)(d), it is necessary to include all revenues derived from portfolio management activities in Canada, which would include any sub-adviser arrangements.
Division 4 Mobility exemption – firms		
8.30 Client mobility exemption – firms	**Are sections 2.2 [*Client mobility exemption – individuals*] and 8.30 [*Client mobility exemption – firms*] independent of each other? How do the firm and individual limits work together?**	Sections 2.2 [*Client mobility exemption – individuals*] and 8.30 [*Client mobility exemption – firms*] are independent of each other: individuals may rely on section 2.2 in circumstances where they are not registered in the local jurisdiction even though their firm does not rely on section 8.30 because the firm is registered in the local jurisdiction. The limits are per jurisdiction. For example a firm using the exemption could have 10 clients in each of several local jurisdictions where it is not registered. An individual could also be using the exemption to have 5 clients in each of several jurisdictions where the individual is not registered. The individual limits are per individual. For example several individuals working for a firm could each have 5 clients in the same local jurisdiction, if their firm was registered in the jurisdiction. Even if a firm is registered in a local jurisdiction and has more than 10 clients served by registered individuals it can have unregistered individuals using the exemption in the jurisdiction. If a firm is not registered in a jurisdiction, the firm may not exceed its 10 client limit, shared among its representatives.

NI 31-103 SECTION	QUESTION	ANSWER
	Can a person or company that is not registered in any jurisdiction in Canada rely on the client mobility exemption?	No. The client mobility exemption is only available to a person or company that is registered in a jurisdiction of Canada.
PART 11 INTERNAL CONTROLS AND SYSTEMS		
Division 1 Compliance		
11.2 Designating an ultimate designated person	**When can someone be designated for registration as a firm's ultimate designated person (UDP) on the basis that they are acting in a capacity similar to that of the chief executive officer (CEO) or sole proprietor?**	The primary purpose of paragraph 11.2(2)(c) is to address the situation where a firm does not have a CEO or sole proprietor (for example, because it is organized as a partnership). It is not normally possible to act in a capacity similar to a CEO or sole proprietor when someone else is the actual CEO or sole proprietor. Consequently, designation pursuant to paragraph 11.2(2)(c) is not available when the firm has a CEO or sole proprietor. If a firm has a CEO or sole proprietor, that person must be designated for registration as its UDP, unless another person qualifies under paragraph 11.2(2)(b). To designate someone else in these circumstances would require an exemptive relief order. Given that the intention of section 11.2 is to ensure responsibility for its compliance system rests at the very top of a firm, we would only anticipate granting relief in rare cases. If a firm does not have a CEO and is not a sole proprietorship, and no other person qualifies under paragraph 11.2(2)(b), the most senior decision maker in the firm is the individual who would be most likely to be acting in a similar capacity to a CEO or sole proprietor. They might have the title of managing partner or president, for example, and would be the individual we would expect to see designated as UDP under paragraph 11.2(2)(c). We note that in larger organizations, the UDP is sometimes supported by an officer who has a compliance oversight role and title within the organization that is more senior than the chief compliance officer. This is an acceptable arrangement, so long as it is understood that it in no way diminishes the UDP's regulatory responsibilities.
Division 3 Certain business transactions		
11.9 Registrant acquiring a registered firm's	**Does the exemption in subsection 11.9(3) extend**	A wind-up and dissolution is not an amalgamation, merger, arrangement or treasury issue and does not qualify as a

NI 31-103 SECTION	QUESTION	ANSWER
securities or assets	**to the situation of a parent company registrant that proposes to acquire all of the assets of its wholly-owned registered subsidiary and then cause it to be wound up and dissolved?**	reorganization. The exemption in subsection 11.9(3) would therefore not be available.
11.9 Registrant acquiring a registered firm's securities or assets **11.10 Registered firm whose securities are acquired**	**Are sections 11.9 and 11.10 intended to capture minor purchases by individual registrants of securities of their registered employer?**	No. Paragraph 11.9(3)(b) and subsection 11.10(1) both include 10% thresholds that may apply to the purchase of securities of the firm by its registered individuals.
	If the firm is registered in more than one jurisdiction, can the notices required under sections 11.9 and 11.10 be delivered to the principal regulator alone?	No. If a firm is required to give notice, it must be filed with *each* regulator – see subsection 1.3(2).
PART 12 FINANCIAL CONDITION		
Division 1 Working capital		
12.1 Capital requirements	**If a firm is registered in a category that requires membership in the Investment Industry Regulatory Organization of Canada (IIROC) or the Mutual Fund Dealers Association of Canada (the MFDA), and also in another category that does not require membership in either self-regulatory organization (SRO), will the firm still need to file Form 31-103F1 *Calculation of Excess Working Capital* with the regulator?** **Example: A firm that is registered as an investment fund manager and a mutual fund dealer and is a member of the MFDA.**	Yes. The exemptions for IIROC and MFDA member firms in section 9.3 do not include an exemption from the requirement to file Form 31-103F1 *Calculation of Excess Working Capital* with the regulator if a firm is also registered in a category that does not require SRO membership.

NI 31-103 SECTION	QUESTION	ANSWER
Division 2 Insurance		
12.3 Insurance – dealer **12.4 Insurance – adviser** **12.5 Insurance – investment fund manager**	**How do I make the calculations required in sections 12.3, 12.4 and 12.5?**	The calculation required in paragraphs 12.3(2)(b) and (c), 12.4(3)(a) and (b) and 12.5(a) and (b) is based on the lesser of 1% of assets or $25 million (and not 1% of $25 million). The word “and” following “Appendix A” in subsections 12.3(2), 12.4(2) and (3), and 12.5(2) should be ignored. We will remove it in amendments in order to clarify the meaning of these provisions.
	What is the timing of the calculation of insurance requirements – when must a firm adjust its insurance?	The insurance provisions say that the registered firm must “maintain" bonding or insurance in the amounts specified. We do not expect that the calculation would differ materially from day-to-day. If there is a material change in a firm’s circumstances, it should consider the potential impact on its ability to meet its insurance requirements.
	What are the “assets under management” that must be included in the insurance calculations of a firm registered in the categories of portfolio manager (PM) and investment fund manager (IFM)?	Insurance requirements are *not* cumulative. So, for a firm registered in the categories of PM and IFM, insurance coverage must be in the higher amount of the calculations with respect to its IFM or PM registration. Despite being registered as both a PM and an IFM, when calculating the IFM insurance requirement under subsection 12.5(2), an IFM should only include the total assets under management of its own investment funds. It is only with respect to its own funds that the registrant is acting as an IFM. To calculate the PM insurance requirement look to section 12.4. The required level of insurance will depend on whether the PM holds or has access to client assets. See section 12.4 of the Companion Policy for what we consider to be holding or having access to client assets.
Division 4 Financial reporting	**How will accounting terms in NI 31-103 work with International Financial Reporting Standards (IFRS) Amendments?**	Proposed amendments to NI 31-103 necessary to accommodate IFRS were published for comment on October 23, 2009, except in Québec and New Brunswick where the proposed amendments will be published in early 2010. The comment period will end on January 21, 2010.
12.12 Delivering financial information – dealer **12.13 Delivering financial information – adviser** **12.14 Delivering financial information – investment fund manager**	**Is there a transition provision applicable to the requirement to deliver Form 31-103F1 *Calculation of Excess Working Capital?***	There is no transition provision applicable to the requirement to use Form 31-103F1 *Calculation of Excess Working Capital*. Registered firms are required to deliver Form 31-103F1 *Calculation of Excess Working Capital*. However, we recognize that there may be some discrepancies where firms rely on the transitional relief from section 12.1 [*Capital requirements*] that is provided under section 16.11 for firms that continue to comply with former non-harmonized capital requirements. If a firm relies on section 16.11 it must also deliver the capital calculations

NI 31-103 SECTION	QUESTION	ANSWER
		required under former requirements, if any. In Ontario, we do not expect a firm that calculates its working capital based on consolidated financial statements in reliance on the transitional relief in section 16.11 to deliver a Form 31-103F1 *Calculation of Excess Working Capital*.
	If a firm has multiple registrations, is it required to deliver multiple capital calculations using Form 31-103F1 *Calculation of Excess Working Capital*?	No. If a firm has multiple registrations, it only needs to file only one Form 31-103F1 *Calculation of Excess Working Capital* to the regulators, but must include all required information. For example, • if the firm is a portfolio manager (PM) and investment fund manager (IFM), it will need to file Form 31-103F1 *Calculation of Excess Working Capital* quarterly and report any net asset value (NAV) adjustments quarterly (to comply with IFM requirements, notwithstanding that a PM has no such requirements) • if the firm is a mutual fund dealer registered in Québec which is also registered as an exempt market dealer in Québec, it will need to file Form 31-103F1 *Calculation of Excess Working Capital* quarterly as well as the bi-monthly net free capital calculation as set out in Appendix I of the *Regulation respecting the trust accounts and financial resources of securities firms*. A firm that is a member of a self-regulatory organization (SRO) may also have capital calculation delivery requirements under the SRO's rules.
12.12 Delivering financial information – dealer	**Is there a transition period for former limited market dealers in respect of the requirements to deliver audited annual financial statements and Form 31-103F1 *Calculation of Excess Working Capital*?**	Yes. For former limited market dealers in Ontario and Newfoundland and Labrador "mapped-over" to exempt market dealers (EMDs) under section 16.3, a transitional relief order was issued on September 28, 2009, exempting them from the requirements in subsection 12.12(1) to deliver audited annual financial statements and prescribed capital calculations for a period of one year, consistent with the other solvency-related transitional relief provided in section 16.3. The relief is only available to the extent a mapped-over EMD is not registered in another category that requires delivery of financial statements or client statements during the applicable transition period.

NI 31-103 SECTION	QUESTION	ANSWER
PART 13 DEALING WITH CLIENTS – INDIVIDUALS AND FIRMS		
Division 1 Know your client and suitability		
13.3 Suitability	**Has the CSA published any additional guidance on section 13.3?**	Yes. CSA Staff Notice 33-315 *Suitability Obligation and Know Your Product* was published on September 2, 2009.
Division 2 Conflicts of interest	**Are registrants still required to provide a specified statement of policies disclosure as was previously required in some jurisdictions (e.g. in Ontario, section 223 of the Regulations)?**	No. There is no prescribed form of disclosure required in the conflicts of interest provisions of NI 31-103. The Companion Policy provides additional guidance in regards to disclosure about relationships with related or connected issuers.
Division 3 Referral Arrangements		
13.7 Definitions – referral arrangements	**Does "referral fee" include non-monetary compensation?**	Yes. "Referral fee" is defined in section 13.7 as *any* form of compensation. For example, gift certificates would be included.
PART 14 HANDLING CLIENT ACCOUNTS – FIRMS		
Division 2 Disclosure to clients		
14.2 Relationship disclosure information	**Does section 14.2 apply to clients who opened accounts before NI 31-103 came into effect?**	Yes. Section 14.2 applies to all clients, including those clients who opened accounts prior to September 28, 2009. Section 16.14 provides a one-year transition period from the requirements in section 14.2.
14.4 When the firm has a relationship with a financial institution	**Does section 14.4 apply to accounts opened before NI 31-103 came into effect?**	No. Section 14.4 applies only to new accounts opened after September 28, 2009.
14.5 Notice to clients by non-resident registrants	**Does the non-resident notice provision in section 14.5 apply to a Canadian registrant whose head**	Yes. However, it was not our intention to include registrants based in Canada if they have a physical place of business in the jurisdiction.

NI 31-103 SECTION	QUESTION	ANSWER
	office is located in another Canadian jurisdiction?	We anticipate issuing an order that provides relief from section 14.5 for registered firms that have their head office in a Canadian jurisdiction and a physical place of business in the local jurisdiction.
Division 3 Client Assets		
14.6 Holding client assets in trust	**Is there an exemption for a Canadian manager of an offshore fund that may have difficulty satisfying the requirement of paragraph 14.6(c) that cash be held effectively in Canada?**	No. NI 31-103 does not provide an exemption from the requirement in paragraph 14.6(c). However, we recognize that it may be difficult to comply in the circumstances described. We will consider granting discretionary relief on terms consistent with section 14.7.
Division 5 Account activity reporting		
14.12 Content and delivery of trade confirmation	**Must all of the information required in subsection 14.12(1) be provided to the client in a single document?**	There is no prescribed confirmation document that must be delivered to the client separately from any other documentation related to the transaction. The requirement for a written confirmation of a transaction can be satisfied by promptly delivering to the client a subscription agreement or other document or combination of documents which, taken together, provide all of the information listed in subsection 14.12(1).
14.12 Content and delivery of trade confirmation **14.13 Semi-annual confirmations for certain automatic plans** **14.14 Client statements**	**Can confirmations and client statements be delivered electronically?**	Yes. Confirmations and client statements can be delivered electronically (i.e., internet, fax or other "written" form) if the client agrees. See NP 11-201 *Delivery of Documents by Electronic Means*.
14.14 Client statements	**Must a registrant provide a monthly statement if there is no activity in the account?**	Only if the firm is a registered dealer and a client has asked for monthly statements, unless the registrant is a mutual fund dealer. Otherwise, statements may be sent on a quarterly basis, except in the case of scholarship plan dealers, who must provide an annual statement.
	If my firm was not subject to client statement requirements before NI 31-103 came into force, do I have to send out client statements that include transactions that took place before then?	No. If a firm was not subject to client statement requirements before NI 31-103 came into force, only transactions that took place after that date are required to be included in the firm's first monthly or quarterly client statements.

NI 31-103 SECTION	QUESTION	ANSWER
	How should "market value" for the purposes of subsection 14.14(5) be determined?	Where possible, market value should be determined by reference to a quoted value on a recognized exchange or marketplace. If market value is not quoted on an exchange (e.g. bonds) market value may be determined by reference to quotes that are available through brokers. We recognize that it is not always possible to obtain a market value by these methods. In such cases, we will accept a valuation policy that is consistently applied and is based on measures considered reasonable in the industry, such as value at cost where there has been no material subsequent event (e.g. a market event or new capital raising by the issuer).
	Does a former limited market dealer "mapped-over" to exempt market dealer (EMD) under section 16.3 have transitional relief from the requirement to deliver client statements?	Yes. For former limited market dealers in Ontario and Newfoundland and Labrador "mapped-over" to EMDs under section 16.3, a transitional relief order was issued on September 28, 2009, exempting them from the requirements in section 14.14 to deliver client statements for a period of two years, consistent with the transitional relief provided for mutual fund dealers (MFDs) in section 16.17. The relief is not available to a mapped-over EMD that is also registered in a category other than MFD or investment fund manager (IFM).
PART 16 TRANSITION		
	Are the transition periods flexible?	We will always consider applications for exemptive relief. However, we anticipate granting extensions of the transition periods only in rare circumstances.
	What if a registrant does not meet an applicable requirement under NI 31-103 before the end of the applicable transition period?	The registrant should immediately contact the regulator. A registrant in that situation might be required to cease to conduct registerable activities until they comply with the requirement, or a temporary exemption might be granted subject to terms and conditions, depending on the circumstances.
16.3 Change of registration categories – limited market dealers **16.7 Registration of exempt market dealers**	**What is the passport procedure for registration of a former limited market dealer that has been "mapped-over" to exempt market dealer (EMD) in Ontario or Newfoundland and Labrador, but has its principal regulator (PR) in another jurisdiction?**	The mapped-over EMD should file a complete Form 33-109F6 *Firm Registration* with its PR. The application should be filed before the expiry of the transition period in section 16.7.
	Given the different transition periods in section 8.5 of NI 45-106 *Prospectus and*	If the person or company was in the business of trading in exempt market securities in a jurisdiction when NI 31-103 came into effect, they may rely on the transition period in section 16.7 of NI 31-103 in that jurisdiction. They must

NI 31-103 SECTION	QUESTION	ANSWER
	Registration Exemptions **(expiry of registration exemptions on March 27, 2010) and section 16.7 of NI 31-103, when must a person or company register as an exempt market dealer (EMD) if it is in the business of trading in exempt market securities and unable to rely on the "alternative approach to regulating certain intermediaries in the exempt market" described in Appendix D to the CSA Notice of NI 31-103 (published on July 17, 2009)?**	apply for registration by September 28, 2010. If the person or company did not start operating in the exempt market until after September 28, 2009, they must register by March 28, 2010, which is when the registration exemptions in NI 45-106 *Prospectus and Registration Exemptions* expire. The person or company should apply for registration well in advance of March 28, 2010 to ensure that registration is granted by that date.
	When will the jurisdictions that are participating in the "alternative approach to regulating certain intermediaries in the exempt market" described in Appendix D to the CSA Notice of NI 31-103 (published on July 17, 2009) issue their exemptions from exempt market dealer (EMD) registration?	The jurisdictions that have agreed to this alternative approach will issue local blanket orders to exempt certain intermediaries from EMD registration shortly before the registration exemptions in NI 45-106 *Prospectus and Registration Exemptions* expire (March 27, 2010).
16.11 Capital requirements **16.13 Insurance requirements**	**If a firm was already registered when NI 31-103 was implemented, will it lose the benefit of the transitional exemptions set out in Part 16 if it adds registration in another category?**	No. A firm would not lose the benefit of the transitional exemptions provided in Part 16 for firms that are registered on the day NI 31-103 came into force (sections 16.8 [*Registration of ultimate designated persons*], 16.9 [*Registration of chief compliance officers*], 16.11 [*Capital requirements*] and 16.13 [*Insurance requirements*]) if it adds another registration category to what it had on the day when NI 31-103 came into force. Note also that subsection 16.4(3) provides a one-year transitional exemption from the investment fund manager (IFM) insurance requirement for a registered dealer or adviser that was acting as an IFM when NI 31-103 came into force.

NI 31-103 SECTION	QUESTION	ANSWER
FORMS		
FORM 31-103F1 ***CALCULATION OF EXCESS WORKING CAPITAL***	**How is "market value" determined?**	Where possible, market value is determined by reference to a quoted value on a recognized exchange or marketplace. If market value is not quoted on an exchange (e.g. bonds) market value may be determined by reference to quotes that are available through brokers. We recognize that it is not always possible to obtain a market value by these methods. In such cases, we will accept a valuation policy that is consistently applied and is based on measures considered reasonable in the industry, such as value at cost where there has been no material subsequent event (e.g. a market event or new capital raising by the issuer).
	What margin rate applies to securities (other than bonds and debentures) listed on exchanges in Canada or the United States?	The Canadian and United States exchanges listed in clause (e)(ii) of Schedule 1 (50% margin) should not have been included there. Clause (e)(i) sets out the appropriate rates.
	Who should sign the management certification at the end of Form 31-103F1 ***Calculation of Excess Working Capital*****?**	The most senior decision maker at the firm, who will typically have a title such as chief executive officer, president or managing partner, should be one of the signatories. The firm's chief financial officer or functional equivalent, if there is one, should also sign. If your firm has only one officer, then only one signature is necessary.
FORM 31-103F2 ***SUBMISSION TO JURISDICTION AND APPOINTMENT OF AGENT FOR SERVICE***	**If I am relying on the international adviser or international dealer exemptions in sections 8.18 and 8.26, respectively, how can I ensure my firm receives communications from the regulator in a timely manner?**	When submitting your firm's Form 31-103F2 *Submission to Jurisdiction and Appointment of Agent for Service*, include the name of the chief compliance officer or equivalent, their email address, and their telephone and fax numbers, as well as the firm's National Registration Database number, if it has one.

NI 33-109 ***Registration Information***

NI 33-109 SECTION	QUESTION	ANSWER
2.3 Reinstatement	**How can a permitted individual be reinstated on the National Registration Database (NRD) if their position at the new sponsoring firm is not identical to their position at the old sponsoring firm?**	For permitted individuals, NRD will not allow the individual to be reinstated with a sponsoring firm unless the position at the new sponsoring firm is identical to the position at the old sponsoring firm. So, if, for example, an officer wished to transfer to another sponsoring firm as an officer and director, the sponsoring firm would have to use one of two options:

NI 33-109 SECTION	QUESTION	ANSWER
		1. Make a reactivation submission using Form 33-109F4 *Registration of Individuals and Review of Permitted Individuals*; or 2. Submit Form 33-109F7 *Reinstatement of Registered Individuals and Permitted Individuals* to reinstate the individual for the officer position and Form 33-109F2 *Change or Surrender of Individual Categories* to add the director position.
6.1 All registered firms to file Form 33-109F6 – September 30, 2010	**What supporting documents must registered firms submit with their Form 33-109F6 *Firm Registration* within one year of implementation to their principal regulator (PR)? Must audited financial statements as per question 5.13 be included?**	If submitting Form 33-109F6 *Firm Registration* pursuant to this section, do not check off any of the boxes for question 1.3 as the reason for submitting the form. Simply make a note in your cover letter or email that you are submitting the form further to section 6.1 of NI 33-109. No supporting documents or audited financial statements are required.
FORM 33-109F4 *REGISTRATION OF INDIVIDUALS AND REVIEW OF PERMITTED INDIVIDUALS*	**Is there a requirement for individuals to update their Form 33-109F4 *Registration of Individuals and Review of Permitted Individuals*, since there are updated questions in the form?**	An individual is only required to update the questions in items 12 to 17 if there is a change to the response previously provided.
	Do permitted individuals of investment fund managers (IFM) need to submit Form 33-109F4 *Registration of Individuals and Review of Permitted Individuals*?	Although individuals acting on behalf of a registered IFM are not required to register pursuant to section 2.3 of NI 31-103, permitted individuals of an IFM must nonetheless file Form 33-109F4 *Registration of Individuals and Review of Permitted Individuals*. "Permitted individual" is defined in section 1.1 of National Instrument 33-109 *Registration Information*.
	When completing Schedule C of Form 33-109F4 *Registration of Individuals and Review of Permitted Individuals*, must a chief compliance officer (CCO) check off the "Officer – specify title" box, or only the CCO box?	If an individual's only officer title is CCO, then only the CCO box should be checked-off. However, if they also have an officer title that is listed in the definition of "permitted individual" in section 1.1 of NI 33-109 (CEO, CFO, COO or functional equivalent), then they should also check the "Officer" box and specify their title.

NI 33-109 SECTION	QUESTION	ANSWER
	In Québec, when should an authorized firm representative (AFR) submit a professional liability insurance policy and payment of fees payable to the Chambre de la sécurité financière (CSF)?	When an individual is seeking registration in Québec as a dealing representative of a mutual fund dealer or of a scholarship plan dealer who is not already registered in one of these categories.
FORM 33-109F6 ***FIRM REGISTRATION***	**If I am a new applicant filing a Form 33-109F6 *Firm Registration* (not a current registrant updating my information), when do I submit payment?**	After Form 33-109F6 *Firm Registration* is received, we will contact you and provide you with a submission number in order that you are able to make payment through the National Registration Database.
	What supporting documents must registered firms submit with their Form 33-109F6 *Firm Registration* if registering in an additional jurisdiction or adding a registration category, such as investment fund manager (IFM)? Must audited financial statements as per question 5.13 be included?	Item 1.3 specifies the questions that must be responded to if adding a jurisdiction or category. As question 5.13 is not specified, audited financial statements are not required. However, we will require exempt market dealers (EMDs) registering for the first time (i.e., not already registered in another category in any jurisdiction) and former limited market dealers "mapped-over" to EMD in Ontario and Newfoundland and Labrador under section 16.3 of NI 31-103 to provide audited financial statements, since we will not already have them.
	If my firm has audited annual financial statements prepared for its most recent year end, but those audited statements are more than 90 days old as of the date of our application for registration, must we have new audited financial statements prepared?	In appropriate cases, where an applicant files audited annual financial statements prepared for its most recent year end, but those audited statements are more than 90 days old, we will accept unaudited financial statements for the period from the financial year end to the month end prior to application. Since these filings would be made as part of the initial application process, as attachments to the Form 33-109F6 *Firm Registration*, you may request the exemption at that time. No separate exemptive relief application need be filed in respect of this exercise of the Director's discretion.
	Must a firm that has its head office outside of Canada be registered in the foreign jurisdiction where it is based?	Foreign firms applying for registration are normally expected to be registered in a relevant category in their home jurisdiction. This is part of the fit and proper assessment to be registered in Canadian jurisdictions and is also relevant to our compliance oversight capabilities.
FORM 33-109F7 ***REINSTATEMENT OF REGISTERED INDIVIDUALS AND PERMITTED INDIVIDUALS***	**My firm recently hired an individual that had terms and conditions imposed on his/her registration. What does this mean for our firm?**	By signing Form 33-109F7 *Reinstatement of Registered Individuals and Permitted Individuals*, the authorized partner or officer of the new sponsoring firm certifies that the individual's terms and conditions remain in effect and agrees to assume any ongoing obligations that apply to the sponsoring firm in respect of the individual.

Registration-related fees

	QUESTION	ANSWER
	Where can I get information on the fees payable to the regulators in different jurisdictions?	There is a link to each of the CSA jurisdiction's fee schedules on the National Registration Database information website at www.nrd-info.ca. The schedules are located under the left-hand navigation bar labelled "Regulatory fees".

December 18, 2009

1.1.3 CSA Staff Notice 62-305 – Varying the Terms of Take-Over Bids

CANADIAN SECURITIES ADMINISTRATORS' STAFF NOTICE 62-305
VARYING THE TERMS OF TAKE-OVER BIDS

As used in this notice, the term "Bid Regime" has the meaning ascribed to it in National Policy 62-203 *Take-Over Bids and Issuer Bids*.

The Bid Regime is designed to protect the *bona fide* interests of offeree security holders while establishing a transparent, even-handed and predictable framework for the conduct of formal bids. An important underpinning of the Bid Regime is that offerors make offers that they are prepared to honour. Upon commencement of a formal take-over bid, the market price of the securities of the offeree issuer may be affected. This creates a legitimate expectation among security holders, other potential offerors, the offeree issuer and other market participants that the bid will be completed at the specified price provided that the conditions of the bid are satisfied.

This notice sets out the view of the staff of the Canadian Securities Administrators (CSA staff) regarding the ability of an offeror in a formal take-over bid to vary the terms of a bid in a manner that makes the bid less favourable to offeree security holders (a "negative variation"). Variations of this nature may include cases where the offeror:

(a) lowers the consideration offered under the bid,

(b) changes the form of consideration offered, other than to add to the consideration already offered,

(c) lowers the proportion of outstanding securities subject to the bid, or

(d) adds new conditions.

CSA staff are concerned that some market participants have expressed the view that an offeror is entitled, at its discretion and at any time, to withdraw a bid or to vary a bid by reducing the offer price or otherwise making the bid less favourable to offeree security holders.

Does an offeror have the right to reduce its offer price or add new offer conditions for any reason, and at any time, prior to expiry of the bid?

The Bid Regime provides that the bid shall remain open for acceptance for at least 35 days and that securities are to be taken up and paid for under the bid, at the bid price, if the conditions of the bid have been satisfied or waived. The Bid Regime requires that an offeror have the funds in place to pay the consideration offered.

Accordingly, in the view of CSA staff, the Bid Regime does not contemplate the unilateral "withdrawal" of a formal take-over bid, or if all terms and conditions of a bid have been satisfied or waived, the offeror varying the offer price downwards or introducing new conditions.

CSA staff have noted that offer documents and bid circulars occasionally contain language to the effect that the offeror may vary the bid at any time in its sole discretion, including by reducing the consideration offered. CSA staff are of the view that such language may be inconsistent with the requirements of the Bid Regime.

Does an offeror have the right to reduce its offer price or add new conditions where all of the conditions of the offer have not yet been satisfied, or in response to the failure of a condition?

Where the terms and conditions of an offer have not been satisfied, an offeror is entitled to allow its bid to expire and not take up and pay for securities deposited under the bid. The offeror is then entitled to make a new offer on different terms. Where the terms and conditions of an offer have not been satisfied by the expiry of the bid or clearly will not be satisfied during the offer period, staff will not object to an offeror varying its bid by adding new conditions or reducing the consideration offered, provided such variation is not prejudicial to security holders.

National Policy 62-203 *Take-Over Bids and Issuer Bids* provides that negative variations are subject to review to ensure such variations are not prejudicial to security holders. In determining whether to challenge a negative variation, CSA staff will consider whether such a variation: (a) is in response to the failure of a *bona fide* condition of the offer; (b) is effected as an alternative to allowing the bid to expire unsuccessfully; (c) provides sufficient procedural protections to offeree security holders and other market participants affected by the variation; and (d) would not be abusive to offeree security holders.

In reviewing such a variation, CSA staff may request submissions and confirmation from the offeror as to the circumstances justifying the position that a *bona fide* condition of the offer has not been or will not be satisfied. This includes whether the

offeror has informed the market in a timely manner as to such failure of a condition and the events giving rise to the failure, and the reasonableness of the procedural protections being put in place for the benefit of the offeree security holders and other affected market participants. The notice of variation to be filed by the offeror should disclose this information.

Where the onus is being placed on security holders to take active steps to withdraw securities tendered to an offer following a variation of that offer, there is a risk that some security holders may not become aware of the variation and would not have tendered on the varied terms. An offeror should consider and address this risk in deciding whether to vary a bid rather than to commence a new bid and in implementing the procedural protections to be provided to offeree security holders in the event it elects to proceed with a negative variation. The procedural protections, including period of extension, should also provide the offeree board of directors with sufficient time to assess the revised offer and communicate its views to its security holders. The time period must also provide sufficient time for other potential offerors to evaluate the revised offer and determine whether to participate in an auction for the offeree issuer.

In CSA staff's view, the offeror's conditions to a formal take-over bid should be *bona fide*, and should be interpreted in good faith and on a reasonable basis. If they are not, staff may take the position that reliance on a condition undermines the statutory requirement that shares be taken up under an offer where the terms and conditions have been satisfied. Where the failure of a condition is being relied upon to vary a bid or where a condition is expressed such that the offeror has sole judgment or discretion as to whether the condition has been satisfied, staff may intervene where necessary to ensure that such judgment or discretion is exercised in a reasonable manner. This is irrespective of whether it is stated in the bid circular that the offeror has sole discretion as to whether conditions are satisfied. In CSA staff's view, an offeror reserving "sole discretion" with respect to a condition should act honestly, in good faith and on reasonable grounds such that the exercise of such discretion is not capricious or arbitrary.

A negative variation should not be used to avoid the obligation on the offeror to have funds available to pay the consideration offered under a bid. For example, it would be a contravention of the Bid Regime to commence a bid at a specific price, but arrange financing at a lower price with the intention that the bid price will ultimately be reduced. In examining negative variations, staff may request documentation evidencing that funds were available to pay the initially offered consideration at the time the offer was made.

Questions

Questions may be referred to:

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December 18, 2009

1.1.4 Notice of Ministerial Approval of Memorandum of Understanding Respecting the Oversight of Exchanges and Quotation and Trade Reporting Systems and Commission Approval of List of Exchanges

NOTICE OF MINISTERIAL APPROVAL
OF
AN AMENDED MEMORANDUM OF UNDERSTANDING RESPECTING
THE OVERSIGHT OF EXCHANGES AND QUOTATION AND TRADE REPORTING SYSTEMS
AND COMMISSION APPROVAL OF THE LIST OF EXCHANGES

On November 27, 2009, the Minister of Finance approved the Memorandum of Understanding (MOU) among certain members of the Canadian Securities Administrators about the oversight of exchanges and quotation and trade reporting systems (QTRSs). The MOU amends an existing MOU, which came into effect in Ontario in November 2002. The MOU was previously published on October 2, 2009 at (2009) 32 OSCB 7764 and will become effective on January 1, 2010.

The MOU references a list of the lead and exempting regulators for each exchange or QTRS (List of Exchanges). As indicated on the List of Exchanges, there is currently no exempting regulator for ICE Futures Canada Inc. However, this is a temporary situation since this exchange has filed for an exemption from the requirement to be recognized as an exchange in some jurisdictions. The List of Exchanges dated as of January 1, 2010 has been approved by the Commission. The final MOU and List of Exchanges are published in this Bulletin.

December 18, 2009

Memorandum of Understanding
respecting the Oversight of Exchanges and Quotation and Trade Reporting Systems

among:

Alberta Securities Commission (ASC)
Autorité des marchés financiers (AMF)
British Columbia Securities Commission (BCSC)
Manitoba Securities Commission (MSC)
Ontario Securities Commission (OSC)
Saskatchewan Financial Services Commission (SFSC)

(each a Party, collectively the Parties)

The Parties agree as follows:

1. Underlying Principles

(a) Lead Regulator Model

(i) Each recognized exchange (Exchange) and recognized quotation and trade reporting system (QTRS) subject to this Memorandum of Understanding (MOU) has a lead regulator (Lead Regulator) responsible for its oversight and one or more exempting regulators (Exempting Regulator).

(ii) The Exempting Regulator of an Exchange or QTRS exempts it from recognition as an Exchange or QTRS on the basis that:

(A) the Exchange or QTRS is and will continue to be recognized by the Lead Regulator as an Exchange or QTRS;

(B) the Lead Regulator is responsible for conducting the regulatory oversight of the Exchange or QTRS; and

(C) the Lead Regulator will inform the Exempting Regulator of its oversight activities and the Exempting Regulator will have the opportunity to raise issues concerning the oversight of the Exchange or QTRS with the Lead Regulator in accordance with this MOU.

(iii) The Lead Regulator is responsible for conducting an oversight program (the Oversight Program) of the Exchange or QTRS that will include the purpose and matters described in section 3.

(iv) The Parties will act in good faith to resolve issues raised by any Exempting Regulator in connection with the Oversight Program carried out by the Lead Regulator.

(b) Scope

The terms of this MOU are applied by the Parties in respect of the oversight of an Exchange or QTRS identified on a list entitled "List of Exchanges, Lead Regulators and Exempting Regulators in relation to the Memorandum of Understanding respecting the Oversight of Exchanges and Quotation and Trade Reporting Systems" ("List of Exchanges"), published concurrently with this MOU by each Party. The List of Exchanges does not form part of this MOU. It may be amended from time to time and will be published by each Party after any such amendment.

(c) Previous Memorandum of Understanding

This MOU supersedes any prior Memorandum of Understanding about the Oversight of Exchanges and Quotation and Trade Reporting Systems among the ASC, Commission des valeurs mobilières du Québec, now the AMF, BCSC, MSC and OSC.

2. Definition

"Lead Regulator" means the Party that is designated on the List of Exchanges from time to time as being the Lead Regulator responsible for the oversight of a particular Exchange or QTRS by consensus of the Parties that have either recognized or exempted from recognition this Exchange or QTRS or are in the process of doing so.

3. Oversight Program

(a) The purpose of the Oversight Program[1] is to ensure that each Exchange and QTRS meets appropriate standards for market operation and regulation based on the type of activities carried out by the Exchange or QTRS. Where applicable, those standards will include:

(i) fair representation in corporate governance and rule-making;

(ii) effective management of conflicts of interests;

(iii) adequate ownership/control structure;

(iv) financial viability;

(v) sufficient resources to carry out market and regulatory functions;

(vi) fair access for market participants and issuers;

(vii) orderly markets through appropriate review of traded products, trading rules and financial requirements for market participants;

(viii) transparency through timely access to accurate information on orders and trades;

(ix) market integrity through the adoption of rules that are not contrary to the public interest, prohibit unfair trading practices, prevent market manipulation and customer and market abuses and promote just and equitable principles of trades;

(x) monitoring of the conduct of the market participants and enforcement of the rules and requirements governing such conduct;

(xi) proper identification and management of risks;

(xii) effective clearing and settlement arrangements and systems;

(xiii) information sharing and regulatory cooperation;

(xiv) appropriate listed or quoted company regulation;

(xv) adequate financial products and instruments development process;

(xvi) specific trading and position limits;

(xvii) appropriate inventory and stock delivery management procedures; and

(xviii) appropriate coordination regarding the market surveillance of the underlying securities.

(b) The Lead Regulator will establish and conduct the Oversight Program.[1] At a minimum, the Oversight Program will include the following:

(i) Review of information filed by the Exchange or QTRS on critical financial and operational matters, risk management and significant changes to operations, including information filed under National Instrument 21-101 - Marketplace Operation, related to:

(A) corporate governance;

(B) rules;

(C) systems and operations;

(D) access;

[1] The matters outlined in the Oversight Program are intended to set out the minimum level of oversight exercised in respect of an Exchange or QTRS. The Lead Regulator may conduct additional review procedures.

(E) listing criteria and/ or financial instrument development;

(F) fees;

(G) financial viability; and

(H) regulation.

(ii) Review and approval, where applicable, of changes to Exchange or QTRS bylaws, rules, policies, and other similar instruments (Rules) under the procedures established by the Lead Regulator from time to time.

(iii) Periodic oversight review of Exchange or QTRS functions, including to the extent applicable:

(A) corporate finance policies: policies relating to minimum listing or quoting requirements, continuing listing or quoting requirements or tier maintenance requirements, sponsorship and continuous disclosure;

(B) trading halts, suspensions and de-listing procedures;

(C) co-ordination with the markets of the underlying securities;

(D) monitoring of trading and position limits;

(E) surveillance and enforcement: procedures for detection of non-compliance and resolution of outstanding issues;

(F) access: requirements for access to the facilities of the Exchange or QTRS and fair application of those requirements;

(G) information transparency: procedures for the dissemination of market information;

(H) corporate governance: corporate governance procedures, including policy and rule making process;

(I) risk management; and

(J) systems and technology.

(c) The Lead Regulator will retain sole discretion regarding the manner in which the Oversight Program is carried out, including determining the order and timing of its oversight review of the functions under section 3(b)(iii). However, the Lead Regulator will perform the oversight reviews of these functions at least once every three years. Once it has obtained the necessary internal approval and when the final report of the oversight review performed under section 3(b)(iii) is sent to the Exchange or QTRS, the Lead Regulator will also provide a copy of the final report and any responses of the Exchange or QTRS to the report to each Exempting Regulator.

(d) If issuers or parties that are directly affected by a decision of the Exchange or QTRS in the jurisdiction of an Exempting Regulator appeal that decision to the Lead Regulator or request a hearing and review of that decision by the Lead Regulator, the Lead Regulator will provide videoconferencing facilities or other electronic equipment as necessary and appropriate to permit and facilitate the participation of the parties in the proceedings in the jurisdiction of the Exempting Regulator. The Lead Regulator will also provide simultaneous translation facilities or other facilities necessary and appropriate to permit the participation of the parties in the proceedings in French or English, at their request.

(e) The Lead Regulator will inform each Exempting Regulator in writing of any material changes in how it performs its obligations under this MOU.

4. Involvement of an Exempting Regulator

(a) The Lead Regulator acknowledges that an Exempting Regulator may require that the Exchange or QTRS provide to that Exempting Regulator:

(i) copies of information filed by the Exchange or QTRS pursuant to section 3(b)(i) at the same time that the Exchange or QTRS files the information with the Lead Regulator; and

(ii) copies of all Rules that the Exchange or QTRS files with the Lead Regulator under the Lead Regulator's procedures referred to in section 3(b)(ii) at the same time that the Exchange or QTRS files the Rules with the Lead Regulator,

(iii) copies of all final Rules once approved by the Lead Regulator under the Lead Regulator's procedures referred to in section 3(b)(ii);

(iv) in the specific context of an investigation by an Exempting Regulator and upon a specific request from that Exempting Regulator, information in writing about the marketplace participants, the shareholders or the market operations of the Exchange or QTRS.

(b) If an Exempting Regulator advises the Lead Regulator that it has specific concerns regarding the operations of the Exchange or QTRS in the jurisdiction of the Exempting Regulator and requests that the Lead Regulator perform an oversight review of the Exchange or QTRS in that jurisdiction, the Lead Regulator may determine to conduct an oversight review of:

(i) the office of the Exchange or QTRS in the jurisdiction of the Exempting Regulator; or

(ii) a function performed by an Exchange or QTRS office in that jurisdiction.

The Exempting Regulator may, as part of its request, ask that the Lead Regulator include staff of the Exempting Regulator in the Lead Regulator's oversight review. The Lead Regulator may, as a condition of performing the oversight review, request the assistance of staff of the Exempting Regulator in which case the Exempting Regulator will use its best efforts to provide this assistance.

(c) If the Lead Regulator advises the Exempting Regulator that it cannot or will not conduct the oversight review referred to in section 4(b), the Exempting Regulator may conduct the oversight review without the participation of the Lead Regulator. In that case, the Exempting Regulator will provide copies of the results of the oversight review to the Lead Regulator at the same time it sends the results to the Exchange or QTRS.

5. Information Sharing

(a) The Lead Regulator will, upon written request from an Exempting Regulator, provide or request the Exchange or QTRS to provide to the Exempting Regulator any information about the marketplace participants, the shareholders and the market operations of the Exchange or QTRS. This would include shareholder and participating organization lists, product and trading information and disciplinary decisions.

(b) In addition, to the extent practicable and as appropriate in the particular circumstances, the Lead Regulator will inform the Exempting Regulators in advance of any material events, or material decisions taken either by the Lead Regulator or the Exchange or QTRS, that may have a significant impact on the operations or activities of the Exchange or QTRS

6. Oversight Committee

(a) An oversight committee will continue to have the mandate to act as a forum and venue for the discussion of issues, concerns and proposals related to the oversight of marketplaces by the Parties (Oversight Committee).

(b) The Oversight Committee will include staff representatives from each of the Parties who have responsibility and/or expertise in the areas of marketplace oversight and market regulation.

(c) The Oversight Committee will meet at least once annually in person and will conduct conference calls at least quarterly.

(d) At least quarterly, the Parties will provide to the Oversight Committee a summary report on their oversight activities conducted during the period that will include a summary description of any material changes made to their oversight program, including the procedures for the review and approval of Exchange or QTRS Rules.

(d) At least annually, the Oversight Committee will provide to the Canadian Securities Administrators a written report of the oversight activities of the committee members during the previous period.

7. Issues Forum

(a) The Parties acknowledge that:

(i) more than one Exchange or QTRS may file the same Rules to different Lead Regulators for review and approval at the same time;

(ii) one Exchange or QTRS may file a Rule to its Lead Regulator for review and approval that is the same as an existing Rule adopted by a different Exchange or QTRS with a different Lead Regulator; or

(iii) an Exempting Regulator may have material concerns regarding a Rule that the Exchange or QTRS has filed for review and approval with the Lead Regulator under the Lead Regulator's procedures referred to in section 3(b)(ii).

(b) In the event the circumstances set out in section 7(a) arise, the Lead Regulators will act in good faith to resolve the issues or concerns raised by any of the parties involved in a dispute or disagreement in order to either achieve consistent results among the Lead Regulators or to address the concerns of the Exempting Regulator.

(c) The Parties to this MOU will establish a committee of the Chairs or other senior executives of the parties involved (the "Issues Forum") that will attempt to reach a consensus between the parties on any issue in dispute or disagreement under section 7(a). The Issues Forum will make recommendations to the various parties. Staff of any of the parties involved in a dispute or disagreement may submit the issue in dispute or the matter causing the disagreement to the Issues Forum.

(d) The Issues Forum will include the Chair or another senior executive of each Party involved in a dispute or disagreement under 7(a). For purposes of this section and if there are joint Lead Regulators of an Exchange or QTRS, the joint Lead Regulators of the Exchange or QTRS will be considered to be separate parties.

8. Waiver and Termination

(a) The provisions of this MOU may be waived by mutual agreement of the Parties.

(b) If the Lead Regulator or an Exempting Regulator of an Exchange or QTRS believes that another Party is not satisfactorily performing its obligations under this MOU, it may give written notice to the other Party stating that belief and providing particulars in reasonable detail of the alleged failure to perform. If the Party receiving the notice has not satisfied the notifying Party within two months of the delivery of the notice either that its performance is satisfactory or that it has taken or will take acceptable steps to rectify its performance, the notifying Party may by written notice to the other Party terminate this MOU as it relates to that Exchange or QTRS on a date not less than six months following delivery of the notice of termination. In that case, the notifying Party will send to the Exchange or QTRS a copy of its notice of termination at the same time it sends the notice to all the other Parties.

(c) In the event any significant change to the ownership, structure or operations of an Exchange or QTRS affects the oversight of the Exchange or QTRS, a Lead Regulator or any Exempting Regulator may give written notice to the other Parties stating its concerns. If a resolution cannot be reached within two months of the delivery of the notice, the notifying Party may by written notice to the other Parties terminate this MOU as it relates to the Exchange or QTRS on a date not less than six months following delivery of the notice of termination. In that case, the notifying Party will send to the Exchange or QTRS a copy of its notice of termination at the same time it sends the notice to all the other Parties.

(d) For purposes of this section and if applicable, the joint Lead Regulators of the Exchange or QTRS will be considered one party.

9. Amendments to and Withdrawal from this MOU

(a) This MOU may be amended from time to time as mutually agreed upon by the Parties. Any amendments must be in writing and approved by the duly authorized representatives of each Party. Any amendment of this MOU is subject to Ministerial approval in Ontario and to Governmental approval in Québec. For clarity, the List of Exchanges does not form part of this MOU.

(b) The Parties acknowledge that the securities regulators of any other jurisdiction where an Exchange or QTRS is recognized or exempted from recognition may become a Party to this MOU.

(c) Each Party can, at any time, withdraw from this MOU on at least 90 days written notice to all other Parties.

10. Effective Date

This MOU comes into effect on January 1, 2010.

List of Exchanges, Lead Regulators and Exempting Regulators
in relation to the
Memorandum of Understanding respecting the
Oversight of Exchanges and Quotation and Trade Reporting Systems
As of January 1, 2010

EXCHANGE - QTRS	LEAD REGULATOR	EXEMPTING REGULATOR
Bourse de Montréal Inc.	• Autorité des marchés financiers	• Ontario Securities Commission
CNSX Markets Inc.	• Ontario Securities Commission	• Alberta Securities Commission • Autorité des marchés financiers • British Columbia Securities Commission • Manitoba Securities Commission
ICE Futures Canada Inc.	• Manitoba Securities Commission	
Natural Gas Exchange Inc.	• Alberta Securities Commission	• Autorité des marchés financiers • Manitoba Securities Commission • Ontario Securities Commission
TSX Venture Exchange Inc.	• Alberta Securities Commission • British Columbia Securities Commission	• Autorité des marchés financiers • Manitoba Securities Commission • Ontario Securities Commission
TSX Inc.	• Ontario Securities Commission	• Alberta Securities Commission • Autorité des marchés financiers • British Columbia Securities Commission

1.1.5 OSC Notice 51-717 – Corporate Governance and Environmental Disclosure

OSC NOTICE 51-717
CORPORATE GOVERNANCE AND ENVIRONMENTAL DISCLOSURE

Purpose of this notice

The purpose of this notice is to communicate the Ontario Securities Commission's (OSC) plans regarding disclosure of corporate governance and environmental matters by reporting issuers (other than investment funds).

Corporate governance disclosure review

During 2010, we will conduct a review of compliance with the requirements of National Instrument 58-101 *Disclosure of Corporate Governance Practices*. The review will build on the results of our 2007 review, described in CSA Staff Notice 58-303 *Corporate Governance Disclosure Compliance Review*. Our review will involve assessing the adequacy of corporate governance disclosure in information circulars (or annual information forms or annual management's discussion & analysis, if applicable) filed by issuers in spring 2010.

Environmental disclosure guidance

During 2010, we intend to issue a staff notice providing guidance on compliance with existing environmental disclosure requirements under National Instrument 51-102 *Continuous Disclosure Obligations*. In developing the notice, we plan to consult with our advisory committees and other experts in this area. We intend to publish the notice by December 2010 so that reporting issuers will have sufficient time to consider the guidance when preparing their 2010 annual continuous disclosure documents.

Background

These actions are the outcome of our corporate sustainability reporting initiative, which was undertaken in response to a broad resolution introduced by MPP Laurel Broten and unanimously approved by the Ontario Legislature on April 9, 2009. The non-binding resolution called on the OSC to undertake a broad consultation to establish best practice corporate social responsibility and environmental, social and governance reporting standards.

Following the approval of the resolution, the Ministry of Finance and the OSC agreed that the OSC would:

- review existing disclosure requirements under Ontario securities legislation for reporting issuers (other than investment funds) regarding corporate governance and environmental matters
- consult with investors, issuers, advisors and other stakeholders on these matters, and
- make recommendations to the Minister of Finance by January 1, 2010 regarding "next steps" to enhance disclosure of these matters, if determined necessary and appropriate.

In developing the mandate, a number of factors were considered, including the areas of concern expressed by investors and other stakeholders, various international developments and the relatively short timeline to complete this initiative. In light of those factors, the OSC and the Ministry of Finance agreed that the OSC should focus on the disclosure of corporate governance and environmental matters at this time. The Hennick Centre for Business and Law at York University (the Hennick Centre) is currently undertaking a review of disclosure requirements for social matters and will report to the Minister of Finance. As part of that initiative, the Hennick Centre and Jantzi-Sustainalytics hosted a roundtable on corporate social reporting on December 7, 2009, to which they invited representatives from government agencies (including the OSC), non-profit organizations and business.

As part of our initiative, we consulted with stakeholders, our Continuous Disclosure Advisory Committee, our Securities Advisory Committee and the Prospectors & Developers Association of Canada. We also held a roundtable discussion on September 18, 2009, to which we invited representatives of investors, issuers and professional bodies, analysts, legal and accounting advisors and academics. A consultation paper was distributed to the roundtable participants to seek their input on the initiative. An updated version of that paper is attached to our report to the Minister of Finance, which is being published concurrently with this notice.

The OSC's plans regarding disclosure of corporate governance and environmental matters as described in this notice and our report to the Minister of Finance reflect the feedback we received on this initiative during the consultation process.

The OSC will invite staff at other Canadian Securities Administrators to participate in the corporate governance compliance review and the development of the guidance for environmental disclosures.

Questions

If you have questions with respect to this initiative, please contact one of the following individuals:

Jo-Anne Matear
Assistant Manager, Corporate Finance Branch
Tel: 416.593.2323
jmatear@osc.gov.on.ca

Neeti Varma
Senior Accountant, Corporate Finance Branch
Tel: 416.593.8067
nvarma@osc.gov.on.ca

Daphne Wong
Analyst, International Affairs, Office of Domestic and International Affairs
Tel: 416.593.8125
dwong@osc.gov.on.ca

December 18, 2009

1.1.6 Chi-X Canada ATS Limited Notice of Proposed Changes

CHI-X CANADA ATS LIMITED NOTICE OF PROPOSED CHANGES

Chi-X Canada ATS Limited ("Chi-X") has announced its plans to implement the changes described below on February 2, 2010. It is publishing this Notice of Proposed Changes in accordance with the requirements set out in OSC Staff Notice 21-703 (October 9, 2009) 32 OSCB 8007.

Sweep and Cross Order

Description of Proposed Changes and Reasons for Changes

The Sweep and Cross Order is being introduced to facilitate customers trying to execute an intentional cross. This order type will facilitate an intentional cross by displacing any better priced orders on protected markets. Chi-X will route immediate or cancel orders ("IOC's") to all protected markets that contain displayed prices that are better than the customer's limit price. The IOC's will be sent to all markets simultaneously and carry the bypass marker. Once Chi-X has attempted to execute against all better prices on the protected markets, it will send a "cross" order to the Chi-X books.

Impact of the Changes

The automation of a process generally done manually by brokerage firms in Canada will result in efficiencies and less errors when customers are executing a cross.

Consultations

The introduction of this order type is being made in response to several customer requests.

Consideration of Alternatives

No other alternatives were considered.

Existence of Proposed Change in the Market

No other marketplace in Canada currently offers this type of order.

Post Only Order

Description of Proposed Changes and Reasons for Changes

The Post Only Order will replace the Liquidity Provision Order that Chi-X currently offers to customers. Chi-X will offer its subscribers the option of designating an order as liquidity providing only. An order marked as Post Only will post on Chi-X if it will add liquidity otherwise it will be passively re-priced one tick increment and booked. The Post Only order will not interact with hidden liquidity. The change is that if a Post Only Order is immediately executable and therefore would immediately remove liquidity, the order will be re-priced one tick increment rather than being cancelled which is presently the case with the immediately executable Liquidity Provision Order.

Impact of the Changes

This type of order is used by clients trying to avoid the increased costs associated with removing liquidity. Re-pricing the orders rather than rejecting the order is expected to increase the efficiency and usage of this order type.

Consultations

The introduction of this order type is being made in response to several customer requests.

Consideration of Alternatives

No other alternatives were considered.

Existence of Proposed Change in the Market

At present, at least one other marketplace in Canada offers a "Post Only" order type with orders immediately executable being rejected. Only Chi-X Canada ATS Limited offers the capability for this order type being re-priced to avoid just being rejected in the Canadian marketplace.

1.1.7 Notice and Request for Feedback – Proposed Changes to the Operations of Chi-X Canada ATS Limited

CHI-X CANADA ATS LIMITED

PROPOSED CHANGES TO THE OPERATIONS OF CHI-X CANADA ATS LIMITED TO INTRODUCE TWO NEW ORDER TYPES: THE SWEEP AND CROSS ORDER AND THE POST ONLY ORDER

NOTICE AND REQUEST FOR FEEDBACK

On December 18, 2009, Chi-X Canada ATS Limited published notice of proposed changes to its operations to introduce two new order types: the Sweep and Cross Order and the Post Only Order. A copy of this notice is reproduced at Chapter 1 of this Bulletin.

Pursuant to OSC Staff Notice 21-703 – Transparency of the Operations of Stock Exchanges and Alternative Trading Systems, Commission Staff invite market participants to provide the Commission with feedback on the proposed changes.

Feedback on the proposed changes should be in writing and submitted by **January 18, 2010** to:

Market Regulation Branch
Ontario Securities Commission
Suite 1903, Box 55
20 Queen Street West
Toronto, ON M5H 3S8
Fax: 416-595-8940
e-mail: marketregulation@osc.gov.on.ca

and to:

Kenneth J. Keplacki, Managing Director
Chi-X Canada ATS Limited
The Exchange Tower, Suite 2105
130 King Street West
Toronto, ON M5X 1E3
Fax: 416-368-2562
e-mail: Ken.Klepacki@instinet.com

If the proposed changes do not raise any regulatory concerns, Chi-X Canada ATS Limited may implement the proposed changes by **February 2, 2010**.

1.3 News Releases

1.3.1 OSC Announces Plans to Enhance Compliance with Corporate Governance and Environmental Disclosure Requirements for 2010

FOR IMMEDIATE RELEASE
December 18, 2009

OSC ANNOUNCES PLANS TO ENHANCE COMPLIANCE WITH CORPORATE GOVERNANCE AND ENVIRONMENTAL DISCLOSURE REQURIEMENTS FOR 2010

TORONTO – The Ontario Securities Commission (OSC) today issued Notice 51-717 *Corporate Governance and Environmental Disclosure*, which communicates the OSC's plans to enhance compliance by reporting issuers (other than investment funds) with corporate governance and environmental disclosure requirements.

This Notice is part of the OSC's corporate sustainability reporting initiative developed in response to a resolution of the Ontario Legislature, passed on April 9, 2009, calling on the OSC to undertake a broad consultation to consider best practice corporate social responsibility and environmental, social and governance disclosure standards. In response, the OSC held consultations with various stakeholders, including a roundtable discussion on September 18, 2009 with respect to its governance and environmental disclosure requirements. The OSC then prepared a report and recommendations that were submitted today to the Ontario Minister of Finance.

"We received valuable feedback from stakeholders and this has formed the basis for the initiatives that we are taking in 2010," said James Turner, Vice-Chair of the OSC. "During the consultations, we heard support for the existing regulatory requirements as well as recommendations for the OSC to provide more guidance to issuers in order to improve the information disclosed to investors and the marketplace. For example, stakeholders said additional guidance would be welcome in respect of disclosure of climate change risk."

In 2010, the OSC will conduct a compliance review of corporate governance disclosure filed by issuers in spring 2010. The OSC will also develop guidance for issuers on compliance with existing environmental disclosure requirements, which are currently set out in National Instrument 51-102 *Continuous Disclosure Obligations*. The OSC intends to consult stakeholders in connection with the development of that guidance and to publish the guidance by December 2010, giving reporting issuers sufficient time to consider it when preparing their 2010 annual continuous disclosure documents.

The OSC will invite staff at other Canadian Securities Administrators to participate in the corporate governance compliance review and the development of the guidance for environmental disclosures.

Notice 51-717 *Corporate Governance and Environmental Disclosure*, along with the OSC report to the Minister of Finance and a consultation paper previously prepared by OSC staff, are available on the OSC website, www.osc.gov.on.ca.

For Media Inquiries: Wendy Dey
Director, Communications
& Public Affairs
416-593-8120

Robert Merrick
Senior Communications Specialist
416-593-2315

Theresa Ebden
Senior Communications Specialist
416-593-8307

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

1.3.2 Canadian Securities Regulators Publish Responses to Frequently Asked Questions About the New National Registration Regime

FOR IMMEDIATE RELEASE
December 18, 2009

CANADIAN SECURITIES REGULATORS
PUBLISH RESPONSES TO
FREQUENTLY ASKED QUESTIONS ABOUT THE
NEW NATIONAL REGISTRATION REGIME

Toronto – The Canadian Securities Administrators (CSA) today published Staff Notice 31-313, containing answers to frequently asked questions (FAQs) about the new Canada-wide registration regime.

The FAQ list was created from public enquiries that CSA members received concerning the new regime for the registration of firms and individuals who deal in securities, provide investment advice or manage investment funds.

The key components of the new regime, which came into force on September 28, 2009, include National Instrument 31-103 *Registration Requirements and Exemptions* and amendments to National Instrument 33-109 *Registration Information*. Staff Notice 31-313 was compiled in FAQ format in order to assist those working with these instruments. The Notice will be available on various CSA members' websites and may be updated from time to time.

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

For more information:

Theresa Ebden
Ontario Securities Commission
416-593-2361

Sylvain Théberge
Autorité des marchés financiers
514-940-2176

Mark Dickey
Alberta Securities Commission
403-297-4481

Ken Gracey
British Columbia Securities Commission
604-899-6577

Ainsley Cunningham
Manitoba Securities Commission
204-945-4733

Wendy Connors-Beckett
New Brunswick Securities Commission
506-643-7745

Natalie MacLellan
Nova Scotia Securities Commission
902-424-8586

Barbara Shourounis
Saskatchewan Financial Services Commission
306-787-5842

Janice Callbeck
PEI Securities Office
Office of the Attorney General
902-368-6288

Doug Connolly
Financial Services Regulation Div.
Newfoundland and Labrador
709-729-2594

Fred Pretorius
Yukon Securities Registry
867-667-5225

Louis Arki
Nunavut Securities Office
867-975-6587

Donn MacDougall
Northwest Territories
Securities Office
867-920-8984

1.4 Notice from the Office of the Secretary

1.4.1 Oversea Chinese Fund Limited Partnership et al.

FOR IMMEDIATE RELEASE
December 11, 2009

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

AND

IN THE MATTER OF
OVERSEA CHINESE FUND LIMITED PARTNERSHIP, WEIZHEN TANG AND ASSOCIATES INC., WEIZHEN TANG CORP. AND WEIZHEN TANG

TORONTO – The Commission issued its Decision following a hearing held on November 13, 2009 in the above named matter.

A copy of the Decision dated December 10, 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 Irwin Boock et al.

FOR IMMEDIATE RELEASE
December 11, 2009

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

AND

IN THE MATTER OF
IRWIN BOOCK, STANTON DEFREITAS, JASON WONG, SAUDIA ALLIE, ALENA DUBINSKY, ALEX KHODJIAINTS, 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

TORONTO – The Commission issued an Order in the above named matter which provides that the dates for the hearing of this matter on the merits shall commence on February 1, 2010 at 10:00 a.m. and shall continue for four weeks excluding the dates of February 2, 15 and 16 or such other dates as may be determined by the parties and the Office of the Secretary.

A copy of the Order dated December 10, 2009 is available at **www.osc.gov.on.ca**.

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JOHN P. STEVENSON
SECRETARY

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Assistant Manager,
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1.4.3 Gold-Quest International et al.

FOR IMMEDIATE RELEASE
December 11, 2009

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

AND

IN THE MATTER OF
GOLD-QUEST INTERNATIONAL,
HEALTH AND HARMONEY, IAIN BUCHANAN,
AND LISA BUCHANAN

TORONTO – The Commission issued an Order which provides that the Amended Temporary Order against Gold-Quest and the Ontario Respondents is extended until the completion of the Hearing on the Merits.

A copy of the Order dated December 10, 2009 is available at **www.osc.gov.on.ca**.

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

1.4.4 Gold-Quest International et al.

FOR IMMEDIATE RELEASE
December 11, 2009

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

AND

IN THE MATTER OF
GOLD-QUEST INTERNATIONAL,
1725587 ONTARIO INC. carrying on business as
HEALTH AND HARMONEY, HARMONEY CLUB
INC., DONALD IAIN BUCHANAN, LISA
BUCHANAN AND SANDRA GALE

TORONTO – The Commission issued an Order in the above matter which provides that the Hearing is adjourned to March 25, 2010 at 10:00 a.m. for a full day and March 26, 2010 from 10:00 a.m. to 1:00 p.m., or such other dates as are agreed to by the parties and determined by the Office of the Secretary, for the purpose of considering sanctions for certain of the Respondents and for any other purpose that the parties may advise the Office of the Secretary; and, that the motion for leave of the Commission to withdraw brought by counsel for Sandra Gale is granted and leave of the Commission is granted for counsel to withdraw.

A copy of the Order dated December 10, 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

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Assistant Manager,
Public Affairs
416-593-2361

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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 Canadian Hydro Developers, Inc.

Headnote

National Policy 11-203 – Process for Exemptive Relief Applications in Multiple Jurisdictions – Application for an order that the issuer is not a reporting issuer – issuer has no publicly held securities – issuer did not provide British Columbia Securities Commission with a notice of surrender of its reporting issuer status – issuer is in default of certain continuous disclosure obligations.

Ontario Statutes

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

December 9, 2009

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

AND

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

AND

IN THE MATTER OF
CANADIAN HYDRO DEVELOPERS, INC.
(the Filer)

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (**Decision Maker**) has received an application from the Filer under the securities legislation of the Jurisdictions (the **Legislation**) for a decision under the Legislation to be deemed to have ceased to be a reporting issuer in the Jurisdictions (the **Exemptive Relief Sought**).

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

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

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

Interpretation

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

Representations

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

1. The Filer was incorporated under the *Business Corporations Act* (Alberta) (the **ABCA**).

2. The head office of the Filer is located in Calgary, Alberta.

3. On October 23, 2009, 1478860 Alberta Ltd. (the **Offeror**) acquired, pursuant to an offer and accompanying take-over bid circular dated July 22, 2009, as amended by a notice of extension dated August 27, 2009, a notice of extension dated September 9, 2009, a notice of extension dated September 21, 2009, a notice of extension dated October 2, 2009, a notice of variation and extension dated October 8, 2009 and a notice of extension dated October 20, 2009 (the Offer), approximately 125,339,544 common shares of the Filer representing approximately 87.1% of the issued and outstanding common shares of the Filer (the **Common Shares**).

4. On November 4, 2009 the Offeror acquired an additional 9,155,361 Common Shares representing, along with the previously acquired 125,339,544 Common Shares, approximately 93.5% of the issued and outstanding Common Shares pursuant to the Offer.

5. On November 4, 2009, the Offeror acquired the balance of the issued and outstanding Common Shares that were not acquired by the Offeror under the Offer pursuant to the compulsory acquisition provisions of Part 16 of the *Business Corporations Act* (Alberta).

6. Following completion of the Offer on November 4, 2009, the Filer became a wholly-owned subsidiary of 1478860 Alberta Ltd.

7. Prior to the Offer, the authorized capital of the Filer consisted of an unlimited number of Common

Shares and an unlimited number of preferred shares (the **Preferred Shares**), issuable in series, of which 143,801,223 Common Shares and Nil Preferred Shares were issued and outstanding.

8. The Common Shares were delisted from the Toronto Stock Exchange on November 9, 2009 and the Filer does not have any other securities listed on any stock exchange.

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

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

11. No securities of the Filer are traded on a marketplace as defined in National Instrument 21-101 *Marketplace Operation*.

12. The Filer 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.

13. The Filer is not in default of any of its obligations under the Legislation as a reporting issuer, other than its obligation to file its interim financial statements and related management's discussion and analysis for the interim period ended September 30, 2009 and the interim certificates under National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* in respect of its interim filings for the interim period ended September 30, 2009 which were due on November 15, 2009.

14. The Filer was not eligible to use the simplified procedure under CSA Staff Notice 12-307 Applications for a Decision that an Issuer is not a Reporting Issuer as it is a reporting issuer in British Columbia.

15. Upon grant of the Exemptive Relief Sought, the Filer will not be a reporting issuer or the equivalent in any jurisdiction of Canada.

Decision

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

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

“Blaine Young”
Associate Director, Corporate Finance

2.1.2 Arise Technologies Corporation and Haverstock Master Fund, Ltd.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Application by a TSX-listed issuer and foreign resident purchaser for exemptive relief in relation to a proposed distribution of securities by the issuer by way of a committed equity facility (often referred to as an "equity line of credit"). A draw down under an equity line may be considered to be an indirect distribution of securities of the issuer to purchasers in the secondary market through the equity line purchaser acting as underwriter. Relief granted to the issuer and purchaser from certain registration and prospectus requirements, subject to terms and conditions, including a 10% restriction on the number of securities that may be distributed under an equity line in any 12-month period, certain restrictions on the permitted activities of the purchaser and certain notification and disclosure requirements.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, ss. 25(1), 25(2), 71(1), 71(2), 74(1), 133 and 147.
National Instrument 44-101 Short Form Prospectus, s. 8.1.
Form 44-101 Short Form Prospectus, item 20.
National Instrument 44-102 Shelf Distributions, ss. 5.5.2, 5.5.3, 11.1.

December 10, 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
ARISE TECHNOLOGIES CORPORATION
(THE ISSUER)

AND

HAVERSTOCK MASTER FUND, LTD.
(THE SUBSCRIBER)

DECISION

BACKGROUND

The principal regulator in the Jurisdiction has received an application from the Issuer and the Subscriber (the **Filers**) for a decision (the **Exemption Sought**) under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) that:

1. in connection with the distribution or distributions (the **Distribution**) by the Issuer of the ELOC Shares (as defined below) through the Subscriber, as underwriter, to purchasers (**TSX Purchasers**) who purchase ELOC Shares directly from the Subscriber on the Toronto Stock Exchange (**TSX**) during the period (the **Distribution Period**) that commences on the date of commencement of the Pricing Period (as defined below) under a Draw Down Notice (as defined below) delivered under the Committed Equity Facility (as defined below) and ends on the date that is the earlier of:

   (a) the date on which the Subscriber notifies the Issuer that the distribution of the ELOC Shares purchased from the Issuer on the Settlement Date (as defined below) has ended, and

   (b) the 40th day after the Settlement Date,

the Issuer be exempted from the requirements in the Legislation to include the following information in a prospectus (collectively, the **Prospectus Form Requirements**):

(i) the statement respecting statutory rights of withdrawal and rescission or damages in the form prescribed in item 20 of Form 44-101F1 *Short Form Prospectus* (**Form 44-101F1**) under National Instrument 44-101 *Short Form Prospectus Distributions* (**NI 44-101**),

(ii) the second sentence of the disclosure required by section 5.5.2 of National Instrument 44-102 *Shelf Distributions* (**NI 44-102**), and

(iii) the statement in section 5.5.3 of NI 44-102;

2. in connection with the Distribution, the Subscriber and its directors, officers and employees be exempted from the requirements in the Legislation that prohibit a person or company from engaging in or holding himself, herself or itself out as engaging in the business of trading in securities unless the person or company is registered as a dealer or is a representative registered as a dealing representative of a registered dealer and is acting on behalf of the registered dealer (the **Dealer Registration Requirements**);

3. in connection with the Distribution, the Subscriber and its directors, officers and employees be exempted from the requirements in the Legislation that prohibit a person or company from acting as an underwriter unless the person or company is registered as a dealer and is authorized to act as an underwriter in the circumstances or is a representative registered as a dealing representative of such a registered dealer and is acting on behalf of the registered dealer (the **Underwriter Registration Requirements**); and

4. in connection with the Distribution, the Subscriber and any dealers through whom the Subscriber distributes the ELOC Shares (each a Selling Agent) be exempted from the requirements in the Legislation that a dealer not acting as agent of the purchaser who receives an order to subscribe for or purchase a security offered in a distribution deliver to the purchaser or its agent the prospectus and any amendment to the prospectus not later than the second working day after the subscription or purchase (the **Prospectus Delivery Requirements**) so, as a consequence, no rights of withdrawal or rights of rescission or damages for non-delivery of the prospectus arise.

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

(a) the Ontario Securities Commission (the **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, New Brunswick, Prince Edward Island, Nova Scotia, Newfoundland and Labrador, Yukon Territory, Northwest Territories and Nunuvat.

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 Filers:

The Issuer

1. The Issuer is a corporation incorporated and validly existing under the *Canada Business Corporations Act*. The principal office of the Issuer is located in Waterloo, Ontario.

2. The Issuer is a reporting issuer under the legislation of Ontario, British Columbia, Alberta, Saskatchewan, Manitoba, New Brunswick, Prince Edward Island, Nova Scotia, Newfoundland and Labrador, Yukon Territory, Northwest Territories and Nunavut (the **Reporting Jurisdictions**). The Issuer is not in default of securities legislation in any jurisdiction.

3. The outstanding common shares of the Issuer (the **Shares**) are listed and posted for trading on the TSX under the symbol APV. The Issuer is authorized to issue an unlimited number of Shares. As of November 24, 2009, there were 133,442,762 Shares issued and outstanding and the aggregate market value of the outstanding Shares was $38.7 million.

4. The Issuer is not currently subject to the reporting requirements of the United States Securities Exchange Act of 1934, as amended (the **1934 Act**).

5. The Issuer is eligible to file a short form prospectus under NI 44-101.

6. The Issuer has filed in the Reporting Jurisdictions and received a decision document dated October 2, 2009 for its unallocated short form base shelf prospectus dated September 29, 2009 (the **Base Shelf Prospectus**).

The Subscriber

7. The Subscriber is a Cayman Islands company, whose principal business office is located at 1044 Northern Boulevard Roslyn, New York.

8. Neither the Subscriber nor any affiliate of the Subscriber is a reporting issuer in any jurisdiction in Canada or a registrant under US securities legislation. Neither the Subscriber nor any affiliate of the Subscriber is registered with any U.S. or Canadian regulator or other securities regulatory authority as a dealer, advisor or in any other capacity under the legislation in any jurisdiction and is not a member of or participant in any other marketplace (as defined National Instrument 21-101 *Marketplace Operation*) or of any other self-regulatory organization. In particular, the Subscriber is not (a) a dealer-member of the Investment Industry Regulatory Organization of Canada, (b) a participating organization of the TSX, a member of the TSX Venture Exchange, or a member or dealer of the Canadian National Stock Exchange, Pure Trading, Alpha ATS, Chi-X Canada ATS or the Canadian Investor Protection Fund, (c) a broker-dealer registered with the United States Securities Exchange Commission under the 1934 Act, or (d) a member of the National Association of Securities Dealers, Inc. The Subscriber is not in default of securities legislation in any jurisdiction.

9. The Subscriber has been established to purchase and sell, as principal, securities of public companies, including, without limitation, the purchase of equity securities pursuant to equity draw down facilities like the Committed Equity Facility. Neither the Subscriber, nor any affiliate of the Subscriber, currently participates in equity line financings or similar arrangements with US-listed issuers.

10. The investment manager of the Subscriber is Haverstock Offshore Manager, LLC, a Delaware corporation. As of the date hereof, the share capital of Haverstock Offshore Manager, LLC is owned as follows:

    (a) 50% by the N.I.R. Group, LLC, a New York limited liability company which is principally owned and managed by Mr. Corey Ribotsky;

    (b) 40% by Targum Capital, LLC, a Delaware limited liability company which is owned and managed by Mr. David Ratzker; and

    (c) 10% by Eagle Ridge Capital Corporation, an Alberta corporation which is owned and managed by Mr. Cory Gelmon and Mr. Michael Gelmon.

Proposed Distribution of ELOC Shares

11. The Issuer and the Subscriber will enter into an amended and restated committed equity facility agreement (the **Committed Equity Facility**), whereby the Issuer may, from time to time, require the Subscriber to purchase from treasury Shares (the **ELOC Shares**) on the following basis (subject always to the Committed Equity Facility becoming effective in accordance with its terms):

    (a) During the 36 months after the date of the Committed Equity Facility and subject to certain conditions set forth in the Committed Equity Facility, the Issuer may, in its sole discretion, require the Subscriber to complete one or more subscriptions for up to $500,000 in ELOC Shares (each such issue and sale of ELOC Shares is a **Draw Down**) by delivering to the Subscriber a Draw Down notice for each Draw Down (each a **Draw Down Notice**). The Issuer may not deliver another Draw Down Notice until all ELOC Shares issuable pursuant to the prior Draw Down have been delivered to, or to the direction of, the Subscriber. Furthermore, the maximum aggregate subscription amount under the Committed Equity Facility is $10 million.

    (b) Pursuant to each Draw Down Notice, the Subscriber will be required to subscribe for and purchase the number of ELOC Shares as is equal to the dollar amount set forth in the Draw Down Notice (the **Draw Down Amount**), subject to certain adjustments and conditions for the Subscriber's benefit as set out in the Committed Equity Facility.

(c) In each Draw Down Notice, the Issuer is to specify a minimum price for the Subscriber's purchase of ELOC Shares pursuant the applicable Draw Down (the **Minimum Price**).

(d) The Draw Down Amount for a Draw Down is to be allocated equally over the five consecutive trading days (the **Pricing Period**) beginning on the commencement date specified in the Draw Down Notice. The number of ELOC Shares that the Subscriber is obligated to purchase for each trading day during the Pricing Period is established by the purchase price for ELOC Shares determined under the Committed Equity Facility.

(e) Under the Committed Equity Facility, the applicable purchase price for the ELOC Shares to be paid by the Subscriber for a trading day during the Pricing Period (**Trading Day**) is to be the higher of (i) 93.5% of the volume weighted average price of the Shares for the Trading Day (**VWAP**) or (ii) the Minimum Price (the **Trading Day Purchase Price**). The number of ELOC Shares to be purchased by the Subscriber for each Trading Day is equal to the Draw Down Amount proportionately allocated to such Trading Day divided by the Trading Day Purchase Price, subject to the Subscriber's right under the Committed Equity Facility to reduce its obligation to subscribe for the Draw Down Amount for such Trading Day, in whole or in part, where the VWAP for the Trading Day is below the Minimum Price (any such reduction of the Subscriber's obligation is a **Draw Down Reduction**).

(f) In addition to a Draw Down Reduction, the Draw Down Amount for which the Subscriber is obligated in subscribing for ELOC Shares (and, accordingly, the number of ELOC Shares) pursuant to any Draw Down is to be reduced pursuant to the Committed Equity Facility to ensure that the Draw Down Amount does not exceed 5% of the market capitalization of the issued and outstanding Shares as of the applicable closing for the Draw Down (where the market capitalization is determined by multiplying the number of Shares outstanding by the VWAP as at the Settlement Date (as defined below)).

(g) The purchase and sale of ELOC Shares for each Draw Down is to be completed on later of (i) the second TSX trading day after filing of the Pricing Supplement (as defined below) or (ii) the seventh TSX trading day following the Pricing Period (each such closing is a **Settlement Date**).

12. Forthwith after entering into the Committed Equity Facility, the Issuer will issue a news release and file the agreement on SEDAR. The news release will disclose the material terms and conditions of the Committed Equity Facility, that the agreement and the Base Shelf Prospectus have been filed on SEDAR, when the prospectus supplement and pricing supplements will be filed and how TSX Purchasers may obtain a copy of the Prospectus. A copy of the news release will also be posted on the website of the Issuer.

13. Certain fees are payable by the Issuer to the Subscriber in connection with the Committed Equity Facility. Such fees shall not be satisfied by the issuance of Shares by the Issuer to the Subscriber.

14. Within two business days after entering into the Committed Equity Facility and prior to delivering any Draw Down Notice or completing any distribution of ELOC Shares pursuant to a Draw Down, the Issuer will file in each Reporting Jurisdiction a prospectus supplement to the Base Shelf Prospectus describing the terms of the Committed Equity Facility and relating to the qualification of the distribution of ELOC Shares pursuant to the shelf prospectus procedures prescribed by Parts 8 and 9 of NI 44-102 in connection with the Distribution (the **Prospectus Supplement**). The Prospectus Supplement will:

(a) qualify the distribution of ELOC Shares to the Subscriber,

(b) qualify the sale of ELOC Shares to TSX Purchasers; and

(c) include the disclosure required by subsection 9.1(3) of NI 44-102 that no underwriter or dealer involved in the Distribution, no affiliate of such an underwriter or dealer and no person or company acting jointly or in concert with such an underwriter or dealer has over-alloted, or will over-allot, securities in connection with the Distribution or effect any other transactions that are intended to stabilize or maintain the market price of the Shares.

15. Within two TSX trading days after the end of the Pricing Period for a particular Draw Down and, in any case, prior to completing any distribution of ELOC Shares pursuant to a Draw Down, the Issuer will file on SEDAR a copy of its pricing supplement to the Base Shelf Prospectus prepared in accordance with the shelf prospectus procedures prescribed by Part 8 and 9 of NI 44-102 and describing the terms and conditions applicable to the distribution of ELOC Shares pursuant to the Draw Down Notice delivered to the Subscriber under the Committed Equity Facility that are not disclosed in the Base Shelf Prospectus, including without limitation, disclosure of the number of ELOC Shares issued and sold pursuant to the Draw Down to the Subscriber and the Subscriber's average purchase price per ELOC Share, all as determined in accordance with the Committed Equity Facility after completion of the Pricing Period (such a

pricing supplement to the Base Shelf Prospectus is a **Pricing Supplement**) (the Base Shelf Prospectus together with the Prospectus Supplement and the applicable Pricing Supplement, as may be amended or restated from time to time, are referred to in this decision as the **Prospectus**).

16. The Committed Equity Facility will provide that during the term of the Committed Equity Facility neither the Subscriber nor any of its affiliates will sell Shares other than those (a) that the Subscriber reasonably expects to have the obligation to purchase under the terms of the Committed Equity Facility or (b) held in any accounts directly or indirectly managed by the Subscriber.

17. After receipt of a Draw Down Notice, the Subscriber may seek to sell the ELOC Shares purchased under the Draw Down, or engage in hedging strategies, in order to reduce the economic risk associated with the purchase of securities of the Issuer.

18. Under the Committed Equity Facility, the Subscriber, its affiliates, associates, partners and insiders, will agree not to hold a net short position in Shares during the term of the Committed Equity Facility. Accordingly, the Subscriber may sell Shares to hedge their obligation to purchase ELOC Shares under a Draw Down Notice provided that:

    (a) The Subscriber complies with applicable TSX regulations and securities legislation;

    (b) The Subscriber will not during a Pricing Period, together with any affiliate, associate, subsidiaries, partners or insiders, sell that number of Shares which exceeds that number of ELOC Shares the Subscriber will be required to purchase in connection with the Draw Down Notice.

19. The Subscriber may, but is not obligated to, sell ELOC Shares it has acquired under a Draw Down on a non-fixed price basis during the Distribution Period.

20. The Subscriber may be considered to be acting as an underwriter (as defined in the Legislation) in connection with the Distribution and a Draw Down under the Committed Equity Facility may be considered to be an indirect distribution of the ELOC Shares by the Issuer to TSX Purchasers with the Subscriber acting as the underwriter of the Distribution.

21. A person or company acting as an underwriter is subject to the Underwriter Registration Requirements.

22. The Subscriber and the Selling Agents will affect all sales of ELOC Shares during the Distribution Period, other than those made to a lender of Shares, through the TSX.

23. The Committed Equity Facility will provide that, at the time of each Draw Down Notice and each sale of ELOC Shares, the Issuer will make a representation to the Subscriber that the Prospectus contains full, true and plain disclosure of all material facts relating to the Issuer and the ELOC Shares being distributed. The Issuer would therefore be unable to proceed with sales of ELOC Shares when it is in possession of undisclosed information that would constitute a material fact or a material change in respect of the ELOC Shares.

Disclosure of Distribution of ELOC Shares

24. Upon issuing a Draw Down Notice, the Issuer will disseminate a news release disclosing the issuance of the Draw Down Notice and specifying that the Base Shelf Prospectus and the Prospectus Supplement are filed on SEDAR. In addition, if the Issuer determines that the sale of the number of ELOC Shares specified in the Draw Down Notice constitutes a material fact or material change, the Issuer will simultaneously file a material change report.

25. On or before each Settlement Date, the Issuer is to have disseminated a news release regarding the issue and sale of ELOC Shares for that Draw Down. The news release is to specify the number of ELOC Shares and the Subscriber's average purchase price for each ELOC Share that has been issued and sold under the Draw Down, all as determined in accordance with the Committed Equity Facility after completion of the Pricing Period, indicate that the Pricing Supplement in respect of the Draw Down has been filed on SEDAR, and specify where and how prospective TSX Purchasers may obtain a copy of the Committed Equity Facility, the Base Shelf Prospectus, the Prospectus Supplement applicable to the Committed Equity Facility, and the Pricing Supplement applicable to the Draw Down. The Issuer is to post copies of the Draw Down news releases on its website.

26. In determining whether the sale of the number of ELOC Shares specified in the Draw Down Notice would constitute a material fact or material change, the Issuer will take into account a number of factors, including, without limitation: (a) the parameters of the Draw Down Notice including the number of ELOC Shares proposed to be sold; (b) the percentage of the outstanding Shares that the number of ELOC Shares represents; (c) the difference between the recent market price of the Shares and the Minimum Price specified in the Draw Down Notice (d) trading volume and

volatility of Shares; (e) recent developments in the business, affairs and capital structure of the Issuer; and (f) prevailing market conditions generally.

Prospectus Qualification of the Distribution of ELOC Shares

27. The Base Shelf Prospectus, as supplemented by the Prospectus Supplement, as amended, will qualify the Distribution of the ELOC Shares to TSX Purchasers during the Distribution Period.

28. The Base Shelf Prospectus, as supplemented by the Prospectus Supplement, as amended, and the Pricing Supplement will qualify the Distribution of the Shares to the Subscriber as described in the Pricing Supplement.

29. The Prospectus Supplement will contain an underwriter's certificate in the form set out in section 2.2(b) of Appendix B to NI 44-102 signed by the Subscriber.

30. A dealer not acting as agent of the purchaser who sells securities offered in a distribution to which the prospectus requirement applies is subject to the Prospectus Delivery Requirements.

31. The Subscriber is seeking an exemption from the Prospectus Delivery Requirements on behalf of itself and Selling Agents through whom it sells the ELOC Shares because TSX Purchasers will not be readily identifiable as the Selling Agent acting on behalf of the Subscriber may combine the sell orders made under the Prospectus with other sell orders and the dealer acting on behalf of a TSX Purchaser may combine a number of purchase orders.

32. The Issuer will disclose the number and price of ELOC Shares sold to the Subscriber under the Committed Equity Facility in its annual financial statements and MD&A filed on SEDAR.

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. in connection with a Distribution, the Issuer is exempted from the Prospectus Form Requirements so long as:

   (a) the number of Shares distributed by the Issuer under one or more equity lines of credit, including the Committed Equity Facility, during any 12-month period in the term of the Committed Equity Facility does not exceed 10 per cent of the aggregate number of Shares outstanding at the beginning of such 12-month period;

   (b) the Issuer issues a news release immediately:

      (i) upon entering into the Committed Equity Facility, disclosing certain terms of the Committed Equity Facility including the aggregate maximum issue price of the ELOC Shares that may be distributed under the Committed Equity Facility, and

      (ii) upon delivery of a Draw Down Notice to the Subscriber if the maximum dollar value of ELOC Shares the Subscriber may be obligated to purchase exceeds 2 per cent of the aggregate market value of the Shares issued and outstanding at the date of delivery of the Draw Down Notice;

   (c) the Issuer files the Prospectus Supplement that (i) qualifies the distribution of the ELOC Shares to the Subscriber and the distribution of the ELOC Shares to the TSX Purchasers during the Distribution Period; and (ii) includes the disclosure required by section 9.1(3) of NI 44-102;

   (d) the Issuer files a Pricing Supplement within two business days after the end of the Pricing Period with respect to each Draw Down disclosing the number of ELOC Shares sold pursuant to that Draw Down to the Subscriber and the price per ELOC Share;

   (e) the Issuer delivers to the Commission and the TSX, upon request, a copy of each Draw Down notice delivered by the Issuer to the Subscriber under the Committed Equity Facility; and

   (f) in lieu of the statement respecting statutory rights of withdrawal and rescission or damages in the form prescribed in item 20 of Form 44-101F1, the Issuer includes in the Prospectus Supplement the following statement:

"Securities legislation in the jurisdictions provides purchasers with the right to withdraw from an agreement to purchase securities and with remedies for rescission or damages if the prospectus, prospectus supplements relating to securities purchased by a purchaser and any amendment are not delivered to the purchaser, provided that the remedies are exercised by the purchaser within the time limit prescribed by securities legislation.

However, TSX Purchasers of ELOC Shares will not have any right to withdraw from an agreement to purchase the ELOC Shares and will not have remedies of rescission or damages for non-delivery of the Prospectus because the Prospectus relating to ELOC Shares purchased by a TSX Purchaser will not be delivered as permitted under a decision document granting exemptive relief dated ●, 2009.

Securities legislation in the jurisdictions also provides purchasers with remedies for rescission or damages if the prospectus, prospectus supplements relating to securities purchased by a purchaser and any amendment contain a misrepresentation, provided that the remedies are exercised by the purchaser within the time limit prescribed by securities legislation. Any remedies under securities legislation in the jurisdictions that a TSX Purchaser of ELOC Shares may have against the Issuer or the Subscriber for rescission or damages if the prospectus, prospectus supplements relating relating to securities purchased by a purchaser and any amendment contain a misrepresentation remain unaffected by the non-delivery of the Prospectus and the decision document referred to above.

TSX Purchasers should refer to the applicable provisions of the securities legislation and the decision document referred to above for the particulars of their rights or consult with a legal adviser."

2. in connection with a Distribution, the Subscriber and its officers, directors and employees are exempted from the Dealer Registration Requirements and the Underwriter Registration Requirements so long as:

   (a) the Subscriber does not solicit offers to purchase the ELOC Shares in any Reporting Jurisdictions and effects all Distributions of ELOC Shares during Distribution Period through the TSX using a dealer unaffiliated with the Subscriber or the Issuer;

   (b) no extraordinary commission or consideration is paid by the Subscriber to a person or company in respect of the Distribution of ELOC Shares; and

   (c) the Subscriber makes available to the Commission, upon request, full particulars of trading and hedging activities by the Subscriber (and, if relevant, trading and hedging activities by affiliates of the Subscriber) in relation to securities of the Issuer during the term of the Committed Equity Facility;

3. in connection with a Distribution, the Subscriber and any Selling Agents through whom the Subscriber distributes the ELOC Shares are exempted from the Prospectus Delivery Requirements so long as the conditions in the immediately preceding paragraph 2 are met; and

4. this decision will terminate on the date that is 25 months after the date on which the Prospectus Supplement is filed in the Jurisdiction.

As to the Exemption Sought from the Prospectus Form Requirements:

"Michael Brown"
Assistant Manager, Corporate Finance

As to the Exemption Sought from the Dealer Registration Requirements, the Underwriter Registration Requirements and the Prospectus Delivery Requirements:

"David L. Knight"
Commissioner
Ontario Securities Commission

"Kevin J. Kelly"
Commissioner
Ontario Securities Commission

2.1.3 Selkirk Metals Corp. – 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).

Citation: Selkirk Metals Corp., Re, 2009 ABASC 611

December 9, 2009

DuMoulin Black LLP
10th Floor 595 Howe Street
Vancouver, BC V6C 2T5

Attention: Brian W. Lindsay

Dear Sir:

Re: Selkirk Metals Corp.(the Applicant) – Application for a decision under the securities legislation of British Columbia, Alberta, Ontario 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 to be deemed to have ceased to be a reporting issuer in the Jurisdictions.

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 deemed to have ceased to be a reporting issuer and that the Applicant's status as a reporting issuer is revoked.

"Blaine Young"
Associate Director, Corporate Finance

2.1.4 Big 8 Split Inc. and TD Securities Inc.

Headnote

National Policy 11-203 – Process for Exemptive Relief Applications in Multiple Jurisdictions – subdivided offering – in connection with offering of Class C preferred shares – the prohibitions contained in the Legislation against trading in portfolio shares by persons or companies having information concerning the trading programs of mutual funds shall not apply to administrator with respect to certain principal trades with the issuer in securities comprising the Issuer's portfolio – issuer's portfolio consisting of shares of five Canadian banks and three Canadian insurance companies.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 119, 121(2)(a)(ii).

December 11, 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
BIG 8 SPLIT INC.
(the "Filer")

AND

TD SECURITIES INC.
("TD Securities")

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer under the securities legislation of the Jurisdiction of the principal regulator (the "**Legislation**") for a decision that the prohibitions contained in Section 119 of the *Securities Act* (Ontario) (the "**OSA**") against trading in portfolio shares by persons or companies having information concerning the trading programs of mutual funds shall not apply to TD Securities in connection with Principal Sales and Principal Purchases (each defined below) with respect to the public offering (the "**Offering**") of class C preferred shares (the "**Class C Preferred Shares**") of the Filer (the "**Exemption Sought**").

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 Multinational Instrument 11-102 *Passport System* ("**MI 11-102**") is intended to be relied upon in the jurisdictions of Alberta, Saskatchewan, Nova Scotia and Newfoundland and Labrador.

Interpretation

Defined terms contained 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:

The Filer

1. The Filer was incorporated under the *Business Corporations Act* (Ontario) on June 26, 2003 and became a reporting issuer under the OSA by filing a final prospectus dated August 28, 2003 relating to an initial public offering of class A capital shares (the "**Capital Shares**") and class A preferred shares completed on September 3, 2003.

2. The authorized capital of the Filer consists of an unlimited number of Capital Shares, an unlimited number of Class A preferred shares, an unlimited number of Class B, Class C and Class D preferred shares issuable in series, an unlimited number of Class B, Class C and Class D capital shares issuable in series, and an unlimited number of Class E voting shares ("**Class E Shares**").

3. Currently there are 1,204,980 Capital Shares and 1,204,980 Class B preferred shares, Series 1 (the "**Class B Preferred Shares**") issued and outstanding.

4. The Filer is offering Class C Preferred Shares and Capital Shares pursuant to a final prospectus (the "**Prospectus**"). Immediately prior to closing of the Offering, the Filer intends to pay a dividend in Capital Shares to holders of Capital Shares (the "**Share Dividend**"). As a result, and in order to maintain the same number of Capital Shares and preferred shares of all classes outstanding, the Filer is offering a greater number of Class C Preferred Shares than Capital Shares. However, after giving effect to this Offering and the Share Dividend, there will be an equal number of Capital Shares and preferred shares of the Filer outstanding.

5. The Filer filed the Prospectus in each of the provinces of Canada on December 8, 2009 (SEDAR Project No. 1489705).

6. The Capital Shares and the Class B Preferred Shares will continue to be listed and posted for trading on The Toronto Stock Exchange (the "**TSX**"). The TSX has conditionally approved the listing of the Class C Preferred Shares and the additional Capital Shares.

7. The Class E Shares are the only voting shares in the capital of the Filer. There are currently 100 Class E Shares issued and outstanding. All of the issued and outstanding Class E Shares are owned by Big 8 Split Trust, a trust established for holders from time to time of preferred shares and Capital Shares of the Filer.

8. The Capital Shares and Class C Preferred Shares may be surrendered for retraction at any time in the manner described in the Prospectus.

9. The Filer has a board of directors (the "**Board of Directors**") which currently consists of five directors, three of which are independent directors who are not employees of TD Securities. Also, the offices of President/Chief Executive Officer and Chief Financial Officer/Secretary of the Filer are held by employees of TD Securities.

10. The Filer is a passive investment company whose principal investment objective is to invest in a portfolio of common shares (the "**Portfolio Shares**") of Bank of Montreal, The Bank of Nova Scotia, Canadian Imperial Bank of Commerce, Royal Bank of Canada, The Toronto-Dominion Bank, Great-West Lifeco Inc., Manulife Financial Corporation and Sun Life Financial Inc. (collectively, the "**Financial Institutions**") in order to generate fixed cumulative preferential distributions for holders of the Filer's Class B Preferred Shares and Class C Preferred Shares, and to allow the holders of the Filer's Capital Shares to participate in the capital appreciation of the Portfolio Shares after payment of administrative and operating expenses of the Filer. It will be the policy of the Board of Directors to pay dividends on the Capital Shares in an amount equal to the dividends received by the Filer on the Portfolio Shares minus the distributions payable on the Class B Preferred Shares and Class C Preferred Shares and all administrative and operating expenses of the Filer.

11. Class C Preferred Share distributions will be funded from the dividends received on the Portfolio Shares. If necessary, any shortfall in the distributions on the Class C Preferred Shares will be funded by proceeds from the sale of Portfolio Shares.

12. The record date for the payment of Class C Preferred Share distributions, Capital Share dividends or other distributions of the Filer will be set in accordance with the applicable requirements of the TSX.

13. Any outstanding Capital Shares and preferred shares will be redeemed by the Filer on December 15, 2013.

14. The Filer is considered to be a mutual fund, as defined in the Legislation. Since the Filer does not operate as a conventional mutual fund, it is making an application for a waiver from certain requirements of National Instrument 81-102 – *Mutual Funds*.

15. The policy of the Filer is to maintain a fixed portfolio and not engage in trading except in limited circumstances, including to fund retractions of preferred shares and Capital Shares.

16. The Portfolio Shares are listed and traded on the TSX.

17. The Filer is not, and will not upon the completion of the Offering be, an insider of the Financial Institutions within the meaning of the Legislation.

The Offering

18. The net proceeds from the Offering will be used by the Filer to fund the purchase of additional Portfolio Shares.

19. The Prospectus discloses selected financial information and dividend and trading history of the Portfolio Shares.

20. As discussed above, the TSX has conditionally approved the listing of the Class C Preferred Shares and additional Capital Shares on the TSX and all of the Capital Shares and preferred shares outstanding will be redeemed by the Filer on December 15, 2013.

TD Securities

21. TD Securities was incorporated under the laws of the Province of Ontario and is a direct, wholly-owned subsidiary of The Toronto-Dominion Bank. TD Securities is registered under the Legislation as a dealer in the categories of "broker" and "investment dealer" and is a member of the Investment Industry Regulatory Organization of Canada and a participant in the TSX.

22. Pursuant to an agency agreement made between the Filer and TD Securities and other agents appointed by the Filer (the "**Agents**"), the Filer appointed the Agents, as its agents, to offer the Capital Shares and the Class C Preferred Shares of the Filer on a best efforts basis and the

Prospectus qualifying the Offering contains a certificate signed by the Agents, in accordance with the Legislation.

23. Pursuant to an administration agreement between TD Sponsored Companies Inc. ("**TD SCI**"), a wholly-owned subsidiary of TD Securities, and the Filer, the Filer retained TD SCI to administer the ongoing operations of the Filer and will pay TD SCI a monthly fee of 1/12 of 0.25% of the market value of the Portfolio Shares held by the Filer from and after December 15, 2008.

24. TD SCI and TD Securities' economic interest in the Filer and in the material transactions involving the Filer are disclosed in the Prospectus under the heading "Interests of Management and Others in Material Transactions" and include the following:

    (a) agency fees with respect to the Offering;

    (b) commissions in respect of the disposition of Portfolio Shares to fund a redemption, retraction or purchase for cancellation of the Capital Shares and preferred shares;

    (c) interest and reimbursement of expenses, in connection with any acquisition of Portfolio Shares; and

    (d) amounts in connection with Principal Sales and Principal Purchases (as described below).

The Principal Trades

25. Through TD Securities, the Filer may purchase Portfolio Shares in the market on commercial terms or from non-related parties with whom TD Securities and the Filer deal at arm's length. Subject to regulatory approval, certain of such Portfolio Shares may also be purchased from TD Securities, as principal (the "**Principal Sales**").

26. TD Securities may receive commissions not exceeding normal market rates in respect of its purchase of Portfolio Shares, as agent on behalf of the Filer, and the Filer will pay any carrying costs or other expenses incurred by TD Securities, on behalf of the Filer, in connection with its purchase of Portfolio Shares, as agent on behalf of the Filer. In respect of any Principal Sales made to the Filer by TD Securities as principal, TD Securities may realize a financial benefit to the extent that the proceeds received from the Filer exceed the aggregate cost to TD Securities of such Portfolio Shares. Similarly, the proceeds received from the Filer may be less than the aggregate cost to TD Securities of the Portfolio Shares and TD Securities may realize a financial loss.

27. The Prospectus discloses that any Principal Sales will be made in accordance with the rules of the applicable stock exchange and the price paid to TD Securities (inclusive of all transaction costs, if any) will not be greater than the price which would have been paid (inclusive of all transaction costs, if any) if the acquisition had been made through the facilities of the principal stock exchange on which the Portfolio Shares are listed and posted for trading at the time of the purchase from TD Securities.

28. TD Securities will not receive any commissions from the Filer in connection with the Principal Sales and all Principal Sales will be approved by the independent directors of the Filer. In carrying out the Principal Sales, TD Securities will deal fairly, honestly and in good faith with the Filer.

29. TD Securities may sell Portfolio Shares to fund retractions of Capital Shares, Class B Preferred Shares and Class C Preferred Shares prior to the Redemption Date and upon liquidation of the Portfolio Shares in connection with the final redemption of Capital Shares and Class C Preferred Shares on the Redemption Date. These sales will be made by TD Securities as agent on behalf of the Filer, but in certain circumstances, such as where a small number of Capital Shares, Class B Preferred Shares and Class C Preferred Shares have been surrendered for retraction, TD Securities may purchase Portfolio Shares as principal (the "**Principal Purchases**") subject to receipt of all regulatory approvals.

30. In connection with any Principal Purchases, TD Securities will comply with the rules, procedures and policies of the applicable stock exchange of which they are members and in accordance with orders obtained from all applicable securities regulatory authorities. The Prospectus discloses that TD Securities may realize a gain or loss on the resale of such securities.

31. TD Securities will take reasonable steps, such as soliciting bids from other market participants or such other steps as TD Securities, in its discretion, considers appropriate after taking into account prevailing market conditions and other relevant factors, to enable the Filer to obtain the best price reasonably available for the Portfolio Shares so long as the price obtained (net of all transaction costs, if any) by the Filer from TD Securities is at least as advantageous to the Filer as the price which is available (net of all transaction costs, if any) through the facilities of the applicable stock exchange at the time of the trade.

32. TD Securities will not receive any commissions from the Filer in connection with Principal Purchases and, in carrying out the Principal Purchases, TD Securities shall deal fairly, honestly and in good faith with the Filer.

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.

"Carol S. Perry"
Commissioner
Ontario Securities Commission

"C. Wesley M. Scott"
Commissioner
Ontario Securities Commission

2.1.5 Big 8 Split Inc.

Headnote

National Policy 11-203 – Process for Exemptive Relief Applications in Multiple Jurisdictions – Exemptive relief granted to an exchange traded fund from certain mutual fund requirements and restrictions on calculation and payment of redemptions in connection with offering of Class C preferred shares – Since investors will generally buy and sell units through the TSX, there are adequate protections and it would not be prejudicial to investors – National Instrument 81-102 – Mutual Funds.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, ss. 10.3, 10.4(1).

December 11, 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
BIG 8 SPLIT INC.

DECISION

Background

The principal regulator in the Jurisdiction has received an application from Big 8 Split Inc. (the "Filer") for a decision under the securities legislation of the Jurisdiction of the principal regulator (the "Legislation") for relief from the following sections of National Instrument 81-102 *Mutual Funds* ("NI 81-102") with respect to the class C preferred shares (the "Class C Preferred Shares") proposed to be issued by the Filer as described in a prospectus dated December 8, 2009 (the "Prospectus"):

(a) section 10.3, which requires that the redemption price of a security of a mutual fund to which a redemption order pertains shall be the net asset value of a security of that class, or series of class, next determined after the receipt by the mutual fund of the order; and

(b) subsection 10.4(1), which requires that a mutual fund shall pay the redemption price for securities that are the subject of a redemption order within three business days after the date of calculation of

the net asset value per security used in establishing the redemption price

("Exemption Sought").

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 Multinational Instrument 11-102 Passport System ("MI 11-102") is intended to be relied upon in the jurisdictions of British Columbia, Alberta, Saskatchewan, Manitoba, Quebec, New Brunswick, Nova Scotia, Prince Edward Island, and Newfoundland and Labrador.

Interpretation

Defined terms contained 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:

The Filer

1. The Filer was incorporated under the *Business Corporations Act* (Ontario) on June 26, 2003 and completed an initial public offering of capital shares ("Capital Shares") and preferred shares on September 3, 2003.

2. Currently there are 1,204,980 Capital Shares and 1,204,980 Class B Preferred Shares issued and outstanding.

3. The Filer is offering Class C Preferred Shares and Capital Shares pursuant to the Prospectus (the "Offering"). Immediately prior to closing of the Offering, the Filer intends to declare and pay a dividend in Capital Shares to holders of Capital Shares (the "Share Dividend"). As a result, and in order to maintain the same number of Capital Shares and preferred shares of all classes outstanding, the Filer is offering a greater number of Class C Preferred Shares than Capital Shares. However, after giving effect to this Offering and the Share Dividend, there will be an equal number of Capital Shares and preferred shares of the Filer outstanding.

4. The Capital Shares and the Class B Preferred Shares will continue to be listed and posted for trading on The Toronto Stock Exchange (the "TSX"). The TSX has conditionally approved the listing of the Class C Preferred Shares and the additional Capital Shares.

5. The Filer is a passive investment company whose principal investment objective is to invest in a portfolio (the "Portfolio") of common shares (the "Portfolio Shares") of Bank of Montreal, The Bank of Nova Scotia, Canadian Imperial Bank of Commerce, Royal Bank of Canada, The Toronto-Dominion Bank, Great-West Lifeco Inc., Manulife Financial Corporation and Sun Life Financial Inc. in order to generate fixed cumulative preferential distributions for holders of the Filer's Class B Preferred Shares and Class C Preferred Shares, and to allow the holders of the Filer's Capital Shares to participate in the capital appreciation of the Portfolio Shares after payment of administrative and operating expenses of the Filer. It will be the policy of the Board of Directors of the Filer to pay dividends on the Capital Shares in an amount equal to the dividends received by the Filer on the Portfolio Shares minus the distributions payable on the Class B Preferred Shares and Class C Preferred Shares and all administrative and operating expenses of the Filer.

6. The net proceeds from the Offering will be used by the Filer to fund the purchase of additional Portfolio Shares. Holders of Class B Preferred Shares, Class C Preferred Shares and Capital Shares will have no voting rights with respect to the Portfolio Shares.

7. The policy of the Filer is to maintain a fixed portfolio and not engage in trading except in limited circumstances, including to fund retractions of preferred shares and Capital Shares.

8. Class B Preferred Share distributions and Class C Preferred Share distributions will be funded from the dividends received on the Portfolio Shares. If necessary, any shortfall in the distributions on the Class B Preferred Shares and Class C Preferred Shares will be funded by proceeds from the sale of Portfolio Shares.

9. The record date for the payment of Class B Preferred Share and Class C Preferred Share distributions, Capital Share dividends or other distributions of the Filer will be set in accordance with the applicable requirements of the TSX.

10. The Class C Preferred Shares may be surrendered for retraction at any time. Retraction payments for Class C Preferred Shares will be made on the Retraction Payment Date (as defined in the Prospectus) provided the Class C Preferred Shares have been surrendered for retraction at least 10 business days prior to the Retraction Payment Date (as defined in the Prospectus). While the Filer's Unit Value (as defined in the Prospectus) is calculated weekly, the retraction price for the Class C Preferred Shares will be determined based on the Unit Value in effect as at the Valuation Date (as defined in the Prospectus).

11. Any outstanding Capital Shares or preferred shares will be redeemed by the Filer on December 15, 2013.

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 is that the Exemption Sought is granted as follows:

(a) section 10.3 – to permit the Filer to calculate the retraction price for the Class C Preferred Shares in the manner described in the Prospectus and on the applicable Valuation Date as defined in the Prospectus; and

(b) subsection 10.4(1) – to permit the Filer to pay the retraction price for the Class C Preferred Shares on the Retraction Payment Date, as defined in the Prospectus.

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

2.1.6 Invesco Trimark Ltd. and Invesco Institutional (N.A.), Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief granted from the Act and NI 31-103 to permit registered portfolio managers to engage the pooled funds they advise, in fund-of-fund investments and in in-species transactions – the portfolio managers advise both the top and bottom funds and one portfolio manager acts or may act as trustee of the top and bottom funds – pooled funds are 'associates' of one of the portfolio managers - reporting relief also granted from the monthly reporting requirements under the Act.

Applicable Legislative Provisions

Securities Act (Ontario), ss. 111(2)(b), 111(3), 113, 117(1)(a), 117(2).
National Instrument 31-103 Registration Requirements, ss. 13.5(2)(b)(ii) and (iii), 15.1.

December 11, 2009

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

AND

IN THE MATTER OF
INVESCO TRIMARK LTD.
(Invesco)

AND

INVESCO INSTITUTIONAL (N.A.), INC.
(Invesco N.A.)

(Invesco and Invesco N.A. collectively, the Filers)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filers on their behalf and on behalf of the mutual funds set out in Schedule A hereto (the **Existing Pooled Funds**, and individually, an **Existing Pooled Fund**) and other mutual funds that may be established and managed by Invesco from time to time (the **Future Pooled Funds**, together with the Existing Pooled Funds, the **Pooled Funds**) for a decision under the securities legislation of the principal regulator (the **Legislation**):

(a) pursuant to section 15.1 of National Instrument 31-103 *Registration Requirements and Exemptions* (**NI 31-103**), exempting the Filers from the prohibitions contained in section 13.5(2)(b)(ii) and (iii) of NI 31-103 that prohibit 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" as defined in the Legislation, or from or to an investment fund for which the responsible person acts as an adviser, to permit the purchase and sale of portfolio securities between:

(i) the Trimark Balanced Pool (the **Balanced Pool**) and the Invesco Core Canadian Fixed Income Pool (to be established on or about December 15, 2009) (the **Canadian Fixed Income Pool**);

(ii) the Balanced Pool and the Trimark Canadian Equity Pool (**Canadian Equity Pool**); and

(iii) any other Pooled Funds managed by Invesco in respect of which the Filers act as registered advisers,

(each an **In-Specie Transaction**, and the above section (a) is collectively, the **In-Species Relief**); and

(b) pursuant to section 113 of the Act for relief from the following provisions:

(i) section 111(2)(b) of the Act which prohibits a mutual fund in Ontario against knowingly making an investment in a person or company in which the mutual fund, alone or together with one or more related mutual funds, is a substantial security holder; and

(ii) section 111(3) of the Act, which prohibits a mutual fund in Ontario or its management company or its distribution company against knowingly holding an investment described in (i) above,

to permit:

(iii) the Balanced Pool to invest in the Canadian Equity Pool and the Canadian Fixed Income Pool;

(iv) an Existing Pooled Fund to invest in one or more other Existing Pooled Funds or Future Pooled Funds; and

(v) a Future Pooled Fund, to invest in one or more Existing Pooled Funds or Future Pooled Funds

(the above section (b) is collectively, the **Related Issuer Relief**); and

(c) pursuant to section 117(2) of the Act for relief from the requirement under section 117(1)(a) of the Act to file a report of every transaction of purchase or sale of securities between a mutual fund and any related person or company (collectively, the **Reporting Relief**).

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) in respect of the In-Species Relief, the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in British Columbia, Alberta, Saskatchewan, Manitoba, Quebec, New Brunswick, Nova Scotia , Prince Edward Island, and Newfoundland and Labrador;

(c) in respect of the Related Issuer Relief and the Reporting Relief, the Filer has provided notice that section 4.7(1) of MI 11-102 is intended to be relied upon in Alberta.

Interpretation

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

Representations

1. Invesco is a corporation amalgamated under the laws of the Province of Ontario and has its registered head office in Toronto, Ontario.

2. Invesco is registered in Ontario and Newfoundland and Labrador as a dealer in the category of exempt market dealer and as an adviser in the category of portfolio manager, and is registered in British Columbia, Alberta, Saskatchewan, Manitoba, Quebec, New Brunswick, Nova Scotia, and Prince Edward Island as an adviser in the category of portfolio manager.

3. Invesco is the trustee, manager and portfolio manager of the Existing Pooled Funds and will be the trustee, manager and portfolio manager of the Future Pooled Funds.

4. Invesco N.A. is a limited liability company formed under the laws of the State of Delaware, U.S.A.

5. Invesco N.A. is registered as an adviser in the category of portfolio manager in British Columbia, Alberta, Saskatchewan, Manitoba, New Brunswick, Ontario and Newfoundland and Labrador and is registered in the United States as an investment adviser under the Investment Advisers Act of 1940.

6. Invesco N.A. provides investment advisory services to the Pooled Funds in connection with the cash portion of their assets.

7. Securities of the Pooled Funds are, or will be, sold solely to investors in Canada pursuant to exemptions from the prospectus requirements in accordance with National Instrument 45-106 *Prospectus and Registration Exemptions* (**NI 45-106**).

8. Each of the Pooled Funds is, or will be, a "mutual fund" and a "mutual fund in Ontario" as defined in the Ontario Act and a "mutual fund" as defined in the Alberta Act.

9. None of the Pooled Funds is, or will become, a "reporting issuer", as defined in the Act. Each Pooled Fund is not in default of securities legislation in any province or territory of Canada.

10. The Filers are not reporting issuers in any jurisdiction of Canada and are not in default of securities legislation in any province or territory of Canada.

In-Specie Transactions:

11. The Filers wish to engage in In-Specie Transactions pursuant to which:

    (a) the Balanced Pool will purchase units of the Canadian Fixed Income Pool and as payment for the units make good delivery to the Canadian Fixed Income Pool of debt securities (the Debt Securities);

    (b) the Balanced Pool will purchase units of the Canadian Equity Pool and as payment for the units make good delivery to the Canadian Equity Pool of equity securities (the Equity Securities); and

    (c) a Pooled Fund will purchase units of another Pooled Fund and as payment for the units make good delivery of securities that meet the investment criteria of that Pooled Fund.

12. The investment objective of the Balanced Pool is to achieve strong capital growth and current income over the long-term by investing primarily in a diversified portfolio of equity and debt securities.

13. The investment objective of the Canadian Equity Pool is to achieve strong capital growth over the long-term by investing primarily in equity securities of Canadian issuers.

14. The investment objective of the Canadian Fixed Income Pool is to achieve a combination of current income and capital growth over the long-term by investing primarily in high-quality Canadian government and corporate debt securities.

15. The Debt Securities and the Equity Securities meet the investment criteria of the Canadian Fixed Income Pool and Canadian Equity Pool respectively. The Filer considers an investment by the Balanced Fund in units of the Canadian Fixed Income Pool and the Canadian Equity Pool by way of In-Specie Transaction, to be a more cost effective and efficient way for the Balanced Fund to achieve exposure to the Debt Securities and the Equity Securities than a direct investment in those securities.

16. In the circumstances, instead of the Balanced Pool disposing of the Debt Securities and the Equity Securities and the Canadian Fixed Income Pool and Canadian Equity Pool respectively purchasing the same securities and incurring unnecessary brokerage costs, the Debt Securities and the Equity Securities would, pursuant to each In-Specie Transaction, be acquired by the Canadian Fixed Income Pool and Canadian Equity Pool respectively.

17. The Filers also consider an investment by one or more Pooled Funds in units of other Pooled Funds by way of In-Specie Transaction, to be a more cost effective and efficient way for the Pooled Funds to acquire and dispose of securities with other Pooled Funds.

18. It is anticipated that each In-Specie Transaction will be executed by Invesco or by one of its affiliates.

19. None of the securities which are the subject of each In-Specie Transaction will be securities of related issuers of the Filers.

20. As the Filers are portfolio managers of the Balanced Pool, the Canadian Fixed Income Pool and the Canadian Equity Pool, and are or may be portfolio managers of other Pooled Funds, each Filer would be considered to be a "responsible person" within the meaning of the applicable provisions of NI 31-103. As Invesco is the trustee of the Balanced Pooled, the Canadian Fixed Income Pool and the Canadian Equity Pool, and is or will be the trustee of other Pooled Funds, each Pooled Fund will be an "associate" of a responsible person within the meaning of the applicable provisions of the Legislation. Accordingly, without the In-Species Relief, the Filers would be prohibited from engaging the Pooled Funds in each In-Specie Transaction.

21. Each In-Specie Transaction will represent the business judgment of the Filers uninfluenced by considerations other than the best interests of the Pooled Funds concerned.

Fund-on-Fund Structure

22. Invesco wishes to cause the Balanced Pool to invest in units of the Canadian Equity Pool and the Canadian Fixed Income Pool. Invesco may from time to time, also wish to cause other Pooled Funds to invest in units of one or more of the Pooled Funds. A Pooled Fund that invests in another Pooled Fund is referred to as the **Top Fund** and the Pooled Fund that a Top Fund invests in is referred to as the **Underlying Fund** (each investment by a Top Fund in an Underlying Fund is a **Fund-of-Fund Structure**).

23. The investment objectives of the Balanced Pool, the Canadian Equity Pool and the Canadian Fixed Income Pool are set out in paragraphs 8 to 10 above.

24. The amounts invested from time to time in an Underlying Fund by a Top Fund may exceed 20% of the outstanding voting securities of any single Underlying Fund. Accordingly, each Top Fund could, either alone or together with the other Top Funds, become a substantial securityholder of an Underlying Fund. The Pooled Funds are, or will be, related mutual funds by virtue of the common management of the Pooled Funds by Invesco.

25. In the absence of the Related Issuer Relief, each Top Fund would be precluded from investing in an Underlying Fund due to the investment prohibitions in paragraph 111(2)(b) and subsection 111(3) of the Act.

26. Each investment by a Top Fund in an Underlying Fund represents the business judgment of responsible persons uninfluenced by considerations other than the best interests of the Pooled Funds.

Filing of Reports

27. In the absence of the Reporting Relief, Invesco would be required to file a report for every transaction between a Top Fund and an Underlying Fund under section 117(1)(a) of the Ontario Act.

Decision

In-Species Relief

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 is that the In-Species Relief is granted provided that in connection with each In-Specie Transaction between the Balanced Pool and the Canadian Fixed Income Pool, between the Balanced Pool and the Canadian Equity Pool, and between any other Pooled Funds managed by Invesco in respect of which the Filers act as registered advisers:

(a) where a Pooled Fund purchases units of another Pooled Fund:

(i) the Pooled Fund acquiring securities as payment, would be permitted to purchase the securities;

(ii) the securities are acceptable to the applicable Filer, as portfolio manager of the Pooled Fund, and consistent with the investment objective of the Pooled Fund acquiring the securities;

(iii) the value of the securities is at least equal to the issue price of the securities of the Pooled Fund for which they are payment, valued as if the securities were portfolio assets of that Pooled Fund; and

(iv) each Pooled Fund will keep written records of each In-Specie Transaction in a financial year of a Pooled Fund reflecting the details of securities delivered to the Pooled Fund and the value assigned to such securities, for a period of five years after the end of the fiscal year, the most recent two years in a reasonably accessible place;

(b) where a Pooled Fund redeems units of another Pooled Fund:

(i) the securities are acceptable to the applicable Filer as portfolio manager of the Pooled Fund which redeems units, and are consistent with the investment objective of that Pooled Fund;

(ii) 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;

(iii) each Pooled Fund will keep written records of each In-Specie Transaction in a financial year of a Pooled Fund reflecting the details of securities delivered to the Pooled Fund and the value assigned to such securi-

ties, for a period of five years after the end of the fiscal year, the most recent two years in a reasonably accessible place; and

(c) the Filers do 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 charge paid by the Pooled Fund is the commission charged by the dealer executing the trade and/or any administrative charges levied by the custodian.

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

Reporting Relief and Related Issuer Relief

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 is that the **Reporting Relief** is granted.

The decision of the principal regulator is that the **Related Issuer Relief** is granted provided that:

(a) units of a Top Fund are distributed in Canada solely pursuant to exemptions from the prospectus requirements in NI 45-106;

(b) the investment by a Top Fund in an Underlying Fund is compatible with the fundamental investment objectives of a Top Fund;

(c) no management fees or incentive fees are payable by a Top Fund that, to a reasonable person, would duplicate a fee payable by an Underlying Fund for the same service;

(d) no sales or redemption fees are payable by a Top Fund in relation to its purchases or redemptions of units of an Underlying Fund;

(e) the Filers will not vote the units of an Underlying Fund held by a Top Fund at any meeting of holders of such units;

(f) if available, the offering memorandum (or other similar document) of a Top Fund will disclose:

(i) that a Top Fund may purchase units of an Underlying Fund;

(ii) the fact that the Filers are the investment advisers to both the Top Funds and the Underlying Funds; and

(iii) the approximate or maximum percentage of net assets of the Top Fund that it is intended be invested in securities of the Underlying Fund.

"Carol S. Perry"
Commissioner
Ontario Securities Commission

"C. Wesley M. Scott"
Commissioner
Ontario Securities Commission

SCHEDULE A

LIST OF EXISTING POOLED FUNDS

1. Invesco Core Canadian Fixed Income Pool (to be established on or about December 15, 2009)
2. Invesco Global Real Estate Pool
3. Invesco International Equity Fund
4. Invesco Structured Core U.S. Equity Fund
5. Trimark Balanced Pool (to be renamed Invesco Balanced Pool effective on or about December 16, 2009)
6. Trimark Canadian Equity Pool (to be renamed Invesco Canadian Equity Pool effective on or about December 16, 2009)
7. Trimark Global Equity Pool (to be renamed Invesco Global Equity Pool effective on or about December 16, 2009)

2.2 Orders

2.2.1 Irwin Boock et al. – ss. 127, 127.1

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

AND

IN THE MATTER OF
IRWIN BOOCK, STANTON DEFREITAS, JASON WONG, SAUDIA ALLIE, ALENA DUBINSKY, ALEX KHODJIAINTS, 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

ORDER
(Section 127 and 127.1)

WHEREAS on October 16, 2008, the Commission commenced the within proceeding by issuing a Notice of Hearing pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act");

AND WHEREAS the hearing was adjourned from time to time until April 22, 2009 when the Commission ordered that the hearing of this matter on the merits was to be held on Monday, October 19, 2009 through to Friday, November 13, 2009, excluding Wednesday, November 11, 2009, commencing each day at 10:00 a.m. at the offices of the Commission on the 17th floor, 20 Queen Street West in Toronto;

AND WHEREAS on October 14, 2009 counsel for Stanton DeFreitas ("DeFreitas") attended before the Commission and requested that the hearing scheduled to commence on October 19, 2009 be adjourned for the purpose of bringing a motion to obtain further disclosure from Staff of the Commission;

AND WHEREAS on October 14, 2009 counsel for Staff of the Commission attended as did counsel for Irwin Boock ("Boock") and counsel for Jason Wong ("Wong");

AND WHEREAS on October 14, 2009 none of the other Respondents attended before the Commission nor did counsel for any of the other Respondents;

AND WHEREAS on October 14, 2009 counsel for Staff of the Commission did not oppose the adjournment request of counsel for DeFreitas, nor did counsel for Boock or counsel for Wong;

AND WHEREAS the temporary orders made by the Commission on April 22, 2009 remain in place until the completion of the hearing on the merits of this matter;

AND WHEREAS on October 15th, 2009, the Commission ordered that the hearing of this matter on the merits which was to commence on Monday, October 19, 2009 be vacated and that the hearing be adjourned until December 1, 2009, or such other date as determined by the parties and the Secretary's office, for the purpose of setting dates for the hearing on the merits;

AND WHEREAS on November 30, 2009, the Commission ordered that the hearing be adjourned until December 10, 2009 to ascertain when to set dates for the hearing on the merits;

AND WHEREAS on December 10, 2009, counsel for Boock, DeFrietas, and Wong and counsel for Staff appeared before the Commission and made submissions regarding the scheduling of the hearing on the merits;

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

IT IS ORDERED THAT the dates for the hearing of this matter on the merits shall commence on February 1, 2010 at 10:00 a.m. and shall continue for four weeks excluding the dates of February 2, 15 and 16 or such other dates as may be determined by the parties and the Office of the Secretary.

DATED at Toronto this 10th day of December, 2010.

"James E. A. Turner"

2.2.2 Gold-Quest International 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
GOLD-QUEST INTERNATIONAL,
HEALTH AND HARMONEY, IAIN BUCHANAN,
AND LISA BUCHANAN

ORDER
(Subsections 127(1) and (8) of the Securities Act)

WHEREAS on the 1st day of April, 2008, the Ontario Securities Commission (the "Commission") ordered, pursuant to clause 2 of subsection 127(1) and subsection 127(5) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") that all trading in any securities of Gold-Quest International ("Gold-Quest") shall cease (the "Temporary Order");

AND WHEREAS the Commission further ordered as part of the Temporary Order that pursuant to clause 2 of subsection 127(1) and subsection 127(5) of the Act that all trading in any securities by Health and HarMONEY, Iain Buchanan and Lisa Buchanan (the "Ontario Respondents") shall cease;

AND WHEREAS the Commission further ordered as part of the Temporary Order that pursuant to clause 3 of subsection 127(1) and subsection 127(5) of the Act that any exemptions contained in Ontario securities law do not apply to Gold-Quest and the Ontario Respondents;

AND WHEREAS the Commission further ordered as part of the Temporary Order that pursuant to clause 3 of subsection 127(1) and subsection 127(5) of the Act that any exemptions contained in Ontario securities law do not apply to Gold-Quest's officers, directors, agents or employees;

AND WHEREAS on April 8, 2008, the Commission issued a Notice of Hearing in this matter (the "Notice of Hearing");

AND WHEREAS Gold-Quest and the Ontario Respondents were served with the Temporary Order, the Notice of Hearing and the Evidence Brief of Staff of the Commission ("Staff") as set out in the Affidavit of Service of Dale Grybauskas dated April 14, 2008;

AND WHEREAS no correspondence has ever been sent to Staff on behalf of Gold-Quest and no one has ever appeared for Gold-Quest;

AND WHEREAS upon hearing submissions from counsel for Staff and on written consent of counsel for the Ontario Respondents dated April 11, 2008, the Commission extended the Temporary Order until July 14,

2008 or until further order of the Commission, subject to a carve-out to permit Iain Buchanan to trade in securities listed on a recognized public exchange only in his own existing account(s), for his own benefit, and through a dealer registered with the Commission, and a carve-out to permit Lisa Buchanan to trade in securities listed on a recognized public exchange only in her own existing account(s), for her own benefit, and through a dealer registered with the Commission (the "Amended Temporary Order");

AND WHEREAS on May 6, 2008, the U.S. Securities and Exchange Commission (the "SEC") filed an emergency civil enforcement action against Gold-Quest, and U.S. District Court Judge Lloyd D. George issued numerous orders against Gold-Quest and persons related to Gold-Quest, including orders prohibiting the trading in securities of Gold-Quest, freezing assets related to the sale of Gold-Quest securities and appointing a permanent receiver for Gold-Quest;

AND WHEREAS on July 14, 2008, counsel for Staff attended before the Commission while counsel for the Ontario Respondents did not attend but provided correspondence with respect to the Temporary Order;

AND WHEREAS on July 14, 2008, upon hearing submissions from counsel for Staff and considering the correspondence from counsel for the Ontario Respondents, the Commission extended the Amended Temporary Order against Gold-Quest and the Ontario Respondents until October 8, 2008 and the hearing was adjourned to October 7, 2008;

AND WHEREAS on October 7, 2008, counsel for Staff and counsel for the Ontario Respondents did not oppose the extension of the Amended Temporary Order;

AND WHEREAS on October 7, 2008, upon considering the correspondence from counsel for the Ontario Respondents, the Commission extended the Amended Temporary Order against Gold-Quest and the Ontario Respondents until December 10, 2008 and the hearing was adjourned to December 9, 2008;

AND WHEREAS on December 9, 2008, counsel for Staff and counsel for the Ontario Respondents did not oppose the extension of the Amended Temporary Order;

AND WHEREAS on December 9, 2008, upon considering the correspondence from counsel for the Ontario Respondents, the Commission extended the Amended Temporary Order against Gold-Quest and the Ontario Respondents until February 11, 2009 and the hearing was adjourned to February 10, 2009;

AND WHEREAS on February 10, 2009, counsel for Staff and counsel for the Ontario Respondents did not oppose the extension of the Amended Temporary Order;

AND WHEREAS on February 10, 2009, upon considering the correspondence from counsel for the Ontario Respondents, the Commission extended the Amended Temporary Order against Gold-Quest and the Ontario Respondents until March 20, 2009 and the hearing was adjourned to March 20, 2009;

AND WHEREAS on March 12, 2009, Staff of the Commission issued a Statement of Allegations against Gold-Quest, the Ontario Respondents, the Harmoney Club Inc., and Sandra Gale alleging breaches of the Act related to trades in the securities of Gold-Quest and the Harmoney Club Inc.;

AND WHEREAS on March 20, 2009, upon considering the correspondence from counsel for the Ontario Respondents, the Commission extended the Amended Temporary Order against Gold-Quest and the Ontario Respondents until May 27, 2009 and adjourned the hearing into the extension of the Amended Temporary Order against Gold-Quest and the Ontario Respondents until May 26, 2009;

AND WHEREAS on May 26, 2009, as no counsel appeared for Gold-Quest and Health and HarMONEY, and upon being informed that counsel for Iain Buchanan and Lisa Buchanan did not oppose the extension of the Amended Temporary Order until June 25, 2009, the Commission extended the Amended Temporary Order against Gold-Quest and the Ontario Respondents until June 25, 2009 and adjourned the hearing into the extension of the Amended Temporary Order against Gold-Quest and the Ontario Respondents until June 25, 2009;

AND WHEREAS on June 25, 2009, as no counsel appeared for Gold-Quest and Health and HarMONEY and counsel for Iain Buchanan and Lisa Buchanan did not oppose the extension of the Amended Temporary Order until August 21, 2009, the Commission extended the Amended Temporary Order against Gold-Quest and the Ontario Respondents until August 21, 2009 and adjourned the hearing regarding the extension of the Amended Temporary Order against Gold-Quest and the Ontario Respondents until August 20, 2009;

AND WHEREAS on August 20, 2009, no counsel appeared for Gold-Quest and Health and HarMONEY and counsel for Iain Buchanan and Lisa Buchanan did not oppose the extension of the Amended Temporary Order until October 13, 2009, the Commission extended the Amended Temporary Order against Gold-Quest and the Ontario Respondents until October 13, 2009 and adjourned the hearing regarding the extension of the Amended Temporary Order against Gold-Quest and the Ontario Respondents until October 9, 2009;

AND WHEREAS on October 9, 2009, no counsel appeared for Gold-Quest and Health and HarMONEY and counsel for Iain Buchanan and Lisa Buchanan did not oppose the extension of the Amended Temporary Order until December 11, 2009, the Commission extended the Amended Temporary Order against Gold-Quest and the Ontario Respondents until December 11, 2009 and adjourned the hearing regarding the extension of the Amended Temporary Order against Gold-Quest and the Ontario Respondents until December 10, 2009;

AND WHEREAS on December 10, 2009, counsel for Staff and counsel for Donald Iain Buchanan and Lisa Buchanan attended before the Commission;

AND WHEREAS on December 10, 2009, no counsel appeared for Gold-Quest and Health and HarMONEY;

AND WHEREAS on December 10, 2009, counsel for Iain Buchanan and Lisa Buchanan did not oppose the extension of the Amended Temporary Order until the end of the Hearing on the Merits;

AND WHEREAS it is in the public interest to extend the Amended Temporary Order;

IT IS ORDERED THAT the Amended Temporary Order against Gold-Quest and the Ontario Respondents is extended until the completion of the Hearing on the Merits.

DATED at Toronto this 10th day of December, 2009

"Carol S. Perry"

2.2.3 Gold-Quest International et al. – s. 127

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

AND

IN THE MATTER OF
GOLD-QUEST INTERNATIONAL,
1725587 ONTARIO INC. carrying on business as HEALTH AND HARMONEY, HARMONEY CLUB INC., DONALD IAIN BUCHANAN, LISA BUCHANAN AND SANDRA GALE

ORDER
(Section 127 of the Securities Act)

WHEREAS on April 1, 2008, the Ontario Securities Commission (the "Commission") ordered, pursuant to clause 2 of subsection 127(1) and subsection 127(5) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") that all trading in any securities of Gold-Quest International ("Gold-Quest") shall cease (the "Temporary Order");

AND WHEREAS the Commission further ordered as part of the Temporary Order that pursuant to clause 2 of subsection 127(1) and subsection 127(5) of the Act that all trading in any securities by Health and HarMONEY, Donald Iain Buchanan and Lisa Buchanan shall cease;

AND WHEREAS the Commission further ordered as part of the Temporary Order that pursuant to clause 3 of subsection 127(1) and subsection 127(5) of the Act that any exemptions contained in Ontario securities law do not apply to Gold-Quest, Health and HarMONEY, Donald Iain Buchanan and Lisa Buchanan;

AND WHEREAS the Commission further ordered as part of the Temporary Order that pursuant to clause 3 of subsection 127(1) and subsection 127(5) of the Act that any exemptions contained in Ontario securities law do not apply to Gold-Quest's officers, directors, agents or employees;

AND WHEREAS on April 8, 2008, the Commission issued a Notice of Hearing to consider among other things, the extension of Temporary Order (the "TCTO Hearing");

AND WHEREAS on April 11, 2008 the Temporary Order was extended by the Commission with some amendments (the "Amended Temporary Order");

AND WHEREAS the Amended Temporary Order has been extended from time to time, most recently until August 21, 2009, and the TCTO Hearing has been adjourned from time to time most recently until August 20, 2009;

AND WHEREAS on March 13, 2009, the Commission issued a Notice of Hearing of pursuant to

sections 127 and 127.1 of the Act (the "Hearing") accompanied by a Statement of Allegations dated March 12, 2009, issued by Staff of the Commission ("Staff") with respect to Gold-Quest, 1725587 Ontario Inc. carrying on business as Health and HarMONEY, the Harmoney Club, Donald Iain Buchanan, Lisa Buchanan and Sandra Gale;

AND WHEREAS on March 20, 2009, upon hearing submissions from Sandra Gale, counsel for Staff and counsel for Donald Iain Buchanan and Lisa Buchanan, it was ordered that the Hearing be adjourned to May 26, 2009;

AND WHEREAS on May 26, 2009, upon hearing submissions from Sandra Gale, counsel for Staff and counsel for Donald Iain Buchanan and Lisa Buchanan, it was ordered that the Hearing be adjourned to June 25, 2009;

AND WHEREAS on June 25, 2009, counsel for Staff, counsel for Sandra Gale and counsel for Donald Iain Buchanan and Lisa Buchanan attended before the Commission;

AND WHEREAS on June 25, 2009, no one appeared for Gold-Quest, Health and HarMONEY, or the Harmoney Club;

AND WHEREAS on June 25, 2009, upon hearing submissions from counsel for Staff, counsel for Sandra Gale, and counsel for Donald Iain Buchanan and Lisa Buchanan, it was ordered that the Hearing be adjourned to August 20, 2009;

AND WHEREAS on August 20, 2009, no one appeared for Gold-Quest, Health and HarMONEY, or the Harmoney Club;

AND WHEREAS on August 20, 2009, upon hearing submissions from counsel for Staff and counsel for Sandra Gale requesting that a pre-hearing conference be held on October 9, 2009;

AND WHEREAS on October 9, 2009, a pre-hearing conference was commenced and counsel for Staff, counsel for Sandra Gale and counsel for Donald Iain Buchanan and Lisa Buchanan attended before the Commission;

AND WHEREAS on October 9, 2009, no one appeared for Gold-Quest, Health and HarMONEY, or the Harmoney Club;

AND WHEREAS on October 9, 2009, counsel for Staff, counsel for Sandra Gale and counsel for Donald Iain Buchanan and Lisa Buchanan requested the pre-hearing conference be continued on December 10, 2009;

AND WHEREAS on December 10, 2009, counsel for Staff, Sandra Gale, counsel for Sandra Gale, and counsel for Donald Iain Buchanan and Lisa Buchanan continued the pre-hearing conference and made submissions to the Commission;

AND WHEREAS on December 10, 2009, counsel for Sandra Gale appeared before the Commission and brought a motion before the Commission for leave of the Commission to withdraw as counsel for Sandra Gale;

AND WHEREAS Staff advised that certain of the parties intend to file an agreed statement of facts prior to the commencement of the Hearing scheduled to commence on March 25, 2010 to consider sanctions and other related matters;

IT IS ORDERED THAT the Hearing is adjourned to March 25, 2010 at 10:00 a.m. for a full day and March 26, 2010 from 10:00 a.m. to 1:00 p.m., or such other dates as are agreed to by the parties and determined by the Office of the Secretary, for the purpose of considering sanctions for certain of the Respondents and for any other purpose that the parties may advise the Office of the Secretary;

IT IS FURTHER ORDERED THAT the motion for leave of the Commission to withdraw brought by counsel for Sandra Gale is granted and leave of the Commission is granted for counsel to withdraw.

DATED at Toronto this 10th day of December, 2009

"Carol S. Perry"

2.2.4 ART Advanced Research Technologies Inc. – s. 144

Headnote

Section 144 – application for variation of cease trade order – issuer cease traded due to failure to file with the Commission interim financial statements – issuer has applied for a variation of the cease trade order to permit certain trades in connection with a reorganization under Section 191 of the Canada Business Corporations Act – Proposal to the Applicant's unsecured creditors approved by the Superior Court of Quebec and the Applicant's unsecured creditors – partial revocation granted subject to conditions.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 127, 144.
National Policy 12-202 Revocation of a Compliance-related Cease Trade Order.

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

AND

IN THE MATTER OF
ART ADVANCED RESEARCH TECHNOLOGIES INC.

ORDER
(Section 144)

WHEREAS the securities of ART Advanced Research Technologies Inc. (the "Applicant") are subject to a temporary cease trade order made by the Director dated November 26, 2009 under subsections 127(1) and 127(5) of the Act and as extended by a further cease trade order made by the Director dated December 8, 2009 under subsection 127(1) of the Act directing that trading in the securities of the Applicant cease unless revoked by a further order of revocation (the "Cease Trade Order");

AND WHEREAS the Applicant has applied to the Ontario Securities Commission (the "Commission") pursuant to section 144 of the Act (the "Application") for a partial revocation of the Cease Trade Order;

AND WHEREAS the Applicant has represented to the Commission that:

1. The Applicant was incorporated under the *Canada Business Corporations Act*, R.S.C. (1985), c. C-44 (the "CBCA") on October 13, 2006. Its head office is located at 2300, Alfred Nobel Boulevard, Montreal, Québec, H4S 2A4.

2. The Applicant offers molecular imaging products for the medical and pharmaceutical sectors.

3. The Applicant's authorized share capital consists of an unlimited number of common shares and an unlimited number of preferred shares, issuable in series. Currently there are (i) 94,540,592 common shares, (ii) 6,341,982 series 1 convertible preferred shares, (iii) 2,000,000 series 2 convertible preferred shares, (iii) 7,008,868 series 3 convertible preferred shares, and (iv) 46,092,428 series 4 and series 5 convertible preferred shares issued and outstanding.

4. The Applicant is a reporting issuer in all provinces and territories of Canada.

5. The Applicant's common shares, series 1 convertible preferred shares and series 2 convertible preferred shares (collectively, the "Listed Securities") are listed on the Toronto Stock Exchange (the "TSX").

6. The Continued Listing Committee of the TSX determined to delist the Listed Securities effective at the close of market on December 11, 2009. The delisting was imposed due to the failure by the Applicant to meet the continued listing requirements of the TSX, as detailed in Part VII of the TSX Company Manual.

7. To date, the Applicant has not generated sufficient revenues to offset its research and development costs and accordingly has not generated positive cash flows or an operating profit.

8. The Cease Trade Order was issued due to the default of the Applicant to file interim financial statements and interim management's discussion and analysis as prescribed by National Instrument 51-102 – *Continuous Disclosure*

Obligations for the period ended September 30, 2009 (together, the "Q3 Financials") within the prescribed deadline. No further financial statements or management's discussion and analysis have been filed by the Applicant since that time.

9. The Applicant's failure to file the Q3 Financials was a result of financial distress. The Applicant does not have the human and financial resources in order to prepare the Q3 Financials in anticipation of closing of the transactions contemplated by the Proposal and Reorganization (as defined below) (the "Closing").

10. In addition to the Cease Trade Order, the Applicant is subject to the following cease trade orders, each of which was issued due to the failure of the Applicant to file its Q3 Financials:

    (a) order issued by the British Columbia Securities Commission on November 20, 2009;

    (b) order issued by the Manitoba Securities Commission on November 26, 2009; and

    (c) order issued by the Autorité des marchés financiers on December 4, 2009.

11. On November 2, 2009, facing a serious cashflow crisis, the Applicant filed a notice of intention to make a proposal pursuant to Section 50.4 of the *Bankruptcy and Insolvency Act* (Canada) (the "BIA").

12. KPMG Inc. was appointed trustee in respect of the Proposal (the "Trustee").

13. On October 18, 2009, KPMG Corporate Finance ("KPMG") was mandated by the Applicant to carry out a review of the Applicant's strategic options which included a recapitalization, the potential divestiture of some or all of the assets of the business, or a merger.

14. Following a sale process conducted by KPMG, the Applicant entered into a binding term sheet with Dorsky Worldwide Corp. ("Dorsky") on November 20, 2009. The binding term sheet was amended and restated on December 7, 2009 (the "Dorsky Offer").

15. The board of directors of the Applicant has unanimously determined that accepting the Dorsky Offer is in the best interests of the Applicant.

16. The Dorsky Offer provides for, *inter alia*:

    (a) the transfer of all of the intellectual property assets of the Applicant, including trade-marks, patents and intellectual property licences, to Dorsky or its assignee free and clear of any liens or encumbrances;

    (b) a restructuring of the Applicant implemented by way of a proposal to the Applicant's unsecured creditors under Section 58 of the BIA and a reorganization under Section 191 of the CBCA (the "Reorganization");

    (c) a payment by Dorsky to the Trustee in the aggregate amount of $375,000.00 to be used by the Applicant to fund a distribution to its unsecured creditors;

    (d) the payment or settlement of secured claims in accordance with the agreements to be entered into between the Applicant and its secured creditors;

    (e) the payment by the Applicant of all amounts owing to the employees as at closing of the transaction in respect of vacation wages; and

    (f) the release of the charge created pursuant to any and all security interests granted by the Applicant in favour of the Applicant's secured creditors.

17. Further to the execution of the Dorsky Offer, the Applicant filed a proposal for its creditors on November 23, 2009 and filed an amended proposal for its creditors on December 7, 2009 (the "Proposal"). The Trustee recommended the approval of the Proposal.

18. The Dorsky Offer and the transactions contemplated under the Dorsky Offer are conditional upon, *inter alia*, the approval of the proposal by the Applicant's unsecured creditors in accordance with the provisions of the BIA and by the Superior Court of Quebec (the "Court").

19. On December 7, 2009, the meeting of unsecured creditors was held and the unsecured creditors voted unanimously in favour of the Proposal. The Proposal was approved by the Court on December 9, 2009.

20. The implementation of the Proposal is subject to certain other conditions precedent, including, *inter alia*, approval by the Court of the articles of reorganization (the "Articles of Reorganization") of the Applicant to be filed with the Director pursuant to Section 191 of the CBCA, and the issuance of a certificate of amendment by the Director appointed under Section 260 of the CBCA reflecting the Articles of Reorganization, providing for:

    (a) the addition to the terms of each class or series of common or preferred shares of the Applicant of a provision providing for the automatic redemption and cancellation at Closing of all outstanding shares of any class or series and of all rights related to them, without payment or consideration or any other right (the "Outstanding Shares Cancellation"); and

    (b) the creation of a new class of voting common shares of the Applicant (the "Voting Common Shares") to be created pursuant to the Articles of Reorganization with the terms and conditions set forth in the Articles of Reorganization and issued to Dorsky at Closing, representing 100% of the issued and outstanding shares of the Applicant following Closing (the "Dorsky Issuance").

21. The Outstanding Shares Cancellation will result in the holders of the existing shares and equity of the Applicant not receiving any payment or other compensation with respect to such shares and equity. Upon the implementation of the Proposal and Reorganization, all such shares and equity will be automatically cancelled, without any vote or approval by, or payment to, the holders of such shares and equity.

22. In a press release dated November 20, 2009, the Applicant announced that holders of the existing equity of the Applicant will not receive any payment or other compensation with respect to such equity.

23. If the Proposal is implemented, Dorsky will be the sole shareholder of the Applicant. Dorsky is a private company controlled by Mr. Serge Huot and Société Paulista Consulting Group. Dorsky and its shareholders are not related parties of the Applicant and its shareholders.

24. If the Proposal is not implemented, the Applicant will become bankrupt. Under a bankruptcy scenario, taking into consideration the amounts owed to the secured creditors and the specialized nature of the assets and consequently their limited value under a liquidation scenario, the preferred and the unsecured creditors would likely receive nothing.

25. As the Proposal and Reorganization will involve trades in securities of the Applicant (including, for greater certainty, acts in furtherance of trades in securities of the Applicant), the Proposal and Reorganization cannot be completed without a variation of the Cease Trade Order.

26. The Proposal and Reorganization will be completed in accordance with all applicable laws.

27. Prior to the completion of the Proposal and Reorganization, Dorsky:

    (a) will receive a copy of the Cease Trade Order;

    (b) will receive a copy of this Order; and

    (c) will receive a written notice from the Applicant, and will provide written acknowledgement to the Applicant, that all of the Applicant's securities, including the Voting Common Shares to be issued in connection with the Proposal and Reorganization, will remain subject to the Cease Trade Order until it is revoked and that the granting of this Order does not guarantee the issuance of a full revocation order in the future.

28. Following completion of the Reorganization, the Applicant intends to apply for a full revocation of the Cease Trade Order and an order that the Applicant is not a reporting issuer in each jurisdiction in which it is currently a reporting issuer.

29. The Applicant is not in default of any requirements of the Cease Trade Order or the Act or the rules and regulations made pursuant thereto, subject to the deficiencies that led to the issuance of the Cease Trade Order.

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

AND WHEREAS 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 partially revoked solely to permit trades in securities of the Applicant in connection with the Reorganization as described in paragraph 20 and all other acts in furtherance of the Reorganization that may be considered to fall within the definition of "trade" within the meaning of the Act, provided that:

(a) prior to the completion of the Proposal and Reorganization, Dorsky:

(i) receives a copy of the Cease Trade Order;

(ii) receives a copy of this Order; and

(iii) receives a written notice from the Applicant, and provides a written acknowledgement to the Applicant, that all of the Applicant's securities, including the Voting Common Shares to be issued in connection with the Proposal and Reorganization, will remain subject to the Cease Trade Order until it is revoked, and that the granting of this Order does not guarantee the issuance of a full revocation order in the future; and

(b) the Applicant undertakes to make available copies of the written acknowledgments to staff of the Commission on request.

DATED December 11, 2009.

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

2.2.5 JovInvestment Management Inc. and ProShare Advisors LLC – ss. 78(1), 80 of the CFA

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

PROSHARE ADVISORS LLC

ORDER
(Section 78(1) and Section 80 of the CFA)

UPON the application (the **Application**) of JovInvestment Management Inc. (the **Principal Adviser**) and ProShare Advisors LLC (the **Sub-Adviser**) to the Ontario Securities Commission (the **Commission**) for an order:

(a) pursuant to section 78(1) of the CFA, revoking the exemption order granted by the Commission to the Sub-Adviser on December 15, 2006; and

(b) 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 represented 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 limited liability company organized under the laws of the State of Maryland, United States. The head office of the Sub-Adviser is located in Bethesda, Maryland.

4. The Sub-Adviser is registered as an investment adviser in the United States with the U.S. Securities and Exchange Commission.

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 of 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 will 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 the Sub-Adviser's principal jurisdictions.

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 are situated outside of Canada.

17. Pursuant to an order of the Commission dated December 15, 2006, reported at *Re ProShare Advisors LLC* (2006), 29 OSCB 10002 (the **Previous Order**), the Commission granted the Sub-Adviser an exemption from the adviser registration requirement in paragraph 22(1)(b) of the CFA in respect of advice regarding trades in Commodity Instruments provided on a sub-advisory basis to the Principal Adviser (formerly known, as Jove Investment Management Inc.), subject to certain terms and conditions. The Previous Order is scheduled to expire on December 15, 2009.

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 78(1) of the CFA, that the Previous Order is revoked; and

IT IS FURTHER ORDERED, pursuant to section 80 of the CFA that the Sub-Adviser is exempted from the adviser registration requirement of 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.

December 11, 2009

"Carol S. Perry"
Commissioner
Ontario Securities Commission

"Wes M. Scott"
Commissioner
Ontario Securities Commission

Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 OSC Decisions, Orders and Rulings

3.1.1 Oversea Chinese Fund Limited Partnership et al.

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

AND

IN THE MATTER OF
OVERSEA CHINESE FUND LIMITED
PARTNERSHIP, WEIZHEN TANG AND
ASSOCIATES INC., WEIZHEN TANG CORP.
AND WEIZHEN TANG

DECISION

Hearing:	November 13, 2009		
Decision:	December 10, 2009		
Panel:	James E. A. Turner	–	Vice-Chair and Chair of the Panel
	David L. Knight, FCA	–	Commissioner
Counsel:	Hugh Craig Matthew Boswell	–	For the Ontario Securities Commission
	Loftus J. Cuddy	–	For Oversea Chinese Fund Limited Partnership, Weizhen Tang and Associates Inc., Weizhen Tang Corp. and Weizhen Tang

DECISION

[1] This is an application to permit Mr. Weizhen Tang to trade in foreign currencies, under the supervision of a portfolio manager yet to be identified, on his own behalf and on behalf of forty-two investors in Oversea Chinese Fund, LP ("Oversea") who have signed consents requesting that the Commission permit Mr. Tang to do so. We note that there are other investors opposed to permitting Mr. Tang to trade.

[2] Staff asks the Commission to extend the temporary cease trade order issued in this matter (the "Temporary Cease Trade Order") until the completion of a related criminal proceeding that is currently scheduled to begin on April 12, 2010, in the Ontario Court of Justice.

[3] Upon considering the evidence and submissions of the parties, we gave an oral ruling and issued an order extending the Temporary Cease Trade Order.

[4] The allegations against Mr. Tang in this matter are very serious. He has acknowledged to Staff that:

(i) he failed to disclose investment losses to investors;

(ii) he created misleading and untrue investor account statements reflecting significantly inflated investment values;

(iii) he made statements in which he significantly inflated the value of Oversea's assets under management; and

(iv) all invested funds have been dissipated such that no money is left.

[5] Staff alleges that Mr. Tang has made representations through his website that are untrue.

[6] Staff alleges that Oversea is a "Ponzi scheme" and that investor redemptions were paid from the investments made by others. It appears that as much as $30 million has been lost by investors as a result of Mr. Tang's activities.

[7] While these allegations by Staff have not yet been proven, they are very serious and a number of them have been admitted by Mr. Tang.

[8] We find that Mr. Tang has not met the onus on him to provide satisfactory information to Staff that would refute the allegations against him. To the contrary, he has admitted a number of very serious allegations.

[9] We are very sympathetic to the plight of investors who appear to have lost their entire investment in Oversea. We certainly understand why investors would hope to recoup some of that loss. If investors wish to invest further, there are ways for them to do so other than through Mr. Tang.

[10] Where there is credible evidence of serious harm to investors and our capital markets, the Commission must act to prevent further harm to existing or new investors.

[11] The order requested by Mr. Tang would permit him to continue to trade without registration in breach of the Act. It would allow Mr. Tang to accept more money from investors. It would permit him to potentially cause further harm to investors and to the integrity of capital markets. We cannot permit the risk of that occurring.

[12] Not only has Mr. Tang failed to satisfy us that the Temporary Cease Trade Order should be varied, but his affidavit filed in support of his motion and the investor authorizations he relies on assist us in concluding that we must continue the Temporary Cease Trade Order to protect the public interest.

[13] Accordingly, Mr. Tang's application was dismissed. The Temporary Cease Trade Order was extended to June 30, 2010. This matter shall return before the Commission at 10:00 a.m. on June 29, 2010.

DATED AT Toronto this 10th day of December, 2009.

"James E. A. Turner"

"David L. Knight"

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
AAER Inc.	04 Dec 09	16 Dec 09		18 Dec 09
Production Enhancement Group Inc.	10 Dec 09	22 Dec 09		
The Jenex Corporation	14 Dec 09	24 Dec 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

THERE ARE NO ITEMS FOR THIS WEEK.

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
Sprylogics International Corp.	02 June 09	15 June 09	15 June 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 5

Rules and Policies

5.1.1 CSA Notice of Technical Corrections to Amendments to NI 23-101 Trading Rules

CANADIAN SECURITIES ADMINISTRATORS
NOTICE OF TECHNICAL CORRECTIONS TO AMENDMENTS TO
NATIONAL INSTRUMENT 23-101 TRADING RULES

I. INTRODUCTION

The Canadian Securities Administrators (the CSA or we) published on November 13, 2009 amendments (November 13 Amendments) to the following instruments:

1. National Instrument 21-101 *Marketplace Operation* and related Companion Policy 21-101CP; and

2. National Instrument 23-101 *Trading Rules* (NI 23-101) and related Companion Policy 23-101CP (23-101 CP)

The key part of the November 13 Amendments introduces a framework to require all visible, immediately accessible, better-priced limit orders to be filled before other limit orders at inferior prices, regardless of the marketplace where the order is entered (Order Protection Rule). Other parts of the November 13 Amendments include a prohibition on market participants intentionally entering an order that locks or crosses the market.

II. TECHNICAL CORRECTIONS

The technical corrections are to the provisions in NI 23-101 and 23-101CP concerning locked and crossed orders (Locked and Crossed Order Provisions). The provisions prohibit a marketplace participant from intentionally locking or crossing a market by entering a protected order to buy a security at the same price or higher than the best protected offer or entering a protected order to sell a security at the same price or lower than the best protected bid.

The CSA intended to have the Locked and Crossed Order Provisions come into force on January 28, 2010. However, the November 13 Amendments contain a drafting error that does not implement this intention. Consequently, we have corrected this drafting error. As well, certain definitions in NI 23-101 and 23-101CP found in the November 13 Amendments will also be in force on January 28, 2010. The revised amendments are in Appendix A to this Notice.

There is no impact on the implementation date of the Order Protection Rule which remains February 1, 2011.

In Ontario, this corrected version of the Amendments was delivered by the Ontario Securities Commission to the Minister of Finance for approval on Monday, December 14, 2009.

III. QUESTIONS

Questions may be referred to any of:

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December 18, 2009

APPENDIX A

AMENDMENTS TO NATIONAL INSTRUMENT 21-101 MARKETPLACE OPERATION

1.1 **Amendments**

(1) This Instrument amends National Instrument 21-101 *Marketplace Operation*.

(2) The definitions in section 1.1 are amended as follows:

(a) the definition of "IDA" is repealed and replaced by the following ""IIROC" means the Investment Industry Regulatory Organization of Canada";

(b) the definition of "inter-dealer bond broker" is amended by:

(i) striking out "IDA" and substituting "IIROC";

(ii) striking out "By-law No. 36" and substituting "Rule 36"; and

(iii) striking out "Regulation 2100" and substituting "Rule 2100";

(c) the definition of "recognized exchange" by repealing and replacing paragraph (b) and substituting with the following:

"(b) in Québec, an exchange recognized by the securities regulatory authority under securities or derivatives legislation as an exchange or self-regulatory organization"; and

(d) the definition of "recognized quotation and trade reporting system" is amended by

(i) adding "and Québec" between "British Columbia" and ", a quotation and trade reporting system" in paragraph (a);

(ii) striking out "and" at the end of paragraph (a) and adding "and" at the end of paragraph (b); and

(iii) adding the following:

"(c) in Québec, a quotation and trade reporting system recognized by the securities regulatory authority under securities or derivatives legislation as an exchange or a self-regulatory organization";

(3) The following subsection is added to section 1.4:

"(3) In Québec, the term "security", when used in this Instrument, includes a standardized derivative as this notion is defined in the *Derivatives Act*.".

(4) Part 10 is amended by:

(a) striking out "Disclosure of" in the title of Part 10; and

(b) adding the following section after section 10.2:

"**10.3 Discriminatory Terms** – With respect to the execution of an order, a marketplace shall not impose terms that have the effect of discriminating between orders that are routed to that marketplace and orders that are entered on that marketplace.".

(5) (a) Subsection 11.5(1) is amended by:

(i) adding "and" between "securities," and "a dealer";

(ii) striking out "and a regulation services provider monitoring the activities of marketplaces trading those securities"; and

(iii) adding "with the clock used by a regulation services provider monitoring the activities of marketplaces and marketplace participants trading those securities." at the end of the sentence; and

(b) subsection 11.5(2) is amended by:

(i) adding “and” between “securities,” and “an inter-dealer bond broker”;

(ii) striking out “and a regulation services provider monitoring the activities of marketplaces, inter-dealer bond brokers or dealers trading those securities”; and

(iii) adding “with the clock used by a regulation services provider monitoring the activities of marketplaces, inter-dealer bond brokers or dealers trading those securities.” at the end of the sentence.

(6) Part 12 is repealed and replaced with the following:

“**PART 12 CAPACITY, INTEGRITY AND SECURITY OF MARKETPLACE SYSTEMS**

12.1 System Requirements – For each of its systems that support order entry, order routing, execution, trade reporting, trade comparison, data feeds, market surveillance and trade clearing, a marketplace shall

(a) develop and maintain

(i) reasonable business continuity and disaster recovery plans;

(ii) an adequate system of internal control over those systems; and

(iii) adequate information technology general controls, including without limitation, controls relating to information systems operations, information security, change management, problem management, network support and system software support;

(b) in accordance with prudent business practice, on a reasonably frequent basis and, in any event, at least annually,

(i) make reasonable current and future capacity estimates;

(ii) conduct capacity stress tests to determine the ability of those systems to process transactions in an accurate, timely and efficient manner; and

(iii) test its business continuity and disaster recovery plans; and

(c) promptly notify the regulator or, in Québec, the securities regulatory authority and, if applicable, its regulation services provider, of any material systems failure, malfunction or delay.

12.2 System Reviews – (1) For each of its systems that support order entry, order routing, execution, trade reporting, trade comparison, data feeds, market surveillance and trade clearing, a marketplace shall annually engage a qualified party to conduct an independent systems review and prepare a report in accordance with established audit standards to ensure that it is in compliance with paragraph 12.1(a).

(2) A marketplace shall provide the report resulting from the review conducted under subsection (1) to

(a) its board of directors, or audit committee, promptly upon the report’s completion, and

(b) the regulator or, in Québec, the securities regulatory authority, within 30 days of providing the report to its board of directors or the audit committee.

12.3 Availability of Technology Requirements and Testing Facilities – (1) A marketplace shall make publicly available all technology requirements regarding interfacing with or accessing the marketplace in their final form,

(a) if operations have not begun, for at least three months immediately before operations begin; and

(b) if operations have begun, for at least three months before implementing a material change to its technology requirements.

(2) After complying with subsection (1), a marketplace shall make available testing facilities for interfacing with or accessing the marketplace,

(a) if operations have not begun, for at least two months immediately before operations begin; and

(b) if operations have begun, for at least two months before implementing a material change to its technology requirements.

(3) A marketplace shall not begin operations until it has complied with paragraphs (1)(a) and (2)(a).

(4) Subsections 12.3(1)(b) and (2)(b) do not apply to a marketplace if the change must be made immediately to address a failure, malfunction or material delay of its systems or equipment if

(a) the marketplace immediately notifies the regulator, or in Québec, the securities regulatory authority, and, if applicable, its regulation services provider of its intention to make the change; and

(b) the marketplace publishes the changed technology requirements as soon as practicable.".

(7) Section 14.5 is repealed and replaced with the following:

"**14.5 System Requirements** – An information processor shall

(a) develop and maintain

(i) reasonable business continuity and disaster recovery plans;

(ii) an adequate system of internal controls over its critical systems; and

(iii) adequate information technology general controls, including, without limitation, controls relating to information systems operations, information security, change management, problem management, network support, and system software support;

(b) in accordance with prudent business practice, on a reasonably frequent basis and in any event, at least annually,

(i) make reasonable current and future capacity estimates for each of its systems;

(ii) conduct capacity stress tests of its critical systems to determine the ability of those systems to process information in an accurate, timely and efficient manner; and

(iii) test its business continuity and disaster recovery plans;

(c) annually engage a qualified party to conduct an independent systems review and prepare a report in accordance with established audit standards to ensure that it is in compliance with paragraph (a);

(d) provide the report resulting from the review conducted under paragraph (c) to

(i) its board of directors or the audit committee promptly upon the report's completion, and

(ii) the regulator or, in Québec, the securities regulatory authority, within 30 days of providing it to the board of directors or the audit committee; and

(e) promptly notify the following of any failure, malfunction or material delay of its systems or equipment

(i) the regulator or, in Québec, the securities regulatory authority; and

(ii) any regulation services provider, recognized exchange or recognized quotation and trade reporting system monitoring trading of the securities about which information is provided to the information processor.".

1.2 **Effective Date** – This Instrument comes into force on January 28, 2010.

AMENDMENTS TO COMPANION POLICY 21-101CP – To National Instrument 21-101 Marketplace Operation

1.1 **Amendments**

(1) This instrument amends Companion Policy 21-101CP.

(2) Part 1 is amended by adding the following section as section 1.4:

"**1.4 Definition of Regulation Services Provider** – The definition of regulation services provider is meant to capture a third party provider that provides regulation services to marketplaces. A recognized exchange or recognized quotation and trade reporting system would not be a regulation services provider if it only conducts these regulatory services for its own marketplace or an affiliated marketplace.".

(3) Subsection 2.1(7) is amended by:

(a) striking out all references to the "IDA" and substituting "IIROC"; and

(b) striking out all references to "By-law No. 36" and substituting "Rule 36"; and

(c) striking out all references to "Regulation 2100" and substituting "Rule 2100".

(4) Subsection 3.4(5) is amended by striking out the reference to the "IDA" and substituting "IIROC".

(5) Subsection 6.1(6) is amended by striking out "any change to the operating platform of an ATS, the types of securities traded, or the types of subscribers." and substituting "a change to the information in Exhibits A, B, C, F, G, I, and J of Form 21-101F2.".

(6) Section 7.1 is repealed and replaced by the following:

"**7.1 Access Requirements** – (1) Section 5.1 of the Instrument sets out access requirements that apply to a recognized exchange and a recognized quotation and trade reporting system. The Canadian securities regulatory authorities note that the requirements regarding access for members do not restrict the authority of a recognized exchange or recognized quotation and trade reporting system to maintain reasonable standards for access. The purpose of these access requirements is to ensure that rules, policies, procedures, fees and practices of the exchange or quotation and trade reporting system do not unreasonably create barriers to access to the services provided by the exchange or quotation and trade reporting system.".

(7) Section 7.1 is amended by adding the following after subsection (1):

"(2) For the purposes of complying with the order protection requirements in Part 6 of NI 23-101, a recognized exchange or recognized quotation and trade reporting system should permit fair and efficient access to

(a) a member or user that directly accesses the exchange or quotation and trade reporting system,

(b) a person or company that is indirectly accessing the exchange or quotation and trade reporting system through a member or user, or

(c) a marketplace routing an order to the exchange or quotation and trade reporting system.

The reference to "a person or company" in subsection (b) includes a system or facility that is operated by a person or company and a person or company that obtains access through a member or user.

(3) The reference to "services" in paragraph 5.1(b) of the Instrument means all services that may be offered to a person or company and includes all services relating to order entry, trading, execution, routing and data.

(4) Recognized exchanges and recognized quotation and trade reporting systems are responsible for ensuring that the fees they set are in compliance with section 5.1 of the Instrument. In assessing whether its fees unreasonably condition or limit access to its services, a recognized exchange or recognized quotation and trade reporting system should consider a number of factors, including

(a) the value of the security traded,

(b) the amount of the fee relative to the value of the security traded,

(c) the amount of fees charged by other marketplaces to execute trades in the market,

(d) with respect to market data fees, the amount of market data fees charged relative to the market share of the exchange or quotation and trade reporting system, and,

(e) with respect to order-execution terms, including fees, whether the outcome of their application is consistent with the policy goals of order protection.

The Canadian securities regulatory authorities will consider these factors, among others, in determining whether the fees charged by a recognized exchange or recognized quotation and trade reporting system unreasonably condition or limit access to its services. With respect to trading fees, our view is that a trading fee equal to or greater than the minimum trading increment as defined in IIROC's Universal Market Integrity Rules, as amended, would unreasonably condition or limit access to a recognized exchange's or recognized quotation and trade reporting system's services as it would be inconsistent with the policy goals of order protection. Trading fees below the minimum trading increment may also unreasonably condition or limit access to a recognized exchange's or recognized quotation and trade reporting system's services when taking into account factors including those listed above.".

(8) Section 8.2 is repealed and replaced by the following:

"**8.2 Access Requirements** – (1) Section 6.13 of the Instrument sets out access requirements that apply to an ATS. The Canadian securities regulatory authorities note that the requirements regarding access do not prevent an ATS from setting reasonable standards for access. The purpose of these access requirements is to ensure that the policies, procedures, fees and practices of the ATS do not unreasonably create barriers to access to the services provided by the ATS.".

(9) Section 8.2 is amended by adding the following:

"(2) For the purposes of complying with the order protection requirements in Part 6 of NI 23-101, an ATS should permit fair and efficient access to

(a) a subscriber that directly accesses the ATS,

(b) a person or company that is indirectly accessing the ATS through a subscriber, or

(c) a marketplace routing an order to the ATS.

In addition, the reference to "a person or company" in subsection (b) includes a system or facility that is operated by a person or company and a person or company that obtains access through a subscriber that is a dealer.

(3) The reference to "services" in paragraph 6.13(b) of the Instrument means all services that may be offered to a person or company and includes all services related to order entry, trading, execution, routing and data.

(4) ATSs are responsible for ensuring that the fees they set are in compliance with section 6.13 of the Instrument. In assessing whether its fees unreasonably condition or limit access to its services, an ATS should consider a number of factors, including

(a) the value of the security traded,

(b) the amount of the fee relative to the value of the security traded,

(c) the amount of fees charged by other marketplaces to execute trades in the market,

(d) with respect to market data fees, the amount of market data fees charged relative to the market share of the ATS, and,

(e) with respect to order-execution terms, including fees, whether the outcome of their application is consistent with the policy goals of order protection.

The Canadian securities regulatory authorities will consider these factors, among others, in determining whether the fees charged by an ATS unreasonably condition or limit access to its services. With respect to trading fees, our view is that a trading fee equal to or greater than the minimum trading increment as defined in IIROC's Universal Market Integrity Rules, as amended, would unreasonably condition or limit access to an ATS's services as it would be inconsistent with the policy goals of order protection. Trading fees below the minimum trading increment may also

unreasonably condition or limit access to an ATS's services when taking into account factors including those listed above.".

(10) Part 9 is amended by:

(a) striking out the first two sentences of subsection 9.1(1) and substituting the following:

"(1) Subsection 7.1(1) of the Instrument requires a marketplace that displays orders of exchange-traded securities to any person or company to provide accurate and timely information regarding those orders to an information processor or, if there is no information processor, to an information vendor that meets the standards set by a regulation services provider. Section 7.2 requires a marketplace to provide accurate and timely information regarding trades of exchange-traded securities to an information processor or, if there is no information processor, an information vendor that meets the standards set by a regulation services provider."; and

(b) repealing and replacing subsection 9.1(2) with the following:

"(2) In complying with sections 7.1 and 7.2 of the Instrument, a marketplace should not make the required order and trade information available to any other person or company on a more timely basis than it makes that information available to the information processor or information vendor. In addition, any information provided by a marketplace to an information processor or information vendor must include identification of the marketplace and should contain all relevant information including details as to volume, symbol, price and time of the order or trade.".

(11) Part 10 is amended by:

(a) striking out "; and" at the end of section 10.1(9); and

(b) adding the following as section 10.2:

"**10.2 Availability of Information** – In complying with the requirements in sections 8.1 and 8.2 of the Instrument to provide accurate and timely order and trade information to an information processor or an information vendor that meets the standards set by a regulation services provider, a marketplace, an inter-dealer bond broker or dealer should not make the required order and trade information available to any other person or company on a more timely basis than it makes that information available to the information processor or information vendor.".

(12) The following is added as section 12.2:

"**12.2 Discriminatory Terms** – Section 10.2 of the Instrument prohibits a marketplace from imposing terms that have the effect of discriminating between orders that are routed to that marketplace and orders that are entered on that marketplace.".

(13) Section 13.2 is repealed and replaced with the following:

"**13.2 Synchronization of Clocks** – Subsections 11.5(1) and (2) of the Instrument require the synchronization of clocks with a regulation services provider that monitors the trading of the relevant securities on marketplaces, and by, as appropriate, inter-dealer bond brokers or dealers. The Canadian securities regulatory authorities are of the view that synchronization requires continual synchronization using an appropriate national time standard as chosen by a regulation services provider. Even if a marketplace has not retained a regulation services provider, its clocks should be synchronized with any regulation services provider monitoring trading in the particular securities traded on that marketplace. Each regulation services provider will monitor the information that it receives from all marketplaces, dealers and, if appropriate, inter-dealer bond brokers, to ensure that the clocks are appropriately synchronized. If there is more than one regulation services provider, in meeting their obligation to coordinate monitoring and enforcement under section 7.5 of NI 23-101, regulation services providers are required to agree on one standard against which synchronization will occur. In the event there is no regulation services provider, a recognized exchange or recognized quotation and trade reporting system are also required to coordinate with other recognized exchanges or recognized quotation and trade reporting systems regarding the synchronization of clocks.".

(14) Section 14.1 is repealed and replaced with the following:

"**14.1 Systems Requirements** – This section applies to all the systems of a particular marketplace that are identified in the introduction to section 12.1 of the Instrument.

(1) Paragraph 12.1(a) of the Instrument requires the marketplace to develop and maintain an adequate system of internal control over the systems specified. As well, the marketplace is required to develop and maintain adequate general computer controls. These are the controls which are implemented to support information technology planning, acquisition, development and maintenance, computer operations, information systems support, and security. Recognized guides as to what constitutes adequate information technology controls include 'Information Technology Control Guidelines' from The Canadian Institute of Chartered Accountants (CICA) and 'COBIT' from the IT Governance Institute.

(2) Paragraph 12.1(b) of the Instrument requires a marketplace to meet certain systems capacity, performance, business continuity and disaster recovery standards. These standards are consistent with prudent business practice. The activities and tests required in this paragraph are to be carried out at least once a year. In practice, continuing changes in technology, risk management requirements and competitive pressures will often result in these activities being carried out or tested more frequently.

(3) Subsection 12.2(1) of the Instrument requires a marketplace to engage a qualified party to conduct an annual independent assessment of the internal controls referred to in paragraph 12.1(a) of the Instrument. A qualified party is a person or company or a group of persons or companies with relevant experience in both information technology and in the evaluation of related internal controls in a complex information technology environment. Before engaging a qualified party, a marketplace should discuss its choice with the regulator or, in Québec, the securities regulatory authority.

(4) Under section 15.1 of the Instrument, a regulator or the securities regulatory authority may consider granting a marketplace an exemption from the requirement to engage a qualified party to conduct an annual independent systems review and prepare a report under subsection 12.2(1) of the Instrument provided that the marketplace prepare a control self-assessment and file this self-assessment with the regulator or in Québec, the securities regulatory authority. The scope of the self-assessment would be similar to the scope that would have applied if the marketplace underwent an independent systems review. Reporting of the self-assessment results and the timeframe for reporting would be consistent with that established for an independent systems review.

In determining if the exemption is in the public interest, the regulator or securities regulatory authority may consider a number of factors including: the market share of the marketplace, the timing of the last independent systems review, and changes to systems or staff of the marketplace.".

(15) The following is added as section 14.2:

"**14.2 Availability of Technology Specifications and Testing Facilities** – (1) Subsection 12.3(1) of the Instrument requires marketplaces to make their technology requirements regarding interfacing with or accessing the marketplace publicly available in their final form for at least three months. If there are material changes to these requirements after they are made publicly available and before operations begin, the revised requirements should be made publicly available for a new three month period prior to operations. The subsection also requires that an operating marketplace make its technology specifications publicly available for at least three months before implementing a material change to its technology requirements.

(2) Subsection 12.3(2) of the Instrument requires marketplaces to provide testing facilities for interfacing with or accessing the marketplace for at least two months immediately prior to operations once the technology requirements have been made publicly available. Should the marketplace make its specifications publicly available for longer than three months, it may make the testing available during that period or thereafter as long as it is at least two months prior to operations. If the marketplace, once it has begun operations, proposes material changes to its technology systems, it is required to make testing facilities publicly available for at least two months before implementing the material systems change.

(3) Subsection 12.3(4) of the Instrument provides that if a marketplace must make a change to its technology requirements regarding interfacing with or accessing the marketplace to immediately address a failure, malfunction or material delay of its systems or equipment, it must immediately notify the regulator or, in Québec, the securities regulatory authority, and, if applicable, its regulation services provider. We expect the amended technology requirements to be made publicly available as soon as practicable, either while the changes are being made or immediately after.".

(16) Part 16 is amended by:

(a) repealing and replacing subsection 16.1(2) with the following:

"(2) An information processor is required under subsection 14.4(2) of the Instrument to provide timely, accurate, reliable and fair collection, processing, distribution and publication of information for orders for, and trades in, securities. The Canadian securities regulatory authorities expect that in meeting this requirement, an information processor will ensure that all marketplaces, inter-dealer bond brokers and dealers that are required to provide information are given access to the information processor on fair and reasonable terms. In addition, it is expected that an information processor will not give preference to the information of any marketplace, inter-dealer bond broker or dealer when collecting, processing, distributing or publishing that information.

(3) An information processor is required under subsection 14.4(5) of the Instrument to provide prompt and accurate order and trade information, and to not unreasonably restrict fair access to the information. As part of the obligation relating to fair access, an information processor is expected to make the disseminated and published information available on terms that are reasonable and not discriminatory. For example, an information processor will not provide order and trade information to any single person or company or group of persons or companies on a more timely basis than is afforded to others, and will not show preference to any single person or company or group of persons or companies in relation to pricing.";

(b) striking out "which are not unreasonably discriminatory" from paragraph 16.2(1)(b); and

(c) adding the following as section 16.4:

"**16.4 System Requirements** – Section 14.1 of this Companion Policy contains guidance on the systems requirements as it applies to an information processor.".

1.2 **Effective Date** – This instrument comes into force on January 28, 2010.

AMENDMENTS TO NATIONAL INSTRUMENT 23-101 TRADING RULES

1.1 **Amendments**

(1) This Instrument amends National Instrument 23-101 Trading Rules.

(2) The following definitions are added to section 1.1:

"automated functionality" means the ability to

(a) immediately allow an incoming order that has been entered on the marketplace electronically to be marked as immediate-or-cancel;

(b) immediately and automatically execute an order marked as immediate-or-cancel against the displayed volume;

(c) immediately and automatically cancel any unexecuted portion of an order marked as immediate-or-cancel without routing the order elsewhere;

(d) immediately and automatically transmit a response to the sender of an order marked as immediate-or-cancel indicating the action taken with respect to the order; and

(e) immediately and automatically display information that updates the displayed orders on the marketplace to reflect any change to their material terms;

"protected bid" means a bid for an exchange-traded security, other than an option

(a) that is displayed on a marketplace that provides automated functionality; and

(b) about which information is required to be provided pursuant to Part 7 of NI 21-101 to an information processor or, if there is no information processor, to an information vendor that meets the standards set by a regulation services provider;

"protected offer" means an offer for an exchange-traded security, other than an option,

(a) that is displayed on a marketplace that provides automated functionality; and

(b) about which information is required to be provided pursuant to Part 7 of NI 21-101 to an information processor or, if there is no information processor, to an information vendor that meets the standards set by a regulation services provider; and

"protected order" means a protected bid or protected offer".

(2.1) The following definitions are added to section 1.1:

"calculated-price order" means an order for the purchase or sale of an exchange-traded security, other than an option, that is entered on a marketplace and for which the price of the security

(a) is not known at the time of order entry; and

(b) is not based, directly or indirectly, on the quoted price of an exchange-traded security at the time the commitment to execute the order was made;

"closing-price order" means an order for the purchase or sale of an exchange-traded security, other than an option, that is

(a) entered on a marketplace on a trading day; and

(b) subject to the conditions that

(i) the order be executed at the closing sale price of that security on that marketplace for that trading day; and

(ii) the order be executed subsequent to the establishment of the closing price;

"directed-action order" means a limit order for the purchase or sale of an exchange-traded security, other than an option, that,

(a) when entered on or routed to a marketplace is to be immediately

(i) executed against a protected order with any remainder to be booked or cancelled; or

(ii) placed in an order book;

(b) is marked as a directed-action order; and

(c) is entered or routed at the same time as one or more additional limit orders that are entered on or routed to one or more marketplaces, as necessary, to execute against any protected order with a better price than the order referred to in paragraph (a);

"non-standard order" means an order for the purchase or sale of an exchange-traded security, other than an option, that is entered on a marketplace and is subject to non-standardized terms or conditions related to settlement that have not been set by the marketplace on which the security is listed or quoted; and

"trade-through" means the execution of an order at a price that is,

(a) in the case of a purchase, higher than any protected offer, or

(b) in the case of a sale, lower than any protected bid.

(3) Subsection 3.1(2) is amended by adding "and the *Derivatives Act*" between "*Securities Act*" and "(Québec)".

(3.1) Part 6 is amended by adding the following:

(a) "and Locked or Crossed Orders" after "Trading Hours" in the title of Part 6; and

(b) **6.2 Locked or Crossed Orders** – A marketplace participant shall not intentionally

(a) enter on a marketplace a protected order to buy a security at a price that is the same as or higher than the best protected offer; or

(b) enter on a marketplace a protected order to sell a security at a price that is the same as or lower than the best protected bid.

(4) Part 6, as amended by subsection (3.1), is repealed and replaced by the following:

"**PART 6 ORDER PROTECTION**

6.1 Marketplace Requirements for Order Protection – (1) A marketplace shall establish, maintain and ensure compliance with written policies and procedures that are reasonably designed

(a) to prevent trade-throughs on that marketplace other than the trade-throughs referred to in section 6.2; and

(b) to ensure that the marketplace, when executing a transaction that results in a trade-through referred to in section 6.2, is doing so in compliance with this Part.

(2) A marketplace shall regularly review and monitor the effectiveness of the policies and procedures required under subsection (1) and shall promptly remedy any deficiencies in those policies and procedures.

(3) At least 45 days before implementation, a marketplace shall file with the securities regulatory authority and, if applicable, its regulation services provider the policies and procedures, and any significant changes to those policies and procedures, established under subsection (1).

6.2 List of Trade-throughs – The following are the trade-throughs referred to in paragraph 6.1(1)(a):

(a) a trade-through that occurs when the marketplace has reasonably concluded that the marketplace displaying the protected order that was traded through was experiencing a failure, malfunction or material delay of its systems or equipment or ability to disseminate marketplace data;

(b) the execution of a directed-action order;

(c) a trade-through by a marketplace that simultaneously routes a directed-action order to execute against the total displayed volume of any protected order that is traded through;

(d) a trade-though if, immediately before the trade-through, the marketplace displaying the protected order that is traded through displays as its best price a protected order with a price that is equal or inferior to the price of the trade-through;

(e) a trade-through that results when executing

(i) a non-standard order;

(ii) a calculated-price order; or

(iii) a closing-price order;

(f) a trade-through that was executed at a time when the best protected bid for the security traded through was higher than the best protected offer.

6.3 Systems or Equipment Failure, Malfunction or Material Delay – (1) If a marketplace experiences a failure, malfunction or material delay of its systems, equipment or its ability to disseminate marketplace data, the marketplace shall immediately notify

(a) all other marketplaces;

(b) all regulation services providers;

(c) its marketplace participants; and

(d) any information processor or, if there is no information processor, any information vendor that disseminates its data under Part 7 of NI 21-101.

(2) If executing a transaction described in paragraph 6.2(a), and a notification has not been sent under subsection (1), a marketplace that routes an order to another marketplace shall immediately notify

(a) the marketplace that it reasonably concluded is experiencing a failure, malfunction or material delay of its systems or equipment or its ability to disseminate marketplace data;

(b) all regulation services providers;

(c) its marketplace participants; and

(d) any information processor disseminating information under Part 7 of NI 21-101.

(3) If a marketplace participant reasonably concludes that a marketplace is experiencing a failure, malfunction or material delay of its systems or equipment or its ability to disseminate marketplace data, and routes an order to execute against a protected order on another marketplace displaying an inferior price, the marketplace participant must notify the following of the failure, malfunction or material delay

(a) the marketplace that may be experiencing a failure, malfunction or material delay of its systems or equipment or its ability to disseminate marketplace data; and

(b) all regulation services providers.

6.4 Marketplace Participant Requirements for Order Protection – (1) A marketplace participant must not enter a directed-action order unless the marketplace participant has established, and maintains and ensures compliance with, written policies and procedures that are reasonably designed

(a) to prevent trade-throughs other than the trade-throughs listed below:

(i) a trade-through that occurs when the marketplace participant has reasonably concluded that the marketplace displaying the protected order that was traded through was experiencing a failure, malfunction or material delay of its systems or equipment or ability to disseminate marketplace data;

(ii) a trade-through by a marketplace participant that simultaneously routes a directed-action order to execute against the total displayed volume of any protected order that is traded through;

(iii) a trade-through if, immediately before the trade-through, the marketplace displaying the protected order that is traded through displays as its best price a protected order with a price that is equal or inferior to the price of the trade-through transaction;

(iv) a trade-through that results when executing

(A) a non-standard order;

(B) a calculated-price order; or

(C) a closing-price order;

(v) a trade-through that was executed at a time when the best protected bid for the security traded through was higher than the best protected offer; and

(b) to ensure that when executing a trade-through listed in paragraphs (a)(i) to (a)(v), it is doing so in compliance with this Part.

(2) A marketplace participant that enters a directed-action order shall regularly review and monitor the effectiveness of the policies and procedures required under subsection (1) and shall promptly remedy any deficiencies in those policies and procedures.

6.5 Locked or Crossed Orders – A marketplace participant shall not intentionally

(a) enter on a marketplace a protected order to buy a security at a price that is the same as or higher than the best protected offer; or

(b) enter on a marketplace a protected order to sell a security at a price that is the same as or lower than the best protected bid.

6.6 Trading Hours – A marketplace shall set the hours of trading to be observed by marketplace participants.

6.7 Anti-Avoidance – No person or company shall send an order to an exchange, quotation and trade reporting system or alternative trading system that does not carry on business in Canada in order to avoid executing against better-priced orders on a marketplace.

6.8 Application of this Part – In Québec, this Part does not apply to standardized derivatives.".

(5) Part 7 is amended by:

(a) repealing paragraph 7.2(c) and replacing it with the following:

"(c) that the recognized exchange will transmit to the regulation services provider the information required by Part 11 of NI 21-101 and any other information reasonably required to effectively monitor:

(i) the conduct of and trading by marketplace participants on and across marketplaces, and

(ii) the conduct of the recognized exchange, as applicable; and"; and

(b) repealing paragraph 7.4(c) and replacing it with the following:

"(c) that the recognized quotation and trade reporting system will transmit to the regulation services provider the information required by Part 11 of NI 21-101 and any other information reasonably required to effectively monitor:

(i) the conduct of and trading by marketplace participants on and across marketplaces, and

(ii) the conduct of the recognized quotation and trade reporting system, as applicable; and"; and

(c) amending section 7.5 by striking out "under this Part" and substituting "under Parts 7 and 8".

(6) Paragraph 8.3(d) is repealed and replaced by the following:

"(d) that the ATS will transmit to the regulation services provider the information required by Part 11 of NI 21-101 and any other information reasonably required to effectively monitor:

(i) the conduct of and trading by marketplace participants on and across marketplaces, and

(ii) the conduct of the ATS; and".

(7) Section 9.3 is amended by striking out "IDA Policy No. 5 Code of Conduct for IDA Member Firms Trading in Domestic Debt Markets" and substituting "IIROC Rule 2800 Code of Conduct for Corporation Dealer Member Firms Trading in Wholesale Domestic Debt Markets".

1.2 **Effective Date** – (1) This Instrument, other than subsections 1.1(2.1) and 1.1(4), comes into force on January 28, 2010.

(2) Subsections 1.1(2.1) and 1.1(4) come into force on February 1, 2011.

AMENDMENTS TO COMPANION POLICY 23-101CP – To National Instrument 23-101 Trading Rules

1.1 **Amendments**

(1) This instrument amends Companion Policy 23-101CP.

(2) Part 1.1 is amended by adding the following after section 1.1.1:

"**1.1.2 Definition of automated functionality** – Section 1.1 of the Instrument includes a definition of "automated functionality" which is the ability to: (1) act on an incoming order; (2) respond to the sender of an order; and (3) update the order by disseminating information to an information processor or information vendor. Automated functionality allows for an incoming order to execute immediately and automatically up to the displayed size and for any unexecuted portion of such incoming order to be cancelled immediately and automatically without being booked or routed elsewhere. Automated functionality involves no human discretion in determining the action taken with respect to an order after the time the order is received. A marketplace with this functionality should have appropriate systems and policies and procedures relating to the handling of immediate-or-cancel orders.

1.1.3 Definition of protected order – (1) A protected order is defined to be a "protected bid or protected offer". A "protected bid" or "protected offer" is an order to buy or sell an exchange-traded security, other than an option, that is displayed on a marketplace that provides automated functionality and about which information is provided to an information processor or an information vendor, as applicable, pursuant to Part 7 of NI 21-101. The term "displayed on a marketplace" refers to the information about total disclosed volume on a marketplace. Volumes that are not disclosed or that are "reserve" or hidden volumes are not considered to be "displayed on a marketplace". The order must be provided in a way that enables other marketplaces and marketplace participants to readily access the information and integrate it into their systems or order routers.

(2) Subsection 5.1(3) of 21-101CP does not consider orders that are not immediately executable or that have special terms as "orders" that are required to be provided to an information processor or information vendor under Part 7 of NI 21-101. As a result, these orders are not considered to be "protected orders" under the definition in the Instrument and do not receive order protection. However, those executing against these types of orders are required to execute against all better-priced orders first. In addition, when entering a "special terms order" on a marketplace, if it can be executed against existing orders despite the special term, then the order protection obligation applies.".

(2.1) Part 1.1 is amended by adding the following after section 1.1.3:

"**1.1.4 Definition of calculated-price order** – The definition of "calculated-price order" refers to any order where the price is not known at the time of order entry and is not based, directly or indirectly, on the quoted price of an exchange-traded security at the time the commitment to executing the order was made. This includes the following orders:

(a) a call market order – where the price of a trade is calculated by the trading system of a marketplace at a time designated by the marketplace;

(b) an opening order – where each marketplace may establish its own formula for the determination of opening prices;

(c) a closing order – where execution occurs at the closing price on a particular marketplace, but at the time of order entry, the price is not known;

(d) a volume-weighted average price order – where the price of a trade is determined by a formula that measures average price on one or more marketplaces; and

(e) a basis order – where the price is based on prices achieved in one or more derivative transactions on a marketplace. To qualify as a basis order, this order must be approved by a regulation services provider or an exchange or quotation and trade reporting system that oversees the conduct of its members or users respectively.

1.1.5 Definition of directed-action order – (1) An order marked as a directed-action order informs the receiving marketplace that the marketplace can act immediately to carry out the action specified by either the marketplace or marketplace participant who has sent the order and that the order protection obligation is being met by the sender. Such an order may be marked "DAO" by a marketplace or a marketplace participant. Senders can specify actions by adding markers that instruct a marketplace to:

(a) execute the order and cancel the remainder using an immediate-or-cancel marker,

(b) execute the order and book the remainder,

(c) book the order as a passive order awaiting execution, and

(d) avoid interaction with hidden liquidity using a bypass marker, as defined in IIROC's Universal Market Integrity Rules.

The definition allows for the simultaneous routing of more than one directed-action order in order to execute against any better-priced protected orders. In addition, marketplaces or marketplace participants may send a single directed-action order to execute against the best protected bid or best protected offer. When it receives a directed-action order, a marketplace can carry out the sender's instructions without checking for better-priced orders displayed by the other marketplaces and implementing the marketplace's own policies and procedures to reasonably prevent trade-throughs.

(2) Regardless of whether the entry of a directed-action order is accompanied by the bypass marker, the sender must take out all better-priced visible orders before executing at an inferior price. For example, if a marketplace or marketplace participant combines a directed-action order with a bypass marker to avoid executing against hidden liquidity, the order has order protection obligations regarding the visible liquidity. If a directed-action order interacts with hidden liquidity, the requirement to take out all better-priced visible orders before executing at an inferior price remains.

1.1.6 Definition of non-standard order – The definition of "non-standard order" refers to an order for the purchase or sale of a security that is subject to terms or conditions relating to settlement that have not been set by the marketplace on which the security is listed or quoted. A marketplace participant, however, may not add a special settlement term or condition to an order solely for the purpose that the order becomes a non-standard order under the definition.".

(2.2) Part 6 is amended by adding the following:

(a) "and Locked or Crossed Markets" after "Trading Hours" in the tile of Part 6; and

(b) "**6.2 Locked and Crossed Markets** – (1) Section 6.2 of the Instrument provides that a marketplace participant shall not intentionally lock or cross a market by entering a protected order to buy a security at a price that is the same as or higher than the best protected offer or entering a protected order to sell a security at a price that is the same as or lower than the best protected bid. The reference to a "protected order" means that when entering a visible, displayed order, a marketplace participant cannot lock or cross a visible, displayed order. It is not intended to prohibit the use of marketable limit orders.

(2) Section 6.2 of the Instrument prohibits a marketplace participant from intentionally locking or crossing a market. This would occur, for example, when a marketplace participant enters a locking or crossing order on a particular marketplace or marketplaces to avoid fees charged by a marketplace or to take advantage of rebates offered by a particular marketplace. There are situations where a locked or crossed market may occur unintentionally. For example:

(a) the locking or crossing order was displayed at a time when the marketplace displaying the locked or crossed order was experiencing a failure, malfunction or material delay of its systems, equipment or ability to disseminate marketplace data,

(b) the locking or crossing order was displayed at a time when a protected bid was higher than a protected offer;

(c) the locking or crossing order was posted after all displayed liquidity was executed and a reserve order generated a new visible bid above the displayed offer or offer below the displayed bid.".

(3) Part 6, as amended by subsection (2.2), is repealed and replaced with the following:

"**PART 6 ORDER PROTECTION**

6.1 Marketplace Requirements for Order Protection – (1) Subsection 6.1(1) of the Instrument requires a marketplace to establish, maintain and ensure compliance with written policies and procedures that are reasonably designed to prevent trade-throughs by orders entered on that marketplace. A marketplace may implement this requirement in various ways. For example, the policies and procedures of a marketplace may reasonably prevent trade-throughs via the design of the marketplace's trade execution algorithms (by not allowing a trade-through to occur), or by voluntarily establishing direct linkages to other marketplaces. Marketplaces are not able to avoid their obligations by establishing policies and procedures that instead require marketplace participants to take steps to reasonably prevent trade-throughs.

(2) It is the responsibility of marketplaces to regularly review and monitor the effectiveness of their policies and procedures and take prompt steps to remedy any deficiencies in reasonably preventing trade-throughs and complying with subsection 6.1(2) of the Instrument. In general, it is expected that marketplaces maintain relevant information so that the effectiveness of its policies and procedures can be adequately evaluated by regulatory authorities. Relevant information would include information that describes:

(a) steps taken by the marketplace to evaluate its policies and procedures;

(b) any breaches or deficiencies found; and

(c) the steps taken to resolve the breaches or deficiencies.

(3) As part of the policies and procedures required in subsection 6.1(1) of the Instrument, a marketplace is expected to include a discussion of their automated functionality and how they will handle potential delayed responses as a result of an equipment or systems failure or malfunction experienced by another marketplace. In addition, marketplaces should include a discussion of how they treat a directed-action order when received and how it will be used.

(4) Order protection applies whenever two or more marketplaces with protected orders are open for trading. Some marketplaces provide a trading session at a price established by that marketplace during its regular trading hours for marketplace participants who are required to benchmark to a certain closing price. In these circumstances, under paragraph 6.2(e), a marketplace would not be required to take steps to reasonably prevent trade-throughs of orders on another marketplace.

6.2 Marketplace Participant Requirements for Order Protection – (1) For a marketplace participant that wants to use a directed-action order, section 6.4 of the Instrument requires a marketplace participant to establish, maintain and ensure compliance with written policies and procedures that are reasonably designed to prevent trade-throughs. In general, it is expected that a marketplace participant that uses a directed-action order would maintain relevant information so that the effectiveness of its policies and procedures can be adequately evaluated by regulatory authorities. Relevant information would include information that describes:

(a) steps taken by the marketplace participant to evaluate its policies and procedures;

(b) any breaches or deficiencies found; and

(c) the steps taken to resolve the breaches or deficiencies.

The policies and procedures should also outline when it is appropriate to use a directed-action order and how it will be used as set out in paragraph 6.4(a) of the Instrument.

(2) Order protection applies whenever two or more marketplaces with protected orders are open for trading. Some marketplaces provide a trading session at a price established by that marketplace during its regular trading hours for marketplace participants who are required to benchmark to a certain closing price. In these circumstances, under paragraph 6.4(a)(iv)(C) of the Instrument, a marketplace participant would not be required to take steps to reasonably prevent trade-throughs of orders between marketplaces.

6.3 List of Trade-throughs – Section 6.2 and paragraphs 6.4(a)(i) to (a)(v) of the Instrument set forth a list of "permitted" trade-throughs that are primarily designed to achieve workable order protection and to facilitate certain trading strategies and order types that are useful to investors.

(a) (i) Paragraphs 6.2(a) and 6.4(a)(i) of the Instrument would apply where a marketplace or marketplace participant, as applicable, has reasonably concluded that a marketplace is experiencing a failure, malfunction or material delay of its systems, equipment or ability to disseminate marketplace data. A material delay occurs when a marketplace repeatedly fails to respond immediately after receipt of an order. This is intended to provide marketplaces and marketplace participants with flexibility when dealing with a marketplace that is experiencing systems problems (either of a temporary nature or a longer term systems issue).

(ii) Under subsection 6.3(1) of the Instrument, a marketplace that is experiencing systems issues is responsible for informing all other marketplaces, its marketplace participants, any information processor, or if there is no information processor, an information vendor disseminating its information under Part 7 of NI 21-101 and regulation services providers when a failure, malfunction or material delay of its systems, equipment or ability to disseminate marketplace data occurs. However, if a marketplace fails repeatedly to provide an immediate response to orders received and no notification

has been issued by that marketplace that it is experiencing systems issues, the routing marketplace or a marketplace participant may, pursuant to subsections 6.3(2) and 6.3(3) of the Instrument respectively, reasonably conclude that the marketplace is having systems issues and may therefore rely on paragraph 6.2(a) or 6.4(a)(i) of the Instrument respectively. This reliance must be done in accordance with policies and procedures that outline processes for dealing with potential delays in responses by a marketplace and documenting the basis of its conclusion. If, in response to the notification by the routing marketplace or a marketplace participant, the marketplace confirms that it is not actually experiencing systems issues, the routing marketplace or marketplace participant may no longer rely on paragraph 6.2(a) or paragraph 6.4(a)(i) of the Instrument respectively.

(b) Paragraph 6.2(b) of the Instrument provides an exception from the obligation on marketplaces to use their policies and procedures to reasonably prevent trade-throughs when a directed-action order is received. Specifically, a marketplace that receives a directed-action order may immediately execute or book the order (or its remaining volume) and not implement the marketplace's policies and procedures to reasonably prevent trade-throughs. However, the marketplace will need to describe its treatment of a directed-action order in its policies and procedures. Paragraphs 6.2(c) and 6.4(a)(iii) of the Instrument provide an exception where a marketplace or marketplace participant simultaneously routes directed-action orders to execute against the total displayed volume of any protected order traded through. This accounts for the possibility that orders that are routed simultaneously as directed-action orders are not executed simultaneously causing one or more trade-throughs to occur because an inferior-priced order is executed first.

(c) Paragraphs 6.2(d) and 6.4(a)(ii) of the Instrument provide some relief due to moving or changing markets. Specifically, the exception allows for a trade-through to occur when immediately before executing the order that caused the trade-through, the marketplace on which the execution occurred had the best price but at the moment of execution, the market changes and another marketplace has the best price. The "changing markets" exception allows for the execution of an order on a marketplace, within the best bid or offer on that marketplace but outside the best bid or offer displayed across marketplaces in certain circumstances. This could occur for example:

(i) where orders are entered on a marketplace but by the time they are executed, the best bid or offer displayed across marketplaces changed; and

(ii) where a trade is agreed to off-marketplace and entered on a marketplace within the best bid and best offer across marketplaces, but by the time the order is executed on the marketplace (i.e. printed) the best bid or offer as displayed across marketplaces may have changed, thus causing a trade-through.

(d) The basis for the inclusion of calculated-price orders, non-standard orders and closing-price orders in paragraphs 6.2(e) and 6.4(a)(iv) of the Instrument is that these orders have certain unique characteristics that distinguish them from other orders. The characteristics of the orders relate to price (calculated-price orders and closing-price orders) and non-standard settlement terms (non-standard orders) that are not set by an exchange or a quotation and trade reporting system.

(e) Paragraphs 6.2(f) and 6.4(a)(v) of the Instrument include a transaction that occurred when there is a crossed market in the exchange-traded security. Without this allowance, no marketplace could execute transactions in a crossed market because it would constitute a trade-through. With order protection only applying to displayed orders or parts of orders, hidden or reserve orders may remain in the book after all displayed orders are executed. Consequently, crossed markets may occur. Intentionally crossing the market to take advantage of paragraphs 6.2(f) and 6.4(a)(v) of the Instrument would be a violation of section 6.5 of the Instrument.

6.4 Locked and Crossed Markets – (1) Section 6.5 of the Instrument provides that a marketplace participant shall not intentionally lock or cross a market by entering a protected order to buy a security at a price that is the same as or higher than the best protected offer or entering a protected order to sell a security at a price that is the same as or lower than the best protected bid. The reference to a "protected order" means that when entering a visible, displayed order, a marketplace participant cannot lock or cross a visible, displayed order. It is not intended to prohibit the use of marketable limit orders. Paragraphs 6.2(f) and 6.4(a)(v) of the Instrument allow for the resolution of crossed markets that occur unintentionally.

(2) Section 6.5 of the Instrument prohibits a marketplace participant from intentionally locking or crossing a market. This would occur, for example, when a marketplace participant enters a locking or crossing order on a particular marketplace or marketplaces to avoid fees charged by a marketplace or to take advantage of rebates offered by a particular marketplace. There are situations where a locked or crossed market may occur unintentionally. For example:

(a) when a marketplace participant routes multiple directed-action orders that are marked immediate-or-cancel to a variety of marketplaces and because of latency issues, a locked or crossed market results,

(b) the locking or crossing order was displayed at a time when the marketplace displaying the locked or crossed order was experiencing a failure, malfunction or material delay of its systems, equipment or ability to disseminate marketplace data,

(c) the locking or crossing order was displayed at a time when a protected bid was higher than a protected offer;

(d) the locking or crossing order was posted after all displayed liquidity was executed and a reserve order generated a new visible bid above the displayed offer or offer below the displayed bid.

(3) If a marketplace participant using a directed-action order chooses to book the order or the remainder of the order, then it is responsible for ensuring that the booked portion of the directed-action order does not lock or cross the market. The Canadian securities regulatory authorities would consider a directed-action order or remainder of a directed-action order that is booked and that locks or crosses the market to be an intentional locking or crossing of the market and a violation of section 6.5 of the Instrument.

6.5 Anti-Avoidance Provision – Section 6.7 of the Instrument prohibits a person or company from sending an order to an exchange, quotation and trade reporting system or alternative trading system that does not carry on business in Canada in order to avoid executing against better-priced orders on a marketplace in Canada. The intention of this section is to prevent the routing of orders to foreign marketplaces only for the purpose of avoiding the order protection regime in Canada.".

(4) Part 7 is amended by:

(a) striking out "IDA Policy No. 5 Code of Conduct for IDA Member Firms Trading in Domestic Debt Markets" and substituting "IIROC Rule 2800 Code of Conduct for Corporation Dealer Member Firms Trading in Wholesale Domestic Debt Markets" in section 7.3;

(b) adding the following as section 7.5:

"**7.5 Agreement between a Marketplace and a Regulation Services Provider** – The purpose of subsections 7.2(c) and 7.4(c) of the Instrument is to facilitate the monitoring of trading by marketplace participants on and across multiple marketplaces by a regulation services provider. These sections of the Instrument also facilitate monitoring of the conduct of a recognized exchange and recognized quotation and trade reporting system for particular purposes. This may result in regulation services providers monitoring marketplaces that have retained them and reporting to a recognized exchange, recognized quotation and trade reporting system or securities regulatory authority if a marketplace is not meeting regulatory requirements or the terms of its own rules or policies and procedures. While the scope of this monitoring may change as the market evolves, we expect it to include, at a minimum, monitoring clock synchronization, the inclusion of specific designations, symbols and identifiers, order protection requirements and audit trail requirements.".

(c) adding the following as section 7.6:

"**7.6 Coordination of Monitoring and Enforcement** – (1) Section 7.5 of the Instrument requires regulation services providers, recognized exchanges and recognized quotation and trade reporting systems to enter into a written agreement whereby they coordinate the enforcement of the requirements set under Parts 7 and 8. This coordination is required in order to achieve cross-marketplace monitoring.

(2) If a recognized exchange or recognized quotation and trade reporting system has not retained a regulation services provider, it is still required to coordinate with any regulation services provider and other exchanges or quotation and trade reporting systems that trade the same securities in order to ensure effective cross-marketplace monitoring.

(3) Currently, only IIROC is the regulation services provider for both exchange-traded securities, other than options and in Québec, other than standardized derivatives, and unlisted debt securities. If more than one regulation services provider regulates marketplaces trading a particular type of security, these regulation services providers must coordinate monitoring and enforcement of the requirements set.".

1.2 **Effective Date** – (1) This instrument, other than subsections 1.1(2.1) and 1.1(3), comes into force on January 28, 2010.

(2) Subsections 1.1(2.1) and 1.1(3) come into force on February 1, 2011.

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Chapter 6

Request for Comments

6.1.1 Notice and Request for Comment – Proposed Amendments to NI 51-101 Standards of Disclosure for Oil and Gas Activities, Form 51-101F1 *Statement of Reserves Data and Other Oil And Gas Information*, Form 51-101F2 *Report on Reserves Data by Independent Qualified Reserves Evaluator or Auditor*, Form 51-101F3 *Report of Management and Directors on Oil and Gas Disclosure* and Companion Policy 51-101CP *Standards of Disclosure for Oil and Gas Activities*

NOTICE AND REQUEST FOR COMMENT

PROPOSED AMENDMENTS TO
NATIONAL INSTRUMENT 51-101 *STANDARDS OF DISCLOSURE FOR OIL AND GAS ACTIVITIES*,
FORM 51-101F1 *STATEMENT OF RESERVES DATA AND OTHER OIL AND GAS INFORMATION*,
FORM 51-101F2 *REPORT ON RESERVES DATA BY*
***INDEPENDENT QUALIFIED RESERVES EVALUATOR OR AUDITOR*,**
FORM 51-101F3 *REPORT OF MANAGEMENT AND DIRECTORS ON OIL AND GAS DISCLOSURE* AND
COMPANION POLICY 51-101CP *STANDARDS OF DISCLOSURE FOR OIL AND GAS ACTIVITIES*

Background

We, the Canadian Securities Administrators (CSA), are publishing for comment proposed amendments to National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities* (NI 51-101), its related forms (the Forms) and companion policy (51-101CP) (collectively, the Instrument).[1]

NI 51-101 sets out the annual filing requirements for reporting issuers who are involved in oil and gas activities to report their estimates of reserves and resources. In addition, NI 51-101 sets out the general disclosure standards for reporting issuers who are reporting on their oil and gas activities. The disclosure standards apply to any disclosure made by a reporting issuer throughout the year.

Since the CSA implemented the Instrument in September 2003, we have monitored how it is working. As a result of CSA staff experience, we identified several areas in the Instrument which need to be amended.

We are publishing the proposed amendments to the Instrument with this Notice. You can find them on websites of CSA members, including the following:

- www.bcsc.bc.ca
- www.albertasecurities.com
- www.sfsc.gov.sk.ca
- www.msc.gov.mb.ca
- www.osc.gov.on.ca
- www.lautorite.qc.ca

We are publishing

- amending instruments for
    - NI 51-101
    - the Forms

[1] In Ontario, paragraphs 143(1) 22, 24, 39 and 39.1 of the *Securities Act* provide the Ontario Securities Commission with authority to make the proposed amendments to the Instrument.

- an amending document for 51-101CP
- an amending instrument for National Instrument 41-101 *General Prospectus Requirements*

We are also publishing a black-lined version of NI 51-101 and the Forms that integrate the proposed changes from the amending instrument.

Substance and purpose of the amendments

The proposed amendments to the Instrument fall into the following four broad categories:

1. Amendments to clarify some provisions of the Instrument.
2. Amendments to amend and add certain requirements to the annual filing requirements to provide for more comprehensive disclosure.
3. Amendments to certain provisions to provide new guidelines for disclosure of reserves and resources other than reserves.
4. Amendments to streamline requirements in the Instrument.

Summary of proposed amendments

We have summarized the significant proposed amendments in the Appendix. This is not a complete list of all the amendments.

We have clarified the signing requirements of Form 51-101F3. We have added a prohibition against adding across resource categories. This prohibition is intended to prevent misleading disclosure and to provide additional guidance to reporting issuers wishing to make meaningful and understandable disclosure of their oil and gas resources. We have added a requirement that the low estimate of reserves, contingent resources and prospective resources be included in the disclosure when the high estimate is disclosed.

We have amended the optional supplemental disclosure of reserves data in annual disclosure to allow for disclosure which is comparable to US disclosure. We have added a requirement in the annual disclosure to discuss the significant factors and uncertainties associated with properties for which no reserves have been developed.

We have removed the requirement to announce the annual filings with a press release and replaced it with the requirement to file a Form 51-101F4 notice on SEDAR.

We have removed definitions, requirements and guidance related to financial reporting to limit the scope of NI 51-101 to evaluation and disclosure practices related to reserves and resources other than reserves.

Alternatives considered

As discussed above, many of the amendments are intended to clarify the Instrument or to streamline requirements; however certain requirements are being introduced to assist reporting issuers in providing understandable oil and gas disclosure. One alternative to amending the Instrument was to issue a CSA Staff Notice to provide additional guidance on reserve and resource disclosure. However, CSA Staff Notice 51-327 already addresses several of the amendments noted above and CSA Staff continues to see misleading disclosure.

Anticipated costs and benefits

We believe that the proposed amendments to the Instrument will reduce issuers' costs, as the amendments will remove the requirement to disseminate a press release when filing annual disclosure. This requirement is replaced with a filing requirement on SEDAR, which would not have the dissemination costs associated with a press release. In addition, while the amendments do impose an additional mandatory requirement to discuss annually the significant uncertainties related to the reporting issuer's properties that have not been assigned reserves, we believe that given the growing importance of resources other than reserves to an oil and gas issuer's value, the value of this information to the public outweighs the costs of preparation. We also believe that the amendments will make reporting issuers' disclosure about oil and gas reserves and resources more meaningful and understandable to the public.

Consequential amendments

We propose to amend Item 5.5 of Form 41-101F1 *Information Required in a Prospectus* to remove the obligation to provide annual reports as at the year-end when an issuer is not engaged in oil and gas activities at its year-end. However, that issuer is required to provide an oil and gas report in accordance with the Form 51-101F1, Form 51-101F2 and Form 51-101F3 which is effective subsequent to the date on which the issuer engaged in oil and gas activities.

Related amendments

CSA Staff Notice 51-324 and CSA Staff Notice 51-327 will be amended to reflect changes to the Instrument.

Impact on investors
The proposed amendments will benefit investors in several important respects:

- By prohibiting the addition across resource categories, investors should receive more consistent, meaningful and understandable disclosure of oil and gas resources.

- By imposing a mandatory requirement to discuss annually the significant uncertainties related to the reporting issuer's properties that have not been assigned reserves, investors will receive additional disclosure about assets which have a growing importance to an oil and gas issuer's value.

Unpublished materials

In proposing amendments to the Instrument, we have not relied on any significant unpublished study, report, or other written materials.

Request for comments

We welcome your comments on the proposed amendments to the Instrument.

Please submit your comments on the proposed amendments to the Instrument in writing on or before **March 19, 2010**. If you are not sending your comments by email, you should also forward a diskette containing the submissions (in Windows format, Word).

Address your submission to all of the CSA member commissions, as follows:

British Columbia Securities Commission
Alberta Securities Commission
Saskatchewan Financial Services Commission – Securities Division
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
New Brunswick Securities Commission
Registrar of Securities, Prince Edward Island
Nova Scotia Securities Commission
Newfoundland and Labrador Securities Commission
Registrar of Securities, Northwest Territories
Registrar of Securities, Yukon Territory
Registrar of Securities, Nunavut

Deliver your comments **only** to the addresses that follow. Your comments will be forwarded to the other CSA member jurisdictions.

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We cannot keep submissions confidential because securities legislation in certain provinces requires publication of a summary of the written comments received during the comment period.

Questions

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The text of the proposed amendments follows or can be found elsewhere on a CSA member website.

December 18, 2009

Appendix

Summary of proposed amendments

A. IFRS CHANGES

Accounting Terms or Phrases

We replaced the following terms used in NI 51-101 with the IFRS terms.

Original Term or Phrase	IFRS Term or Phrase
minority interest	non-controlling interest

B. OIL AND GAS DISCLOSURE CHANGES

National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities*

We propose to amend NI 51-101 as follows:

Part 1 Application and Terminology

- by adding a definition of *executive officer*, which parallels the definition in National Instrument 51-102 *Continuous Disclosure Obligations,* in order to clarify the signing requirements outlined in paragraph 2.1(3)(e) of *NI 51-101*
- by adding a definition of Form 51-101F4 *Notice of Filing of 51-101F1 Information*
- by removing the word reservoirs from the definition of oil and gas activities and replacing it with the concept of subsurface, to allow for the broadest possible application
- by adding a definition of *US oil and gas disclosure requirements* that tracks changes to the US oil and gas securities regulatory regime to allow for supplemental reserves disclosure

Part 2 Annual Filing Requirements

- in paragraph 2.1(3)(e) by clarifying the *Form 51-101F3* signing requirements
- in section 2.2 by removing the news release requirement and replacing it with a notice requirement
- in section 2.5 by providing additional *Form 51-101F3* signing guidance, in particular for situations where the reporting issuer is not a corporation

Part 4 Measurement

- by deleting section 4.1

Part 5 Requirements Applicable to all Disclosure

- by clarifying that section 5.3 of *NI 51-101* and the *COGE Handbook* apply to resources other than reserves
- by adding section 5.16 which prohibits addition across resources categories
- by adding section 5.17 which requires the disclosure of the low estimate when the high estimate is disclosed

Part 8 Exemptions

- by clarifying the application of section 8.2

Part 9 Instrument in Force

- by deleting section 9.2, as it is no longer relevant.

Form 51-101F1 Statement of Reserves Data and Other Oil and Gas Information

We propose to amend the *Form 51-101F1* as follows:

- by clarifying General Instruction (1)
- by including General Instruction (7) and (8) to assist reporting issuers in providing clear disclosure
- by modifying guidance related to the optional supplemental disclosure to allow for disclosure in accordance with *US oil and gas disclosure requirements* (in particular see Item 2.2 and Item 3.1)
- by clarifying that the information in Item 5.2 only applies to *reserves data*
- by providing guidance for calculating area where there are split-rights
- by adding a requirement to describe the significant factors and uncertainties related to the development of and production from properties without any reserves
- by requiring the disclosure of stratigraphic test wells
- by clarifying that Item 6.9 relates to gross daily production volumes

Form 51-101F2 Report on Reserves Data by Independent Qualified Reserves Evaluator or Auditor

We propose to amend *Form 51-101F2* as follows:

- by clarifying the requirement that the evaluation must be done in accordance with the *COGE Handbook*, consistently applied.

Form 51-101F3 Report of Management and Directors on Oil and Gas Disclosure

We propose to amend Form 51-101F3 as follows:

- by updating the form to mirror the changes to the signing requirements in NI 51-101 and the changes to the *Form 51-101F2*

51-101CP

The proposed amendments to 51-101CP reflect the changes to *NI 51-101* described above and provide further guidance on how to interpret and apply *NI 51-101*.

C. GENERAL CHANGES

Resources to Resources Other than Reserves

"Resources" as defined in the COGE Handbook includes production and reserves. In order to clarify that certain guidance in NI 51-101, its related forms and companion policy currently only relates to resources other than reserves, where applicable, NI 51-101, its related forms and companion policy have been amended to change the term "resources" to "resources other than reserves".

Removal of Accounting References

We have removed definitions, requirements and guidance solely related to financial reporting by oil and gas issuers from NI 51-101 and related documents with the intention of focusing the regulatory scope of NI 51-101 and related forms on the technical evaluation and disclosure of reserves and resources other than reserves.

Term / Concept	Explanation of Change
CICA	We removed the definition and references to CICA since the CICA is no longer relevant to NI 51-101 and related forms.

Term / Concept	Explanation of Change
CICA Accounting Guideline 16	We removed the definition and references to CICA Accounting Guideline 16 as it will no longer be relied on for the purposes of NI 51-101 and related forms.
CICA Handbook	We removed the definition and references to CICA Handbook since it is no longer relevant to NI 51-101 and related forms.
FAS 19	We removed the definition and references to FAS 19 since it is no longer relevant to the evaluation and disclosure prescribed by NI 51-101 and related forms.
Full cost method of accounting (section 4.1 of NI 51-101)	We removed section 4.1 of NI 51-101 on the basis that requirements as to the preparation of financial statements are no longer within the scope NI 51-101.
References to comparability of financial and reserves disclosure	We have removed these references to deemphasize the comparability of oil and gas accounting and oil and gas technical evaluation practice.
Section 3861 and Section 3280 of CICA Handbook	We have removed this specific guidance as it will no longer be relied on for the purpose of NI 51-101 and related forms.

AMENDMENTS TO
NATIONAL INSTRUMENT 51-101 *STANDARDS OF DISCLOSURE FOR OIL AND GAS ACTIVITIES*

Although this amending instrument amends section headers in National Instrument 51-101, section headers do not form part of the instrument and are inserted for ease of reference only.

1. National Instrument 51-101 Standards of Disclosure for Oil and Gas Activities is amended by this instrument.

2. Section 1.1 of National Instrument 51-101 is amended by

(a) repealing paragraph (c),

(b) repealing paragraph (d),

(c) repealing paragraph (e),

(d) adding the following after paragraph (h)

(h.1) "*executive officer*" means, for a *reporting issuer*, an individual who is

(i) a chair, vice-chair or president;

(ii) a vice-president in charge of a principal business unit, division or function including sales, finance or production; or

(iii) performing a policy-making function in respect of the *issuer;*,

(e) repealing paragraph (i),

(f) adding the following after paragraph (n)

(n.1) "*Form 51-101F4*" means Form 51-101F4 *Notice of Filing of 51-101F1 Information*;,

(g) in clause (s)(i)(B), replacing "reservoirs on" with "the subsurface of",

(h) in clause (s)(i)(C), replacing "reservoirs" with "subsurface locations",

(i) in paragraph (aa), deleting "and" at the end of the paragraph,

(j) in paragraph (bb), by adding "and" at the end of the paragraph, and

(k) adding the following after paragraph (bb)

"*US oil and gas disclosure requirements*" means the disclosure requirements relating to *reserves* and *oil and gas activities* under *US federal securities law* and include disclosure requirements or guidelines imposed or issued by the *SEC*, as amended from time to time*.*.

3. Paragraph 3(e) of section 2.1 of National Instrument 51-101 is replaced with the following

(e) is signed

(i) by

(A) the chief *executive officer*; and

(B) a person other than the chief *executive officer* that is an *executive officer* of the *reporting issuer*; and

(ii) on behalf of the board of directors, by

(A) any two directors of the *reporting issuer*, other than the persons referred to in subparagraph (i) above, or

(B) if the issuer has only three directors, two of whom are the persons referred to in subparagraph (i), all of the directors of the *reporting issuer*.*.*

4. Section 2.2 of National Instrument 51-101 is replaced with the following

2.2 **Notice of Filing of *51-101F1* Information** – A *reporting issuer* must, concurrently with filing a statement and reports under section 2.1, file with the *securities regulatory authority* a notice of filing of *51-101F1* information in accordance with *Form 51-101F4*.*.*

5. Section 2.5 of National Instrument 51-101 is added after section 2.4 as follows

2.5 ***Reporting Issuer* Not a Corporation** – if the *reporting issuer* is not a corporation, a report in accordance with *Form 51-101F3* must be signed by the persons who, in relation to the *reporting issuer*, are in a similar position or perform similar functions to the persons required to sign under item 3 of section 2.1.*.*

6. Section 4.1 of National Instrument 51-101 is repealed.

7. Section 5.3 of National Instrument 51-101 is replaced with the following

5.3 **Classification of *Reserves* and of *Resources* Other than *Reserves* –** Disclosure of *reserves* or of *resources* other than *reserves* must apply the terminology and categories set out in the *COGE Handbook* and must relate to the most specific category of *reserves* or of *resources* other than *reserves* in which the *reserves* or *resources* other than *reserves* can be classified.*.*

8. Section 5.9 of National Instrument 51-101 is amended by

(a) in the title, adding "**Other than *Reserves***" ***after*** "***Resources*****",**

(b) in the preamble to subsection (2), adding "other than reserves" after "resources",

(c) replacing paragraph (2)(b) with the following

(b) relate to the most specific category of *resources* other than *reserves* as required by section 5.3;*,*

(d) adding the following after paragraph (2)(b)

(b.1) have been prepared or audited in accordance with the *COGE Handbook;* and*.*

9. Section 5.10 of National Instrument 51-101 is amended by replacing "5.2, 5.3 and 5.9" ***wherever it occurs with*** "5.2, 5.3, 5.9 and 5.16"*.*

10. National Instrument 51-101 is amended by adding the following after section 5.15

5.16 **Prohibition Against Addition Across *Resource* Categories**

(1) A *reporting issuer* must not disclose a summation of any combination of an estimate of quantity or value of any two or more of the following:

(a) *reserves*;

(b) *contingent resources*;

(c) *prospective resources*;

(d) the unrecoverable portion of *discovered petroleum initially-in-place*;

(e) the unrecoverable portion of *undiscovered petroleum initially-in-place*;

(f) *discovered petroleum initially-in-place*; and

(g) *undiscovered petroleum initially-in-place*.

(2) Notwithstanding subsection (1), a *reporting issuer* may disclose an estimate of *total petroleum initially-in-place*, *discovered petroleum initially-in-place* and *undiscovered petroleum initially-in-place* if:

(a) the estimate of quantity or value of all subcategories are also disclosed, including the unrecoverable portion(s); and

(b) there is a cautionary statement that is proximate to the estimate, in bold font, to the effect that:

"The [*total petroleum initially-in-place*, *discovered petroleum initially-in-place* or *undiscovered petroleum initially-in-place*,] includes unrecoverable volumes and is not an estimate of the [value or volume] of the substances that will ultimately be recovered."***.***

5.17 **Disclosure of High- and Low-Case Estimates of *Reserves* and *Resources* other than *Reserves***

(1) If a *reporting issuer* discloses an estimate of *proved* + *probable* + *possible reserves*, the *reporting issuer* must also disclose the corresponding estimates of *proved* and *proved* + *probable reserves*.

(2) If a *reporting issuer* discloses a high-case estimate, the *reporting issuer* must also disclose the corresponding low- and best-case estimates.**.**

11. Subsection 8.2(2) of National Instrument 51-101 is amended by replacing "in accordance with" with "under".

12. Section 9.2 of National Instrument 51-101 is repealed.

13. Form 51-101F1 Statement of Reserves Data and Other Oil and Gas Information is amended by this instrument.

14. The General Instructions of Form 51-101F1 are amended as follows

(a) Instruction (3) is replaced by

(3) The numbering, headings and ordering of items included in this ***Form 51-101F1*** *are guidelines only. Information may be provided in tables.****,***

(b) Instruction (6) is followed by

(7) If a ***reporting issuer*** *discloses financial information in a currency other than the Canadian dollar, clearly, and as frequently as is appropriate to avoid confusing or misleading readers, disclose the currency in which the financial information is disclosed.*

(8) Reporting Issuers should refer to the ***COGE Handbook*** *for the proper reporting of units of measurement.* ***Reporting issuers*** *should not, without compelling reason, switch between imperial units of measure (such as barrels) and Système International (SI) units of measurement (such as tonnes) within or between disclosure documents.***.**

15. ***Instruction (1) of Item 1.1 of Form 51-101F1 is amended by deleting "*****It is the date of the balance sheet for the** reporting issuer's **most recent financial year (for example, "as at December 31, 20xx") and the ending date of the** reporting issuer's **most recent annual statement of income (for example, "for the year ended December 31, 20xx").***"*.

16. Item 2.2 of Form 51-101F1 is replaced with

Item 2.2 Supplemental Disclosure of *Reserves Data*

The *reporting issuer* may supplement its disclosure of *reserves data* under Item 2.1 by also disclosing the components of Item 2.1, using prices and costs as determined in a manner consistent with the relevant *US oil and gas disclosure requirements*.**.**

17. Items 2.3 and 2.4 of Form 51-101F1 are amended by replacing "minority interest" wherever it occurs with "non-controlling interest".

18. Instruction (3) of Item 2.4 of Form 51-101F1 is repealed.

19. Item 3.1 of Form 51-101F1 is amended by

(a) in the title, deleting "Constant Prices Used in"***, and***

(b) replacing "operates, as at the last day of the *reporting issuer's* most recent financial year" ***with*** "operates as determined in a manner consistent with the relevant *US oil and gas disclosure requirements*"***.***

20. Instruction (2) of Item 3.2 of Form 51-101F1 is amended by deleting "term "***constant prices and costs***" and the" ***and replacing*** "include" ***with*** "includes"***.***

21. Item 5.2 of Form 51-101F1 is amended by

(a) in the title, adding "**Affecting *Reserves Data***" after "**Uncertainties**"***,***

(b) replacing "important" with "significant", and

(c) in the Instruction, deleting ", *the need to build a major pipeline or other major facility before* ***production*** *of* ***reserves*** *can begin*,"***.***

22. Form 51-101F1 is amended by adding the following after Section 2 of Item 6.2

INSTRUCTION

If a ***reporting issuer*** *holds interests in different formations under the same surface area pursuant to separate leases, disclose the method of calculating the* ***gross*** *and* ***net*** *area. For example, if the* ***reporting issuer*** *has included the area of each of its leases in its calculation of* ***net*** *area despite the fact that certain leases will pertain to the same surface area, disclose that fact. A general description of the method of calculating the area will suffice.*

Item 6.2.1 Significant Factors or Uncertainties Relevant to *Properties* With No Attributed *Reserves*

1. Identify and discuss significant economic factors or significant uncertainties that affect the anticipated development or production activities on *properties* with no attributed *reserves.*

2. Section 1 does not apply if the information is disclosed in the *reporting issuer's* financial statements for the financial year ended on the *effective date*.

INSTRUCTION

Examples of information that could warrant disclosure under this Item 6.2.1 include unusually high expected ***development costs*** *or* ***operating costs*** *or the need to build a major pipeline or other major facility before* ***production*** *can begin.**.***

23. Section 2 of Item 6.3 of Form 51-101F1 is replaced with

2. Section 1 does not apply to agreements specifically disclosed by the *reporting issuer* in its financial statements for the financial year ended on the *effective date**.***

24. Paragraph 1(b) of Item 6.7 of Form 51-101F1 is amended by replacing "gas wells and service wells" with "gas wells, service wells and stratigraphic test wells".

25. Paragraph 1(a) of Item 6.9 of Form 51-101F1 is amended by adding "gross" between "average" and "daily" and by deleting ", before deduction of royalties".

26. Form 51-101F2 Report on Reserves Data by Independent Qualified Reserves Evaluator or Auditor is amended by this instrument.

27. Item 5 of Form 51-101F2 is amended by adding ", consistently applied" after "in accordance with the COGE Handbook".

28. Item 7 of Form 51-101F2 is amended by deleting "However, any variations should be consistent with the fact that reserves are categorized according to the probability of their recovery."***.***

29. Form 51-101F3 Report of Management and Directors on Oil and Gas Disclosure is amended by this instrument.

30. Form 51-101F3 is amended by

(a) ***deleting*** "However, any variations should be consistent with the fact that reserves are categorized according to the probability of their recovery."***, and***

(b) ***replacing*** "a senior officer" ***with*** "an executive officer"***.***

31. National Instrument 51-101 is amended by adding the following Form

FORM 51-101F4

NOTICE OF
FILING OF *51-101F1* INFORMATION

This is the form referred to in section 2.2 of National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities* ("NI 51-101").

On [date of SEDAR Filing], [name of reporting issuer] filed its reports under section 2.1 of NI 51-101, which can be found [describe where a copy of the filed information can be found for viewing by electronic means].

32. This instrument comes into force on January 1, 2011.

AMENDMENTS TO
COMPANION POLICY 51-101CP *STANDARDS OF DISCLOSURE FOR OIL AND GAS ACTIVITIES*

1. Companion Policy 51-101CP Standards of Disclosure for Oil and Gas Activities is amended.

2. Section 1.2 is amended by replacing "including disclosure of reserves and resources" ***with*** "including disclosure of reserves and of resources other than reserves".

3. Section 1.4 is amended by deleting "This concept of materiality is consistent with the concept of materiality applied in connection with financial reporting pursuant to the CICA Handbook.".

4. Section 2.3 is amended by replacing "The report of management and directors in Form 51-101F3 may be combined with management's report on financial statements, if any, in respect of the same financial year." ***with the following***

A reporting issuer may supplement the annual disclosure required under NI 51-101 with additional information corresponding to that prescribed in Form 51-101F1, Form 51-101F2 and Form 51-101F3, but as at dates, or for periods, subsequent to those for which annual disclosure is required. However, to avoid confusion, such supplementary disclosure should be clearly identified as being interim disclosure and distinguished from the annual disclosure (for example, if appropriate, by reference to a particular interim period). Supplementary interim disclosure does not satisfy the annual disclosure requirements of section 2.1 of NI 51-101..

5. Subsection 2.4(2) is amended by replacing "A reporting issuer that elects to follow this approach should file its annual information form in accordance with the usual requirements of securities legislation, and at the same time on SEDAR in the category for NI 51-101 oil and gas disclosure, a notification that the information required under section 2.1 of NI 51-101 is included in the reporting issuer's filed annual information form. More specifically, the notification should be filed under SEDAR Filing Type: "Oil and Gas Annual Disclosure (NI 51-101)" and Filing Subtype/Document Type: "Oil and Gas Annual Disclosure Filing (Forms 51-101F1, F2 & F3)". Alternatively, the notification could be a copy of the news release mandated by section 2.2 of NI 51-101. If this is the case, the news release should be filed under SEDAR Filing Type: "Oil and Gas Annual Disclosure (NI 51-101)" and Filing Subtype/Document Type: "News Release (section 2.2 of NI 51-101)"." **with** "However, a reporting issuer that elects to follow this approach continues to be subject to the requirement to file, at the same time and on SEDAR, in the appropriate SEDAR category, the notice in accordance with Form 51-101F4 (see section 2.2 of NI 51-101).".

6. Section 2.7 is amended by

(a) replacing subsection (4), with the following

(4) Supplemental Disclosure of *Future Net Revenue*- In addition to requiring the disclosure of *future net revenue* using *forecast prices and costs, Form 51-101 F1* gives *reporting issuers* the option of disclosing *future net revenue* based on prices and costs determined in accordance with the relevant *US oil and gas disclosure requirements*. In general, these prices and costs are assumed not to change, but rather to remain constant, throughout the life of a *property*, except to the extent of certain fixed or presently determinable future prices or costs to which the *reporting issuer* is legally bound by a contractual or other obligation to supply a physical product (including those for an extension period of a contract that is likely to be extended).***,***

(b) repealing subsection (5), and

(c) in subsection (7), deleting "Like a "subsequent event" note in a financial statement, the issuer should discuss this type of information even if it pertains to a period subsequent to the *effective date.*"***.***

7. Subsection 2.8(2) is amended by replacing "*Form 51-101F2* (and *Form 51-101F3*) contains a statement that variations between *reserves data* and actual results may be material but that any variations should be consistent with the fact that *reserves* are categorized according to the probability of their recovery." ***with*** "The report prescribed by *Form 51-101F2* contains statements to the effect that variations between *reserves data* and actual results may be material but *reserves* have been determined in accordance with the *COGE Handbook*, consistently applied." ***and replacing*** "Any variations arising due to technical factors should be consistent" ***with*** "Any variations arising due to technical factors must be consistent***".***

8. Subsection 5.2(5) is replaced by the following

(5) Availability of Funding – In assigning *reserves* to an undeveloped *property*, the *reporting issuer* is not required to have the funding available to develop the *reserves*, since they may be developed by means other

than the expenditure of the *reporting issuer's* funds (for example by a farm-out or sale). *Reserves* must be estimated assuming that development of the *properties* will occur without regard to the likely availability of funding required for that *property*. The *reporting issuer's* evaluator is not required to consider whether the *reporting issuer* will have the capital necessary to develop the *reserves*. (See section 7 of *COGE Handbook* and subparagraph 5.2(a)(iv) of *NI 51-101*.)

However, item 5.3 of *Form 51-101F1* requires a *reporting issuer* to discuss its expectations as to the sources and costs of funding for estimated future *development costs* as a part of its annual disclosure. If the issuer expects that the costs of funding would make development of a *property* unlikely, then even if *reserves* were assigned, it must also discuss that expectation and its plans for the *property*.

Disclosure of an estimate of *reserves*, *contingent resources* or *prospective resources* in respect of which timely availability of funding for development is not assured may be misleading if that disclosure is not accompanied, proximate to it, by a discussion (or a cross-reference to such a discussion in other disclosure filed by the *reporting issuer* on *SEDAR*) of the funding uncertainties and their anticipated effect on the timing or completion of such development (or on any particular stage of multi-stage development such as often observed in oilsands developments)*.*.

9. Section 5.3 is replaced with the following

5.3 Classification of *Reserves* and of *Resources* Other than *Reserves*

Section 5.3 of *NI 51-101* requires that any disclosure of *reserves* or of *resources* other than *reserves* must apply the categories and terminology set out in the *COGE Handbook*. The definitions of the various *resource* categories derived from the *COGE Handbook* are provided in the NI 51-101 Glossary. In addition, section 5.3 of *NI 51-101* requires that disclosure of *reserves* and of *resources* other than *reserves* must relate to the most specific category of *reserves* or of *resources* other than *reserves* in which the *reserves* or *resources* other than *reserves* can be classified. For instance, there are several subcategories of *discovered resources* including *reserves*, *contingent resources* and *discovered unrecoverable resources*. *Reporting issuers* must classify *discovered resources* into one of the subcategories of *discovered resources*.

In addition, *reserves* can be estimated using three subcategories, namely proved, probable or *possible reserves*, according to the probability that such quantities will actually be produced. As described in the *COGE Handbook* proved, probable and *possible reserves* represent conservative, realistic and optimistic estimates of *reserves*, respectively. Therefore any disclosure of *reserves* must be broken down into one of the three subcategories of *reserves*, namely proved, *probable* or *possible reserves*. For further guidance on disclosure of reserves and of *resources* other than *reserves* please see sections 5.2 and 5.5 of this Companion Policy*.*.

10. Section 5.5 is amended by, in the title, adding "Other than Reserves" after "Resources".

11. Subsection 5.5(1) is replaced with the following

(1) Disclosure of *Resources* Generally -The disclosure of *resources*, excluding proved and *probable reserves*, is not mandatory under *NI 51-101*, except that a *reporting issuer* must make disclosure concerning its unproved *properties* and *resource* activities in its annual filings as described in Part 6 of *Form 51-101F1*. Additional disclosure beyond this is voluntary and must comply with section 5.9 of *NI 51-101* if *anticipated results* from the *resources* other than *reserves* are voluntarily disclosed.

For prospectuses, the general securities disclosure obligation of "full, true and plain" disclosure of all *material* facts would require the disclosure of *reserves* or of *resources* other than *reserves* that are *material* to the issuer, even if the disclosure is not mandated by *NI 51-101*. Any such disclosure should be based on supportable analysis.

Disclosure of *resources* other than *reserves* may involve the use of statistical measures that may be unfamiliar to a user. It is the responsibility of the evaluator and the *reporting issuer* to be familiar with these measures and for the *reporting issuer* to be able to explain them to investors. Information on statistical measures may be found in the *COGE Handbook* (section 9 of volume 1 and section 4 of volume 2) and in the extensive technical literature[4] on the subject*.*

12. Subsection 5.5(2) is amended by replacing "A *reporting issuer* cannot aggregate *properties* across different categories of *resources* if a *resource* estimate referenced in subsection 5.9(2) is disclosed." ***with*** "A *reporting issuer*

must not disclose an estimate reflecting a summation of different categories of *resources* (see section 5.16 of *NI 51-101*).”***.***

13. Paragraph 5.5(3)(b) is replaced by the following

(b) Definitions of Resource Categories

For the purpose of complying with the requirement of defining the *resource* category, the *reporting issuer* must ensure that disclosure of the definition is consistent with the *resource* categories and terminology set out in the *COGE Handbook*, pursuant to section 5.3 of *NI 51-101*. Section 5 of volume 1 of the *COGE Handbook* and the NI 51-101 Glossary identify and define the various *resource* categories.

A *reporting issuer* may wish to report *reserves* or *resources* other than *reserves* of *oil* or *gas* as “in-place volumes”. By definition, *reserves* of any type, *contingent resources* and *prospective resources* are estimates of volumes that are recoverable or potentially recoverable and, as such, cannot be described as being “in-place”. Terms such as “potential *reserves*”, “undiscovered *reserves*”, “*reserves* in place”, “in-place *reserves*” or similar terms must not be used because they are incorrect and misleading. The disclosure of *reserves* or of *resources* other than *reserves* must be consistent with the terminology and categories set out in the *COGE Handbook*, pursuant to section 5.3 of *NI 51-101*.

The *reporting issuer* can report other categories of *resources*, such as *discovered petroleum initially-in-place*, *undiscovered petroleum initially-in-place* and *total petroleum initially-in-place*. However, the additional disclosure required by section 5.16 of *NI 51-101* must also be included.**.**

14. These amendments become effective on January 1, 2011.

PROPOSED AMENDING INSTRUMENT TO
NATIONAL INSTRUMENT 41-101 *GENERAL PROSPECTUS REQUIREMENTS*

1. National Instrument 41-101 General Prospectus Requirements is amended by this instrument.

2. Item 5.5 of Form 41-101F1 Information Required in a Prospectus is replaced with the following

5.5(1) If the issuer is engaged in oil and gas activities as defined in NI 51-101 and any of the oil and gas information is material as contemplated under NI 51-101 in respect of the issuer, disclose that information in accordance with Form 51-101F1

(a) as at the end of, and for, the most recent financial year for which the prospectus includes an audited balance sheet of the issuer,

(b) in the absence of a completed financial year referred to in paragraph (a), as at the most recent date for which the prospectus includes an audited balance sheet of the issuer, and for the most recent financial period for which the prospectus includes an audited income statement of the issuer, or

(c) if the issuer was not engaged in oil and gas activities at the date set out in paragraphs (a) or (b), as of a date subsequent to the date the issuer first engaged in oil and gas activities as defined in NI 51-101 and prior to the date of the preliminary prospectus.

(2) Include with the disclosure under subsection (1) a report in the form of Form 51-101F2, on the reserves data included in the disclosure required under subsection (1).

(3) Include with the disclosure under subsection (1) a report in the form of Form 51-101F3 that refers to the information disclosed under subsection (1).

(4) To the extent not reflected in the information disclosed in response to subsection (1), disclose the information contemplated by Part 6 of NI 51-101 in respect of material changes that occurred after the applicable balance sheet referred to in subsection (1)**.**.

This instrument comes into force on January 1, 2011.

NATIONAL INSTRUMENT 51-101
STANDARDS OF DISCLOSURE
FOR OIL AND GAS ACTIVITIES

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NATIONAL INSTRUMENT 51-101
STANDARDS OF DISCLOSURE
FOR OIL AND GAS ACTIVITIES

PART 1 APPLICATION AND TERMINOLOGY[1]

1.1 Definitions[2] – In this *Instrument*:

(a) "*annual information form*" has the same meaning as "AIF" in *NI 51-102*;

(a.1) "*analogous information*" means information about an area outside the area in which the *reporting issuer* has an interest or intends to acquire an interest, which is referenced by the *reporting issuer* for the purpose of drawing a comparison or conclusion to an area in which the *reporting issuer* has an interest or intends to acquire an interest, which comparison or conclusion is reasonable, and includes:

(i) historical information concerning *reserves*;

(ii) estimates of the volume or value of *reserves*;

(iii) historical information concerning *resources*;

(iv) estimates of the volume or value of *resources*;

(v) historical *production* amounts;

(vi) *production* estimates; or

(vii) information concerning a *field*, well, basin or *reservoir*;

(a.2) "*anticipated results*" means information that may, in the opinion of a reasonable person, indicate the potential value or quantities of *resources* in respect of the *reporting issuer's resources* or a portion of its *resources* and includes:

(i) estimates of volume;

(ii) estimates of value;

(iii) areal extent;

(iv) pay thickness;

(v) flow rates; or

(vi) hydrocarbon content;

(b) "*BOEs*" means barrels of *oil* equivalent;

(c) ~~"*CICA*" means The Canadian Institute of Chartered Accountants;~~**repealed;**

(d) ~~"*CICA Accounting Guideline 16*" means Accounting Guideline AcG-16 "Oil and gas accounting – full cost" included in the *CICA Handbook*, as amended from time to time;~~**repealed;**

(e) ~~"*CICA Handbook*" means the Handbook of the *CICA*, as amended from time to time;~~**repealed;**

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1 For the convenience of readers, CSA Staff Notice 51-324 *Glossary to NI 51-101 Standards of Disclosure for Oil and Gas Activities* sets out the meanings of terms, including those defined in this Part, that are printed in italics in this *Instrument, Form 51-101F1, Form 51-101F2, Form 51-101F3* or Companion Policy 51-101CP.

2 A national definition instrument has been adopted as *NI 14-101*. It contains definitions of certain terms used in more than one national or multilateral instrument. *NI 14-101* provides that a term used in a national or multilateral instrument and defined in the statute relating to securities of the applicable *jurisdiction*, the definition of which is not restricted to a specific portion of the statute, will have the meaning given to it in that statute unless the context otherwise requires. *NI 14-101* also provides that a provision or a reference within a provision of a national or multilateral instrument that specifically refers by name to a jurisdiction other than the local jurisdiction shall not have any effect in the local jurisdiction, unless otherwise stated in that national or multilateral instrument.

(f) "*COGE Handbook*" means the "Canadian Oil and Gas Evaluation Handbook" prepared jointly by The Society of Petroleum Evaluation Engineers (Calgary Chapter) and the Canadian Institute of Mining, Metallurgy & Petroleum (Petroleum Society), as amended from time to time;

(g) **repealed**;

(h) "*effective date*", in respect of information, means the date as at which, or for the period ended on which, the information is provided;

(h.1) "*executive officer*" means, for a *reporting issuer*, an individual who is

(i) a chair, vice-chair or president;

(ii) a vice-president in charge of a principal business unit, division or function including sales, finance or production; or

(iii) performing a policy-making function in respect of the *issuer*;

(i) ~~"*FAS 19*" means United States Financial Accounting Standards Board Statement of Financial Accounting Standards No. 19 "Financial Accounting and Reporting by Oil and Gas Producing Companies", as amended from time to time;~~**repealed;**

(j) "*forecast prices and costs*" means future prices and costs that are:

(i) generally accepted as being a reasonable outlook of the future;

(ii) if, and only to the extent that, there are fixed or presently determinable future prices or costs to which the *reporting issuer* is legally bound by a contractual or other obligation to supply a physical product, including those for an extension period of a contract that is likely to be extended, those prices or costs rather than the prices and costs referred to in subparagraph (i);

(k) "*foreign geographic area*" means a geographic area outside North America within one country or including all or portions of a number of countries;

(l) "*Form 51-101F1*" means Form 51-101F1 *Statement of Reserves Data and Other Oil and Gas Information*;

(m) "*Form 51-101F2*" means Form 51-101F2 *Report on Reserves Data by Independent Qualified Reserves Evaluator or Auditor;*

(n) "*Form 51-101F3*" means Form 51-101F3 *Report of Management and Directors on Oil and Gas Disclosure*;

(n.1) "*Form 51-101F4*" means Form 51-101F4 *Notice of Filing of 51-101F1 Information*;

(o) "*independent*", in respect of the relationship between a *reporting issuer* and a person or company, means a relationship between the *reporting issuer* and that person or company in which there is no circumstance that could, in the opinion of a reasonable person aware of all relevant facts, interfere with that person's or company's exercise of judgment regarding the preparation of information which is used by the *reporting issuer*;

(p) "*McfGEs*" means thousand cubic feet of *gas* equivalent;

(q) "*NI 14-101*" means National Instrument 14-101 *Definitions*;

(r) **repealed**;

(r.1) "*NI 51-102*" means National Instrument 51-102 *Continuous Disclosure Obligations*;

(s) "*oil and gas activities*"

(i) include:

(A) the search for *crude oil* or *natural gas* in their natural states and original locations;

(B) the acquisition of property rights or *properties* for the purpose of further exploring for or removing *oil* or *gas* from ~~*reservoirs on*~~**the subsurface of** those *properties*;

(C) the construction, drilling and *production* activities necessary to retrieve *oil* and *gas* from their natural ~~*reservoirs*~~**subsurface locations,** and the acquisition, construction, installation and maintenance of *field* gathering and storage systems including lifting the *oil* and *gas* to the surface and gathering, treating, *field* processing and *field* storage; and

(D) the extraction of hydrocarbons from oil sands, shale, coal or other non-conventional sources and activities similar to those referred to in clauses (A), (B) and (C) undertaken with a view to such extraction; but

(ii) do not include:

(A) transporting, refining or marketing *oil* or *gas*;

(B) activities relating to the extraction of natural resources other than *oil* and *gas* and their by-products; or

(C) the extraction of geothermal steam or of hydrocarbons as a by-product of the extraction of geothermal steam or associated geothermal resources;

(t) "*preparation date*", in respect of written disclosure, means the most recent date to which information relating to the period ending on the *effective date* was considered in the preparation of the disclosure;

(u) "*production group*" means one of the following together, in each case, with associated by-products:

(i) light and medium *crude oil* (combined);

(ii) *heavy oil*;

(iii) *associated gas* and *non-associated gas* (combined); and

(iv) *bitumen*, *synthetic oil* or other products from non-conventional *oil and gas activities*.

(v) "*product type*" means one of the following:

(i) in respect of conventional *oil and gas activities*:

(A) light and medium *crude oil* (combined);

(B) *heavy oil*;

(C) *natural gas* excluding *natural gas liquids*; or

(D) *natural gas liquids*; and

(ii) in respect of non-conventional *oil and gas activities*:

(A) *synthetic oil*;

(B) *bitumen*;

(C) coal bed methane;

(D) hydrates;

(E) shale oil; or

(F) shale gas;

(w) "*professional organization*" means a self-regulatory organization of engineers, geologists, other geoscientists or other professionals whose professional practice includes *reserves evaluations* or *reserves audits*, that:

(i) admits members primarily on the basis of their educational qualifications;

(ii) requires its members to comply with the professional standards of competence and ethics prescribed by the organization that are relevant to the estimation, *evaluation*, *review* or *audit* of *reserves data*;

(iii) has disciplinary powers, including the power to suspend or expel a member; and

(iv) is either:

(A) given authority or recognition by statute in a Canadian jurisdiction; or

(B) accepted for this purpose by the *securities regulatory authority* or the *regulator*;

(x) "*qualified reserves auditor*" means an individual who:

(i) in respect of particular *reserves data, resources* or related information, possesses professional qualifications and experience appropriate for the estimation, *evaluation*, *review* and *audit* of the *reserves data, resources* and related information; and

(ii) is a member in good standing of a *professional organization*;

(y) "*qualified reserves evaluator*" means an individual who:

(i) in respect of particular *reserves data, resources* or related information, possesses professional qualifications and experience appropriate for the estimation, *evaluation* and *review* of the *reserves data, resources* and related information; and

(ii) is a member in good standing of a *professional organization*;

(z) "*qualified reserves evaluator or auditor*" means a *qualified reserves auditor* or a *qualified reserves evaluator*;

(z.1) "*reserves"* means *proved*, *probable* or *possible reserves*;

(aa) "*reserves data"* means an estimate of *proved reserves* and *probable reserves* and related *future net revenue*, estimated using *forecast prices and costs;* ~~and~~

(bb) "*supporting filing*" means a document filed by a *reporting issuer* with a *securities regulatory authority*~~.~~**; and**

(cc) "*US oil and gas disclosure requirements*" means the disclosure requirements relating to *reserves* and *oil and gas activities* under *US federal securities law* and include disclosure requirements or guidelines imposed or issued by the *SEC*, as amended from time to time.

1.2 *COGE Handbook* Definitions

(1) Terms used in this *Instrument* but not defined in this *Instrument*, *NI 14-101* or the securities statute in the *jurisdiction*, and defined or interpreted in the *COGE Handbook*, have the meaning or interpretation ascribed to those terms in the *COGE Handbook*.

(2) In the event of a conflict or inconsistency between the definition of a term in this *Instrument*, *NI 14-101* or the securities statute in the *jurisdiction* and the meaning ascribed to the term in the *COGE Handbook*, the definition in this *Instrument, NI 14-101* or the securities statute in the *jurisdiction*, as the case may be, applies.

1.3 Applies to *Reporting Issuers* Only – This *Instrument* applies only to *reporting issuers* engaged, directly or indirectly, in *oil and gas activities*.

1.4 *Materiality* Standard

(1) This *Instrument* applies only in respect of information that is *material* in respect of a *reporting issuer*.

(2) For the purpose of subsection (1), information is *material* in respect of a *reporting issuer* if it would be likely to influence a decision by a reasonable investor to buy, hold or sell a security of the *reporting issuer*.

PART 2 ANNUAL FILING REQUIREMENTS

2.1 ***Reserves Data*** **and Other** ***Oil*** **and** ***Gas*** **Information –** A *reporting issuer* must, not later than the date on which it is required by *securities legislation* to file audited financial statements for its most recent financial year, file with the *securities regulatory authority* the following:

1. **Statement of** ***Reserves Data*** **and Other Information** – a statement of the *reserves data* and other information specified in *Form 51-101F1*, as at the last day of the *reporting issuer's* most recent financial year and for the financial year then ended;

2. **Report of** ***Independent Qualified Reserves Evaluator or Auditor*** – a report in accordance with *Form 51-101F2* that is:

   (a) included in, or filed concurrently with, the document filed under item 1; and

   (b) executed by one or more *qualified reserves evaluators or auditors* each of whom is *independent* of the *reporting issuer*, who must in the aggregate have:

      (i) *evaluated* or audited at least 75 percent of the *future net revenue* (calculated using a discount rate of 10 percent) attributable to *proved* plus *probable reserves*, as reported in the statement filed or to be filed under item 1; and

      (ii) *reviewed* the balance of such *future net revenue*; and

3. **Report of Management and Directors** – a report in accordance with *Form 51-101F3* that

   (a) refers to the information filed or to be filed under items 1 and 2;

   (b) confirms the responsibility of management of the *reporting issuer* for the content and filing of the statement referred to in item 1 and for the filing of the report referred to in item 2;

   (c) confirms the role of the board of directors in connection with the information referred to in paragraph (b);

   (d) is contained in, or filed concurrently with, the statement filed under item 1; and

   (e) is ~~executed by two senior officers and two~~**signed**

      (i) by

         (A) the chief *executive officer*; and

         (B) person other than the chief *executive officer* that is an *executive officer* of the *reporting issuer*; and

      (ii) on behalf of the board of directors, by

         (A) any two directors of the *reporting issuer*, other than the persons referred to in subparagraph (i) above, or

         (B) if the issuer has only three directors, two of whom are the persons referred to in subparagraph (i), all of the directors of the *reporting issuer*.

2.2 ~~**News Release to Announce**~~**Notice of Filing ~~of~~ of *51-101F1* Information –** A *reporting issuer* must, concurrently with filing a statement and reports under section 2.1, ~~disseminate a news release announcing that filing and indicating where a copy of the filed information can be found for viewing by electronic means.~~ **file with the *securities regulatory authority* a notice of filing of *51-101F1* information in accordance with *Form 51-101F4*.**

2.3 **Inclusion in** ***Annual Information Form*** – The requirements of section 2.1 may be satisfied by including the information specified in section 2.1 in an *annual information form* filed within the time specified in section 2.1.

2.4 *Reservation* in Report of *Qualified Reserves Evaluator or Auditor*

(1) If a *qualified reserves evaluator or auditor* cannot report on *reserves data* without *reservation*, the *reporting issuer* must ensure that the report of the *qualified reserves evaluator or auditor* prepared for the purpose of item 2 of section 2.1 sets out the cause of the *reservation* and the effect, if known to the *qualified reserves evaluator or auditor*, on the *reserves data*.

(2) A report containing a *reservation*, the cause of which can be removed by the *reporting issuer*, does not satisfy the requirements of item 2 of section 2.1.

2.5 *Reporting Issuer* Not a Corporation – if the *reporting issuer* is not a corporation, a report in accordance with *Form 51-101F3* must be signed by the persons who, in relation to the *reporting issuer*, are in a similar position or perform similar functions to the persons required to sign under item 3 of section 2.1.

PART 3 RESPONSIBILITIES OF *REPORTING ISSUERS* AND DIRECTORS

3.1 Interpretation – A reference to a board of directors in this Part means, for a *reporting issuer* that does not have a board of directors, those individuals whose authority and duties in respect of that *reporting issuer* are similar to those of a board of directors.

3.2 *Reporting Issuer* to Appoint *Independent Qualified Reserves Evaluator or Auditor* – A *reporting issuer* must appoint one or more *qualified reserves evaluators or auditors*, each of whom is *independent* of the *reporting issuer*, to report to the board of directors of the *reporting issuer* on its *reserves data*.

3.3 *Reporting Issuer* to Make Information Available to *Qualified Reserves Evaluator or Auditor* – A *reporting issuer* must make available to the *qualified reserves evaluators or auditors* that it appoints under section 3.2 all information reasonably necessary to enable the *qualified reserves evaluators or auditors* to provide a report that will satisfy the applicable requirements of this *Instrument*.

3.4 Certain Responsibilities of Board of Directors – The board of directors of a *reporting issuer* must

(a) review, with reasonable frequency, the *reporting issuer's* procedures relating to the disclosure of information with respect to *oil and gas activities*, including its procedures for complying with the disclosure requirements and restrictions of this *Instrument*;

(b) review each appointment under section 3.2 and, in the case of any proposed change in such appointment, determine the reasons for the proposal and whether there have been disputes between the appointed *qualified reserves evaluator or auditor* and management of the *reporting issuer*;

(c) review, with reasonable frequency, the *reporting issuer's* procedures for providing information to the *qualified reserves evaluators or auditors* who report on *reserves data* for the purposes of this *Instrument*;

(d) before approving the filing of *reserves data* and the report of the *qualified reserves evaluators or auditors* thereon referred to in section 2.1, meet with management and each *qualified reserves evaluator or auditor* appointed under section 3.2, to

(i) determine whether any restrictions affect the ability of the *qualified reserves evaluator or auditor* to report on *reserves data* without *reservation*; and

(ii) review the *reserves data* and the report of the *qualified reserves evaluator or auditor* thereon; and

(e) review and approve

(i) the content and filing, under section 2.1, of the statement referred to in item 1 of section 2.1;

(ii) the filing, under section 2.1, of the report referred to in item 2 of section 2.1; and

(iii) the content and filing, under section 2.1, of the report referred to in item 3 of section 2.1.

3.5 *Reserves* Committee

(1) The board of directors of a *reporting issuer* may, subject to subsection (2), delegate the responsibilities set out in section 3.4 to a committee of the board of directors, provided that a majority of the members of the committee

(a) are individuals who are not and have not been, during the preceding 12 months:

(i) an officer or employee of the *reporting issuer* or of an affiliate of the *reporting issuer*;

(ii) a person who beneficially owns 10 percent or more of the outstanding voting securities of the *reporting issuer*; or

(iii) a relative of a person referred to in subparagraph (a)(i) or (ii), residing in the same home as that person; and

(b) are free from any business or other relationship which could reasonably be seen to interfere with the exercise of their independent judgement.

(2) Despite subsection (1), a board of directors of a *reporting issuer* must not delegate its responsibility under paragraph 3.4(e) to approve the content or the filing of information.

(3) A board of directors that has delegated responsibility to a committee pursuant to subsection (1) must solicit the recommendation of that committee as to whether to approve the content and filing of information for the purpose of paragraph 3.4(e).

3.6 repealed

PART 4 MEASUREMENT

4.1 Accounting Methods – ~~A *reporting issuer* engaged in *oil and gas activities* that discloses financial statements prepared in accordance with *Canadian GAAP* must use~~**repealed**

~~(a) the full cost method of accounting, applying *CICA Accounting Guideline 16*; or~~

~~(b) the successful efforts method of accounting, applying *FAS 19*.~~

4.2 Consistency in Dates – The date or period with respect to which the effects of an event or transaction are recorded in a *reporting issuer's* annual financial statements must be the same as the date or period with respect to which they are first reflected in the *reporting issuer's* annual *reserves data* disclosure under Part 2.

PART 5 REQUIREMENTS APPLICABLE TO ALL DISCLOSURE

5.1 Application of Part 5 – This Part applies to disclosure made by or on behalf of a *reporting issuer*

(a) to the public;

(b) in any document filed with a *securities regulatory authority*; or

(c) in other circumstances in which, at the time of making the disclosure, the *reporting issuer* knows, or ought reasonably to know, that the disclosure is or will become available to the public.

5.2 Disclosure of *Reserves* and Other Information – If a *reporting issuer* makes disclosure of *reserves* or other information of a type that is specified in *Form 51-101F1*, the *reporting issuer* must ensure that the disclosure satisfies the following requirements:

(a) estimates of *reserves* or *future net revenue* must

(i) disclose the *effective date* of the estimate;

(ii) have been prepared or audited by a *qualified reserves evaluator or auditor*;

(iii) have been prepared or audited in accordance with the *COGE Handbook*;

(iv) have been made assuming that development of each *property* in respect of which the estimate is made will occur, without regard to the likely availability to the *reporting issuer* of funding required for that development; and

(v) in the case of estimates of *possible reserves* or related *future net revenue* disclosed in writing, also include a cautionary statement that is proximate to the estimate to the following effect:

"Possible reserves are those additional reserves that are less certain to be recovered than probable reserves. There is a 10% probability that the quantities actually recovered will equal or exceed the sum of proved plus probable plus possible reserves.";

(b) for the purpose of determining whether *reserves* should be attributed to a particular undrilled *property*, reasonably estimated future abandonment and reclamation costs related to the *property* must have been taken into account;

(c) in disclosing aggregate *future net revenue* the disclosure must comply with the requirements for the determination of *future net revenue* specified in *Form 51-101F1*; and

(d) the disclosure must be consistent with the corresponding information, if any, contained in the statement most recently filed by the *reporting issuer* with the *securities regulatory authority* under item 1 of section 2.1, except to the extent that the statement has been supplemented or superseded by a report of a material change[3] filed by the *reporting issuer* with the *securities regulatory authority*.

5.3 Classification of *Reserves* and of *Resources* ~~Classification~~Other than *Reserves* – Disclosure of *reserves* or of *resources* other than *reserves* must apply the ~~*reserves* and *resources*~~ terminology for and categories of *reserves* and of *resources* other than *reserves* set out in the *COGE Handbook* and must relate to the most specific category of *reserves* or of *resources* other than *reserves* in which the *reserves* or *resources* other than *reserves* can be classified.

5.4 *Oil* and *Gas Reserves* and Sales – Disclosure of *reserves* or of sales of *oil, gas* or associated by-products must be made only in respect of *marketable* quantities, reflecting the quantities and prices for the product in the condition (upgraded or not upgraded, processed or unprocessed) in which it is to be, or was, sold.

5.5 *Natural Gas* By-Products – Disclosure concerning *natural gas* by-products (including *natural gas liquids* and sulphur) must be made in respect only of volumes that have been or are to be recovered prior to the point at which *marketable gas* is measured.

5.6 *Future Net Revenue* Not Fair Market Value – Disclosure of an estimate of *future net revenue*, whether calculated without discount or using a discount rate, must include a statement to the effect that the estimated values disclosed do not represent fair market value.

5.7 Consent of *Qualified Reserves Evaluator or Auditor*

(1) A *reporting issuer* must not disclose a report referred to in item 2 of section 2.1 that has been delivered to the board of directors of the *reporting issuer* by a *qualified reserves evaluator or auditor* pursuant to an appointment under section 3.2, or disclose information derived from the report or the identity of the *qualified reserves evaluator or auditor*, without the written consent of that *qualified reserves evaluator or auditor*.

(2) Subsection (1) does not apply to

(a) the filing of that report by a *reporting issuer* under section 2.1;

(b) the use of or reference to that report in another document filed by the *reporting issuer* under section 2.1; or

(c) the identification of the report or of the *qualified reserves evaluator or auditor* in a news release referred to in section 2.2.

5.8 Disclosure of Less Than All *Reserves* – If a *reporting issuer* that has more than one *property* makes written disclosure of any *reserves* attributable to a particular *property*

(a) the disclosure must include a cautionary statement to the effect that

"~~"~~The estimates of reserves and future net revenue for individual properties may not reflect the same confidence level as estimates of reserves and future net revenue for all properties, due to the effects of

3 "Material change" has the meaning ascribed to the term under *securities legislation* of the applicable *jurisdiction*.

aggregation"";; and

(b) the document containing the disclosure of any *reserves* attributable to one *property* must also disclose total *reserves* of the same classification for all *properties* of the *reporting issuer* in the same country (or, if appropriate and not misleading, in the same *foreign geographic area*).

5.9 Disclosure of *Resources* Other than *Reserves*

(1) If a *reporting issuer* discloses *anticipated results* from *resources* which are not currently classified as *reserves*, the *reporting issuer* must also disclose in writing, in the same document or in a *supporting filing*:

(a) the *reporting issuer's* interest in the *resources*;

(b) the location of the *resources*;

(c) the *product types* reasonably expected;

(d) the risks and the level of uncertainty associated with recovery of the *resources*; and

(e) in the case of *unproved property*, if its value is disclosed,

(i) the basis of the calculation of its value; and

(ii) whether the value was prepared by an *independent* party.

(2) If disclosure referred to in subsection (1) includes an estimate of a quantity of *resources* **other than *reserves*** in which the *reporting issuer* has an interest or intends to acquire an interest, or an estimated value attributable to an estimated quantity, the estimate must

(a) have been prepared or audited by a *qualified reserves evaluator or auditor*;

(b) relate to the most specific category of *resources* ~~in which the *resources* can be classified, as set out in the *COGE Handbook*, and must identify what portion of the estimate is attributable to each category; and~~**other than *reserves* as required by section 5.3;**

(b.1) have been prepared or audited in accordance with the *COGE Handbook;* and

(c) be accompanied by the following information:

(i) a definition of the *resources* category used for the estimate;

(ii) the *effective date* of the estimate;

(iii) the significant positive and negative factors relevant to the estimate;

(iv) in respect of *contingent resources*, the specific contingencies which prevent the classification of the *resources* as *reserves*; and

(v) a cautionary statement that is proximate to the estimate to the effect that:

(A) in the case of *discovered resources* or a subcategory of *discovered resources* other than *reserves*:

"There is no certainty that it will be commercially viable to produce any portion of the resources."; or

(B) in the case of *undiscovered resources* or a subcategory of *undiscovered resources*:

"There is no certainty that any portion of the resources will be discovered. If discovered, there is no certainty that it will be commercially viable to produce any portion of the resources."

(3) Paragraphs 5.9(1)(d) and (e) and subparagraphs 5.9(2)(c)(iii) and (iv) do not apply if:

(a) the *reporting issuer* includes in the written disclosure a reference to the title and date of a previously filed document that complies with those requirements; and

(b) the *resources* in the written disclosure, taking into account the specific *properties* and interests reflected in the *resources* estimate or other *anticipated result*, are *materially* the same *resources* addressed in the previously filed document.

5.10 *Analogous Information*

(1) Sections 5.2, ~~5.3~~**5.3, 5.9** and ~~5.9~~**5.16** do not apply to the disclosure of *analogous information* provided that the *reporting issuer* discloses the following:

(a) the source and date of the *analogous information*;

(b) whether the source of the *analogous information* was *independent*;

(c) if the *reporting issuer* is unable to confirm that the *analogous information* was prepared by a *qualified reserves evaluator or auditor* or in accordance with the *COGE Handbook*, a cautionary statement to that effect proximate to the disclosure of the *analogous information*; and

(d) the relevance of the *analogous information* to the *reporting issuer's oil and gas activities.*

(2) For greater certainty, if a *reporting issuer* discloses information that is an *anticipated result*, an estimate of a quantity of *reserves* or *resources*, or an estimate of value attributable to an estimated quantity of *reserves* or *resources* for an area in which it has an interest or intends to acquire an interest, that is based on an extrapolation from *analogous information,* sections 5.2, ~~5.3~~**5.3, 5.9** and ~~5.9~~**5.16** apply to the disclosure of the information.

5.11 Net Asset Value and Net Asset Value per Share – Written disclosure of net asset value or net asset value per share must include a description of the methods used to value assets and liabilities and the number of shares used in the calculation.

5.12 *Reserve* Replacement – Written disclosure concerning *reserve* replacement must include an explanation of the method of calculation applied.

5.13 Netbacks – Written disclosure of a netback must

(a) repealed

(b) reflect netbacks calculated by subtracting royalties and *operating costs* from revenues; and

(c) state the method of calculation.

5.14 *BOEs* and *McfGEs* – If written disclosure includes information expressed in *BOEs*, *McfGEs* or other units of equivalency between *oil* and *gas*

(a) the information must be presented

(i) in the case of *BOEs*, using *BOEs* derived by converting *gas* to *oil* in the ratio of six thousand cubic feet of *gas* to one barrel of *oil* (6 *Mcf*:1 *bbl*);

(ii) in the case of *McfGEs*, using *McfGEs* derived by converting *oil* to *gas* in the ratio of one barrel of *oil* to six thousand cubic feet of *gas* (1 *bbl*:6 *Mcf*); and

(iii) with the conversion ratio stated;

(b) if the information is also presented using *BOEs* or *McfGEs* derived using a conversion ratio other than a ratio specified in paragraph (a), the disclosure must state that other conversion ratio and explain why it has been chosen;

(c) if the information is presented using a unit of equivalency other than *BOEs* or *McfGEs,* the disclosure must identify the unit, state the conversion ratio used and explain why it has been chosen; and

(d) the disclosure must include a cautionary statement to the effect that:

"“BOEs [or “*McfGEs*” or other applicable units of equivalency] may be misleading, particularly if used in isolation. A BOE conversion ratio of 6 *Mcf*: 1 *bbl* [or “An McfGE conversion ratio of 1 *bbl*: 6 *Mcf*”] is based on an energy equivalency conversion method primarily applicable at the burner tip and does not represent a value equivalency at the wellhead”".

5.15 Finding and *Development Costs* – If written disclosure is made of finding and *development costs*:

(a) those costs must be calculated using the following two methods, in each case after eliminating the effects of acquisitions and dispositions:

Method 1: $\frac{a+b+c}{x}$

Method 2: $\frac{a+b+d}{y}$

where a = *exploration costs* incurred in the most recent financial year

b = *development costs* incurred in the most recent financial year

c = the change during the most recent financial year in estimated future *development costs* relating to *proved reserves*

d = the change during the most recent financial year in estimated future *development costs* relating to *proved reserves* and *probable reserves*

x = additions to *proved reserves* during the most recent financial year, expressed in *BOEs* or other unit of equivalency

y = additions to *proved reserves* and *probable reserves* during the most recent financial year, expressed in *BOEs* or other unit of equivalency

(b) the disclosure must include

(i) the results of both methods of calculation under paragraph (a) and a description of those methods;

(ii) if the disclosure also includes a result derived using any other method of calculation, a description of that method and the reason for its use;

(iii) for each result, comparative information for the most recent financial year, the second most recent financial year and the averages for the three most recent financial years;

(iv) a cautionary statement to the effect that:

"“The aggregate of the exploration and development costs incurred in the most recent financial year and the change during that year in estimated future development costs generally will not reflect total finding and development costs related to reserves additions for that year”"; and

(v) the cautionary statement required under paragraph 5.14(d).

5.16 Prohibition Against Addition Across *Resource* Categories

(1) A *reporting issuer* must not disclose a summation of any combination of an estimate of quantity or value of any two or more of the following:

(a) *reserves*;

(b) *contingent resources*;

(c) *prospective resources*;

(d) the unrecoverable portion of *discovered petroleum initially-in-place*;

(e) the unrecoverable portion of *undiscovered petroleum initially-in-place*;

(f) *discovered petroleum initially-in-place*; and

(g) *undiscovered petroleum initially-in-place*.

(2) Notwithstanding subsection (1), a *reporting issuer* may disclose an estimate of *total petroleum initially-in-place*, *discovered petroleum initially-in-place* and *undiscovered petroleum initially-in-place* if:

(a) the estimate of quantity or value of all subcategories are also disclosed, including the unrecoverable portion(s); and

(b) there is a cautionary statement that is proximate to the estimate, in bold font, to the effect that:

"The [*total petroleum initially-in-place*, *discovered petroleum initially-in-place* or *undiscovered petroleum initially-in-place*,] includes unrecoverable volumes and is not an estimate of the [value or volume] of the substances that will ultimately be recovered."

5.17 Disclosure of High- and Low-Case Estimates of *Reserves* and of *Resources* other than *Reserves*

(1) If a *reporting issuer* discloses an estimate of *proved + probable + possible reserves*, the *reporting issuer* must also disclose the corresponding estimates of *proved* and *proved + probable reserves*.

(2) If a *reporting issuer* discloses a high-case estimate, the *reporting issuer* must also disclose the corresponding low- and best-case estimates.

PART 6 MATERIAL CHANGE DISCLOSURE

6.1 Material Change[4] from Information Filed under Part 2

(1) This Part applies in respect of a material change that, had it occurred on or before the *effective date* of information included in the statement most recently filed by a *reporting issuer* under item 1 of section 2.1, would have resulted in a significant change in the information contained in the statement.

(2) In addition to any other requirement of *securities legislation* governing disclosure of a material change, disclosure of a material change referred to in subsection (1) must discuss the *reporting issuer's* reasonable expectation of how the material change has affected its *reserves* data or other information.

PART 7 OTHER INFORMATION

7.1 Information to be Furnished on Request – A *reporting issuer* must, on the request of the *regulator*, deliver additional information with respect to the content of a document filed under this *Instrument*.

PART 8 EXEMPTIONS

8.1 Authority to Grant Exemption

(1) The *regulator* or the *securities regulatory authority* may grant an exemption from this *Instrument*, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.

(2) Despite subsection (1), in Ontario only the *regulator* may grant an exemption.

[4] In this Part, "material change" has the meaning ascribed to the term under *securities legislation* of the applicable *jurisdiction*.

8.2 Exemption for Certain Exchangeable Security Issuers

(1) An exchangeable security issuer, as defined in subsection 13.3(1) of *NI 51-102*, is exempt from this *Instrument* if all of the requirements of subsection 13.3(2) of *NI 51-102* are satisfied;

(2) For the purposes of subsection (1), the reference to "continuous disclosure documents" in clause 13.3(2)(d)(ii)(A) of *NI 51-102* includes documents filed ~~in accordance with~~**under** this *Instrument*.

PART 9 *INSTRUMENT* IN FORCE

9.1 Coming Into Force – This *Instrument* comes into force on September 30, 2003.

9.2 ~~Transition –~~ ~~Despite section 9.1, this *Instrument* does not apply to a *reporting issuer* until the earlier of:~~**repealed**

~~(a) the date by which the *reporting issuer* is required under *securities legislation* to file audited annual financial statements for its financial year that includes or ends on December 31, 2003; and~~

~~(b) the first date on which the *reporting issuer* files with the *securities regulatory authority* the statement referred to in item 1 of section 2.1.~~

FORM 51-101F1
STATEMENT OF RESERVES DATA
AND OTHER OIL AND GAS INFORMATION

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FORM 51-101F1
STATEMENT OF RESERVES DATA
AND OTHER OIL AND GAS INFORMATION

This is the form referred to in item 1 of section 2.1 of National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities* (*"NI 51-101"*).

GENERAL INSTRUCTIONS

*(1) Terms for which a meaning is given in **NI 51-101** have the same meaning in this **Form 51-101F1**[1].*

*(2) Unless otherwise specified in this **Form 51-101F1**, information under item 1 of section 2.1 of **NI 51-101** must be provided as at the last day of the **reporting issuer's** most recent financial year or for its financial year then ended.*

*(3) ~~It is not necessary to include the headings or~~**The** numbering, ~~or to follow the~~**headings and** ordering of ~~Items,~~**items included** in this **Form 51-101F1**~~.~~**.1 are guidelines only.** Information may be provided in tables.*

*(4) To the extent that any Item or any component of an Item specified in this **Form 51-101F1** does not apply to a **reporting issuer** and its activities and operations, or is not **material**, no reference need be made to that Item or component. It is not necessary to state that such an Item or component is "not applicable" or "not material". Materiality is discussed in **NI 51-101** and Companion Policy 51-101CP.*

*(5) This **Form 51-101F1** sets out minimum requirements. A **reporting issuer** may provide additional information not required in this **Form 51-101F1** provided that it is not misleading and not inconsistent with the requirements of **NI 51-101**, and provided that material information required to be disclosed is not omitted.*

*(6) A **reporting issuer** may satisfy the requirement of this **Form 51-101F1** for disclosure of information "by country" by instead providing information by **foreign geographic area** in respect of countries outside North America as may be appropriate for meaningful disclosure in the circumstances.*

(7) If a reporting issuer discloses financial information in a currency other than the Canadian dollar, clearly, and as frequently as is appropriate to avoid confusing or misleading readers, disclose the currency in which the financial information is disclosed.

(8) Reporting Issuers should refer to the COGE Handbook for the proper reporting of units of measurement. Reporting issuers should not, without compelling reason, switch between imperial units of measure (such as barrels) and Système International (SI) units of measurement (such as tonnes) within or between disclosure documents.

PART 1 DATE OF STATEMENT

Item 1.1 Relevant Dates

1. Date the statement.

2. Disclose the *effective date* of the information being provided.

3. Disclose the *preparation date* of the information being provided.

INSTRUCTIONS

*(1) For the purpose of Part 2 of **NI 51-101**, and consistent with the definition of **reserves data** and General Instruction (2) of this **Form 51-101F1**, the **effective date** to be disclosed under section 2 of Item 1.1 is the last day of the **reporting issuer's** most recent financial year. ~~It is the date of the balance sheet for the **reporting issuer's** most recent financial year (for example, "as at December 31, 20xx") and the ending date of the **reporting issuer's** most recent annual statement of income (for example, "for the year ended December 31, 20xx").~~*

1 For the convenience of readers, CSA Staff Notice 51-324 *Glossary to NI 51-101 Standards of Disclosure for Oil and Gas Activities* sets out the meanings of terms that are printed in italics (or, in the Instructions, in bold type) in this *Form 51-101F1* or in *NI 51-101*, *Form 51-101F2, Form 51-101F3* or Companion Policy 51-101CP.

(2) *The same **effective date** applies to **reserves** of each category reported and to related **future net revenue**. References to a change in an item of information, such as changes in **production** or a change in **reserves**, mean changes in respect of that item during the year ended on the **effective date**.*

(3) *The **preparation date**, in respect of written disclosure, means the most recent date to which information relating to the period ending on the **effective date** was considered in the preparation of the disclosure. The **preparation date** is a date subsequent to the **effective date** because it takes time after the end of the financial year to assemble the information for that completed year that is needed to prepare the required disclosure as at the end of the financial year.*

(4) *Because of the interrelationship between certain of the **reporting issuer's reserves data** and other information referred to in this **Form 51-101F1** and certain of the information included in its financial statements, the **reporting issuer** should ensure that its financial auditor and its **qualified reserves evaluators or auditors** are kept apprised of relevant events and transactions, and should facilitate communication between them.*

(5) *If the **reporting issuer** provides information as at a date more recent than the **effective date**, in addition to the information required as at the **effective date**, also disclose the date as at which that additional information is provided. The provision of such additional information does not relieve the **reporting issuer** of the obligation to provide information as at the **effective date**.*

PART 2 DISCLOSURE OF *RESERVES DATA*

Item 2.1 *Reserves Data* (*Forecast Prices and Costs*)

1. Breakdown of *Reserves* (Forecast Case) – Disclose, by country and in the aggregate, *reserve*s, *gross* and *net*, estimated using *forecast prices and costs*, for each *product type*, in the following categories:

   (a) *proved developed producing reserves*;

   (b) *proved developed non-producing reserves*;

   (c) *proved undeveloped reserves*;

   (d) *proved reserves* (in total);

   (e) *probable reserves* (in total);

   (f) *proved* plus *probable reserves* (in total); and

   (g) if the *reporting issuer* discloses an estimate of *possible reserves* in the statement:

      (i) *possible reserves* (in total); and

      (ii) *proved* plus *probabl*e plus *possible reserves* (in total).

2. Net Present Value of *Future Net Revenue* (Forecast Case) – Disclose, by country and in the aggregate, the net present value of *future net revenue* attributable to the *reserves* categories referred to in section 1 of this Item, estimated using *forecast prices and costs*, before and after deducting *future income tax expenses*, calculated without discount and using discount rates of 5 percent, 10 percent, 15 percent and 20 percent. Also disclose the same information on a unit value basis (e.g., $/Mcf or $/bbl using *net reserves*) using a discount rate of 10 percent and calculated before deducting *future income tax expenses*. This unit value disclosure requirement may be satisfied by including the unit value disclosure for each category of *proved reserves* and for *probable reserves* in the disclosure referred to in paragraph 3(c) of Item 2.1.

3. Additional Information Concerning *Future Net Revenue* (Forecast Case)

   (a) This section 3 applies to *future net revenue* attributable to each of the following *reserves* categories estimated using *forecast prices and costs*:

      (i) *proved reserves* (in total);

      (ii) *proved* plus *probable reserves* (in total); and

(iii) if paragraph 1(g) of this Item applies, *proved* plus *probable* plus *possible reserves* (in total).

(b) Disclose, by country and in the aggregate, the following elements of *future net revenue* estimated using *forecast prices and costs* and calculated without discount:

(i) revenue;

(ii) royalties;

(iii) *operating costs*;

(iv) *development costs*;

(v) abandonment and reclamation costs;

(vi) *future net revenue* before deducting *future income tax expenses*;

(vii) *future income tax expenses*; and

(viii) *future net revenue* after deducting *future income tax expenses.*

(c) Disclose, by *production group* and on a unit value basis for each *production group* (e.g., $/Mcf or $/bbl using *net reserves*), the net present value of *future net revenue* (before deducting *future income tax expenses*) estimated using *forecast prices and costs* and calculated using a discount rate of 10 percent.

Item 2.2 Supplemental Disclosure of *Reserves Data* ~~*(Constant Prices and Costs)*~~

The *reporting issuer* may supplement its disclosure of *reserves data* under Item 2.1 by also disclosing the components of Item ~~2.1 in respect of its *proved reserves* or its *proved* and *probable reserves*, using *constant prices and costs* as at the last day of the *reporting issuer's* most recent financial year~~**2.1, using prices and costs determined in a manner consistent with the relevant *US oil and gas disclosure requirements***.

Item 2.3 *Reserves* Disclosure Varies with Accounting

In determining *reserves* to be disclosed:

(a) Consolidated Financial Disclosure – if the *reporting issuer* files consolidated financial statements:

(i) include 100 percent of *reserves* attributable to the parent company and 100 percent of the *reserves* attributable to its consolidated subsidiaries (whether or not wholly-owned); and

(ii) if a significant portion of *reserves* referred to in clause (i) is attributable to a consolidated subsidiary in which there is a significant ~~minority~~**non-controlling** interest, disclose that fact and the approximate portion of such *reserves* attributable to the ~~minority~~**non-controlling** interest;

(b) Proportionate Consolidation – if the *reporting issuer* files financial statements in which investments are proportionately consolidated, the *reporting issuer's* disclosed *reserves* must include the *reporting issuer's* proportionate share of investees' *oil* and *gas reserves*; and

(c) Equity Accounting – if the *reporting issuer* files financial statements in which investments are accounted for by the equity method, do not include investees' *oil* and *gas reserves* in disclosed *reserves* of the *reporting issuer*, but disclose the *reporting issuer's* share of investees' *oil* and *gas reserves* separately.

Item 2.4 *Future Net Revenue* Disclosure Varies with Accounting

1. Consolidated Financial Disclosure – If the *reporting issuer* files consolidated financial statements, and if a significant portion of the *reporting issuer's* economic interest in *future net revenue* is attributable to a consolidated subsidiary in which there is a significant ~~minority~~**non-controlling** interest, disclose that fact and the approximate portion of the economic interest in *future net revenue* attributable to the ~~minority~~**non-controlling** interest.

2. Equity Accounting – If the *reporting issuer* files financial statements in which investments are accounted for by the equity method, do not include investees' *future net revenue* in disclosed *future net revenue* of the *reporting issuer*, but disclose the *reporting issuer's* share of investees' *future net revenue* separately, by country and in the aggregate.

INSTRUCTIONS

*(1) Do not include, in **reserves, oil** or **gas** that is subject to purchase under a long-term supply, purchase or similar agreement. However, if the **reporting issuer** is a party to such an agreement with a government or governmental authority, and participates in the operation of the **properties** in which the **oil** or **gas** is situated or otherwise serves as "producer" of the **reserves** (in contrast to being an independent purchaser, broker, dealer or importer), disclose separately the **reporting issuer's** interest in the **reserves** that are subject to such agreements at the **effective date** and the **net** quantity of **oil** or **gas** received by the **reporting issuer** under the agreement during the year ended on the **effective date**.*

*(2) **Future net revenue** includes the portion attributable to the **reporting issuer's** interest under an agreement referred to in Instruction (1).*

*(3) ~~**Constant prices and costs** are prices and costs used in an estimate that are:~~**repealed.***

*(a) ~~the **reporting issuer's** prices and costs as at the **effective date** of the estimation, held constant throughout the estimated lives of the **properties** to which the estimate applies;~~*

*(b) ~~if, and only to the extent that, there are fixed or presently determinable future prices or costs to which the **reporting issuer** is legally bound by a contractual or other obligation to supply a physical product, including those for an extension period of a contract that is likely to be extended, those prices or costs rather than the prices and costs referred to in paragraph (a).~~*

*~~For the purpose of paragraph (a), the **reporting issuer's** prices will be the posted price for oil and the spot price for gas, after historical adjustments for transportation, gravity and other factors.~~*

PART 3 PRICING ASSUMPTIONS

Item 3.1 ~~Constant Prices Used in~~ Supplemental Estimates

If supplemental disclosure under Item 2.2 is made, then disclose, for each *product type*, the benchmark reference prices for the countries or regions in which the *reporting issuer* operates~~, as at the last day of the *reporting issuer's* most recent financial year, reflected in the *reserves data* disclosed in response to Item 2.2.~~ **as determined in a manner consistent with the relevant *US oil and gas disclosure requirements*.**

Item 3.2 Forecast Prices Used in Estimates

1. For each *product type*, disclose:

   (a) the pricing assumptions used in estimating *reserves data* disclosed in response to Item 2.1:

      (i) for each of at least the following five financial years; and

      (ii) generally, for subsequent periods; and

   (b) the *reporting issuer's* weighted average historical prices for the most recent financial year.

2. The disclosure in response to section 1 must include the benchmark reference pricing schedules for the countries or regions in which the *reporting issuer* operates, and inflation and other forecast factors used.

3. If the pricing assumptions specified in response to section 1 were provided by a *qualified reserves evaluator or auditor* who is *independent* of the *reporting issuer*, disclose that fact and identify the *qualified reserves evaluator or auditor*.

INSTRUCTIONS

(1) Benchmark reference prices may be obtained from sources such as public product trading exchanges or prices posted by purchasers.

(2) *The ~~term "**constant prices and costs**" and the~~ defined term "**forecast prices and costs**" ~~include~~**includes** any fixed or presently determinable future prices or costs to which the **reporting issuer** is legally bound by a contractual or other obligation to supply a physical product, including those for an extension period of a contract that is likely to be extended. In effect, such contractually committed prices override benchmark reference prices for the purpose of estimating **reserves data.** To ensure that disclosure under this Part is not misleading, the disclosure should reflect such contractually committed prices.*

(3) *Under subsection 5.7(1) of **NI 51-101**, the **reporting issuer** must obtain the written consent of the **qualified reserves evaluator or auditor** to disclose his or her identity in response to section 3 of this Item.*

PART 4 RECONCILIATION OF CHANGES IN *RESERVES*

Item 4.1 *Reserves* Reconciliation

1. Provide the information specified in section 2 of this Item in respect of the following *reserves* categories:

   (a) *gross proved reserves* (in total);

   (b) *gross probable reserves* (in total); and

   (c) *gross proved* plus *probable reserves* (in total).

2. Disclose changes between the *reserves* estimates made as at the *effective date* and the corresponding estimates ("prior-year estimates") made as at the last day of the preceding financial year of the *reporting issuer*:

   (a) by country;

   (b) for each of the following:

      (i) light and medium *crude oil* (combined);

      (ii) *heavy oil*;

      (iii) *associated gas* and *non-associated gas* (combined);

      (iv) *synthetic oil*;

      (v) *bitumen*;

      (vi) coal bed methane;

      (vii) hydrates;

      (viii) shale oil; and

      (ix) shale gas;

   (c) separately identifying and explaining:

      (i) extensions and improved recovery;

      (ii) technical revisions;

      (iii) discoveries;

      (iv) acquisitions;

      (v) dispositions;

      (vi) economic factors; and

      (vii) *production*.

INSTRUCTIONS

*(1) The reconciliation required under this Item 4.1 must be provided in respect of **reserves** estimated using **forecast prices and costs**, with the price and cost case indicated in the disclosure.*

*(2) For the purpose of this Item 4.1, it is sufficient to provide the information in respect of the products specified in paragraph 2(b), excluding **solution gas**, **natural gas liquids** and other associated by-products.*

*(3) The **COGE Handbook** provides guidance on the preparation of the reconciliation required under this Item 4.1.*

*(4) **Reporting issuers** must not include infill drilling **reserves** in the category of technical revisions specified in clause 2(c)(ii). **Reserves** additions from infill drilling must be included in the category of extensions and improved recovery in clause 2(c)(i) (or, alternatively, in an additional separate category under paragraph 2(c) labelled "infill drilling").*

PART 5 ADDITIONAL INFORMATION RELATING TO *RESERVES DATA*

Item 5.1 *Undeveloped Reserves*

1. For *proved undeveloped reserves*:

   (a) disclose for each *product type* the volumes of *proved undeveloped reserves* that were first attributed in each of the most recent three financial years and, in the aggregate, before that time; and

   (b) discuss generally the basis on which the *reporting issuer* attributes *proved undeveloped reserves*, its plans (including timing) for developing the *proved undeveloped reserves* and, if applicable, its reasons for not planning to develop particular *proved undeveloped reserves* during the following two years.

2. For *probable undeveloped reserves*:

   (a) disclose for each *product type* the volumes of *probable undeveloped reserves* that were first attributed in each of the most recent three financial years and, in the aggregate, before that time; and

   (b) discuss generally the basis on which the *reporting issuer* attributes *probable undeveloped reserves*, its plans (including timing) for developing the *probable undeveloped reserves* and, if applicable, its reasons for not planning to develop particular *probable undeveloped reserves* during the following two years.

Item 5.2 Significant Factors or Uncertainties Affecting Reserves Data

1. Identify and discuss ~~important~~**significant** economic factors or significant uncertainties that affect particular components of the *reserves data.*

2. Section 1 does not apply if the information is disclosed in the *reporting issuer's* financial statements for the financial year ended on the *effective date*.

INSTRUCTION

*Examples of information that could warrant disclosure under this Item 5.2 include unusually high expected **development costs** or **operating costs**~~, the need to build a major pipeline or other major facility before **production** of **reserves** can begin,~~ or contractual obligations to **produce** and sell a significant portion of **production** at prices substantially below those which could be realized but for those contractual obligations.*

Item 5.3 Future *Development Costs*

1. (a) Provide the information specified in paragraph 1(b) in respect of *development costs* deducted in the estimation of *future net revenue* attributable to each of the following *reserves* categories:

      (i) *proved reserves* (in total) estimated using *forecast prices and costs*; and

      (ii) *proved* plus *probable reserves* (in total) estimated using *forecast prices and costs*.

   (b) Disclose, by country, the amount of *development costs* estimated:

(i) in total, calculated using no discount; and

(ii) by year for each of the first five years estimated.

2. Discuss the *reporting issuer's* expectations as to:

(a) the sources (including internally-generated cash flow, debt or equity financing, farm-outs or similar arrangements) and costs of funding for estimated future *development costs*; and

(b) the effect of those costs of funding on disclosed *reserves* or *future net revenue.*

3. If the *reporting issuer* expects that the costs of funding referred to in section 2, could make development of a *property* uneconomic for that *reporting issuer*, disclose that expectation and its plans for the *property*.

PART 6 OTHER *OIL* AND *GAS* INFORMATION

Item 6.1 *Oil* and *Gas Properties* and Wells

1. Identify and describe generally the *reporting issuer's* important *properties*, plants, facilities and installations:

(a) identifying their location (province, territory or state if in Canada or the United States, and country otherwise);

(b) indicating whether they are located onshore or offshore;

(c) in respect of *properties* to which *reserves* have been attributed and which are capable of *producing* but which are not *producing*, disclosing how long they have been in that condition and discussing the general proximity of pipelines or other means of transportation; and

(d) describing any statutory or other mandatory relinquishments, surrenders, back-ins or changes in ownership.

2. State, separately for *oil* wells and *gas* wells, the number of the *reporting issuer*'s producing wells and non-producing wells, expressed in terms of both *gross* wells and *net* wells, by location (province, territory or state if in Canada or the United States, and country otherwise).

Item 6.2 *Properties* With No Attributed *Reserves*

1. For *unproved properties* disclose:

(a) the *gross* area (acres or hectares) in which the *reporting issuer* has an interest;

(b) the interest of the *reporting issuer* therein expressed in terms of net area (acres or hectares);

(c) the location, by country; and

(d) the existence, nature (including any bonding requirements), timing and cost (specified or estimated) of any work commitments.

2. Disclose, by country, the *net* area (acres or hectares) of *unproved property* for which the *reporting issuer* expects its rights to explore, develop and exploit to expire within one year.

INSTRUCTION

If a reporting issuer holds interests in different formations under the same surface area pursuant to separate leases, disclose the method of calculating the gross and net area. For example, if the reporting issuer has included the area of each of its leases in its calculation of net area despite the fact that certain leases will pertain to the same surface area, disclose that fact. A general description of the method of calculating the area will suffice.

Item 6.2.1 Significant Factors or Uncertainties Relevant to *Properties* With No Attributed *Reserves*

1. Identify and discuss significant economic factors or significant uncertainties that affect the anticipated development or production activities on *properties* with no attributed *reserves*.

2. Section 1 does not apply if the information is disclosed in the *reporting issuer's* financial statements for the financial year ended on the *effective date*.

INSTRUCTION

Examples of information that could warrant disclosure under this Item 6.2.1 include unusually high expected development costs or operating costs or the need to build a major pipeline or other major facility before production can begin.

Item 6.3 Forward Contracts

1. If the *reporting issuer* is bound by an agreement (including a transportation agreement), directly or through an aggregator, under which it may be precluded from fully realizing, or may be protected from the full effect of, future market prices for *oil* or *gas*, describe generally the agreement, discussing dates or time periods and summaries or ranges of volumes and contracted or reasonably estimated values.

2. Section 1 does not apply to agreements **specifically** disclosed by the *reporting issuer*

   ~~(a) as financial instruments, in accordance with Section 3861 of the *CICA Handbook*; or~~

   ~~(b) as contractual obligations or commitments, in accordance with Section 3280 of the *CICA Handbook*.~~ **in its financial statements for the financial year ended on the *effective date*.**

3. If the *reporting issuer's* transportation obligations or commitments for future physical deliveries of *oil* or *gas* exceed the *reporting issuer's* expected related future *production* from its *proved reserves*, estimated using *forecast prices and costs* and disclosed under Part 2, discuss such excess, giving information about the amount of the excess, dates or time periods, volumes and reasonably estimated value.

Item 6.4 Additional Information Concerning Abandonment and Reclamation Costs

In respect of abandonment and reclamation costs for surface *leases*, wells, facilities and pipelines, disclose:

(a) how the *reporting issuer* estimates such costs;

(b) the number of *net* wells for which the *reporting issuer* expects to incur such costs;

(c) the total amount of such costs, net of estimated salvage value, expected to be incurred, calculated without discount and using a discount rate of 10 percent;

(d) the portion, if any, of the amounts disclosed under paragraph (c) of this Item 6.4 that was not deducted as abandonment and reclamation costs in estimating the *future net revenue* disclosed under Part 2; and

(e) the portion, if any, of the amounts disclosed under paragraph (c) of this Item 6.4 that the *reporting issuer* expects to pay in the next three financial years, in total.

INSTRUCTION

*Item 6.4 supplements the information disclosed in response to clause 3(b)(v) of Item 2.1. The response to paragraph (d) of Item 6.4 should enable a reader of this statement and of the **reporting issuer's** financial statements for the financial year ending on the **effective date** to understand both the **reporting issuer's** estimated total abandonment and reclamation costs, and what portions of that total are, and are not, reflected in the disclosed **reserves data**.*

Item 6.5 Tax Horizon

If the *reporting issuer* is not required to pay income taxes for its most recently completed financial year, discuss its estimate of when income taxes may become payable.

Item 6.6 Costs Incurred

1. Disclose each of the following, by country, for the most recent financial year (irrespective of whether such costs were capitalized or charged to expense when incurred):

   (a) *property acquisition costs*, separately for *proved properties* and *unproved properties*;

(b) *exploration costs*; and

(c) *development costs*.

2. For the purpose of this Item 6.6, if the *reporting issuer* files financial statements in which investments are accounted for by the equity method, disclose by country the *reporting issuer's* share of investees' (i) *property acquisition costs*, (ii) *exploration costs* and (iii) *development costs* incurred in the most recent financial year.

Item 6.7 Exploration and Development Activities

1. Disclose, by country and separately for *exploratory wells* and *development wells*:

(a) the number of *gross* wells and *net* wells completed in the *reporting issuer's* most recent financial year; and

(b) for each category of wells for which information is disclosed under paragraph (a), the number completed as *oil* wells, *gas* wells ~~and~~, *service wells* **and *stratigraphic test wells*** and the number that were dry holes.

2. Describe generally the *reporting issuer's* most important current and likely exploration and development activities, by country.

Item 6.8 *Production* Estimates

1. Disclose, by country, for each *product type*, the volume of *production* estimated for the first year reflected in the estimates of *gross proved reserves* and *gross probable reserves* disclosed under Item 2.1.

2. If one *field* accounts for 20 percent or more of the estimated *production* disclosed under section 1, identify that *field* and disclose the volume of *production* estimated for the *field* for that year.

Item 6.9 *Production* History

1. To the extent not previously disclosed in financial statements filed by the *reporting issuer,* disclose, for each quarter of its most recent financial year, by country for each *product type*:

(a) the *reporting issuer's* share of average **gross** daily *production* volume~~, before deduction of royalties~~; and

(b) as an average per unit of volume (for example, $/*bbl* or $/*Mcf*):

(i) the prices received;

(ii) royalties paid;

(iii) *production costs*; and

(iv) the resulting netback.

2. For each important *field*, and in total, disclose the *reporting issuer's production* volumes for the most recent financial year, for each *product type*.

INSTRUCTION

*In providing information for each **product type** for the purpose of Item 6.9, it is not necessary to allocate among multiple **product types** attributable to a single well, **reservoir** or other **reserves** entity. It is sufficient to provide the information in respect of the principal **product type** attributable to the well, **reservoir** or other **reserves** entity. Resulting netbacks may be disclosed on the basis of units of equivalency between **oil** and **gas** (e.g. **BOE**) but if so that must be made clear and disclosure must comply with section 5.14 of **NI 51-101**.*

FORM 51-101F2
REPORT ON RESERVES DATA
BY
INDEPENDENT QUALIFIED RESERVES
EVALUATOR OR AUDITOR

This is the form referred to in item 2 of section 2.1 of National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities* ("*NI 51-101*").

1. Terms to which a meaning is ascribed in *NI 51-101* have the same meaning in this form.[1]

2. The report on *reserves data* referred to in item 2 of section 2.1 of *NI 51-101*, to be executed by one or more *qualified reserves evaluators or auditors independent* of the *reporting issuer*, must in all material respects be as follows:

Report on Reserves Data

To the board of directors of [name of reporting issuer] (the "Company"):

1. We have [audited] [evaluated] [and reviewed] the Company's reserves data as at [last day of the reporting issuer's most recently completed financial year]. The reserves data are estimates of proved reserves and probable reserves and related future net revenue as at [last day of the reporting issuer's most recently completed financial year], estimated using forecast prices and costs.

2. The reserves data are the responsibility of the Company's management. Our responsibility is to express an opinion on the reserves data based on our [audit] [evaluation] [and review].

3. We carried out our [audit] [evaluation] [and review] in accordance with standards set out in the Canadian Oil and Gas Evaluation Handbook (the "COGE Handbook") prepared jointly by the Society of Petroleum Evaluation Engineers (Calgary Chapter) and the Canadian Institute of Mining, Metallurgy & Petroleum (Petroleum Society).

4. Those standards require that we plan and perform an [audit] [evaluation] [and review] to obtain reasonable assurance as to whether the reserves data are free of material misstatement. An [audit] [evaluation] [and review] also includes assessing whether the reserves data are in accordance with principles and definitions presented in the COGE Handbook.

The following table sets forth the estimated future net revenue (before deduction of income taxes) attributed to proved plus probable reserves, estimated using forecast prices and costs and calculated using a discount rate of 10 percent, included in the reserves data of the Company [audited] [evaluated] [and reviewed] by us for the year ended xxx xx, 20xx, and identifies the respective portions thereof that we have [audited] [evaluated] [and reviewed] and reported on to the Company's [management/board of directors]:

Independent Qualified Reserves Evaluator or Auditor	Description and Preparation Date of [Audit/ Evaluation/ Review] Report	Location of Reserves (Country or Foreign Geographic Area)	Net Present Value of Future Net Revenue (before income taxes, 10% discount rate			
			Audited	Evalualated	Reviewed	Total
Evaluator A	xxx xx, 20xx	xxxx	$xxx	$xxx	$xxx	$xxx
Evaluator B	xxx xx, 20xx	xxxx	xxx	xxx	xxx	xxx
Totals			$xxx	$xxx	$xxx	$xxx[2]

1 For the convenience of readers, CSA Staff Notice 51-324 *Glossary to NI 51-101 Standards of Disclosure for Oil and Gas Activities* sets out the meanings of terms that are printed in italics in sections 1 and 2 of this Form or in *NI 51-101*, *Form 51-101F1*, *Form 51-101F3* or Companion Policy 51-101CP.

2 This amount should be the amount disclosed by the *reporting issuer* in its statement of *reserves data* filed under item 1 of section 2.1 of *NI 51-101*, as its *future net revenue* (before deducting *future income tax expenses*) attributable to *proved* plus *probable reserves*, estimated using *forecast prices and costs* and calculated using a discount rate of 10 percent (required by section 2 of Item 2.1 of *Form 51-101F1*).

In our opinion, the reserves data respectively [audited] [evaluated] by us have, in all material respects, been determined and are in accordance with the COGE Handbook**, consistently applied**. We express no opinion on the reserves data that we reviewed but did not audit or evaluate.

We have no responsibility to update our reports referred to in paragraph 4 for events and circumstances occurring after their respective preparation dates.

Because the reserves data are based on judgements regarding future events, actual results will vary and the variations may be material. ~~However, any variations should be consistent with the fact that reserves are categorized according to the probability of their recovery.~~

Executed as to our report referred to above:

Evaluator A, City, Province or State / Country, Execution Date

_____
[signed]

Evaluator B, City, Province or State / Country, Execution Date

_____
[signed]

FORM 51-101F3 *REPORT OF MANAGEMENT AND DIRECTORS ON OIL AND GAS DISCLOSURE*

This is the form referred to in item 3 of section 2.1 of National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities* ("*NI 51-101*").

1. Terms to which a meaning is ascribed in *NI 51-101* have the same meaning in this form.[1]

2. The report referred to in item 3 of section 2.1 of *NI 51-101* must in all material respects be as follows:

Report of Management and Directors on Reserves Data and Other Information

Management of [name of reporting issuer] (the "Company") are responsible for the preparation and disclosure of information with respect to the Company's oil and gas activities in accordance with securities regulatory requirements. This information includes reserves data which are estimates of proved reserves and probable reserves and related future net revenue as at [last day of the reporting issuer's most recently completed financial year], estimated using forecast prices and costs.

[An] independent [qualified reserves evaluator[s] or qualified reserves auditor[s]] [has / have] [audited] [evaluated] [and reviewed] the Company's reserves data. The report of the independent [qualified reserves evaluator[s] or qualified reserves auditor[s]] [is presented below / will be filed with securities regulatory authorities concurrently with this report].

The [Reserves Committee of the] board of directors of the Company has

(a) reviewed the Company's procedures for providing information to the independent [qualified reserves evaluator[s] or qualified reserves auditor[s]];

(b) met with the independent [qualified reserves evaluator[s] or qualified reserves auditor[s]] to determine whether any restrictions affected the ability of the independent [qualified reserves evaluator[s] or qualified reserves auditor[s]] to report without reservation [and, in the event of a proposal to change the independent [qualified reserves evaluator[s] or qualified reserves auditor[s]], to inquire whether there had been disputes between the previous independent [qualified reserves evaluator[s] or qualified reserves auditor[s] and management]; and

(c) reviewed the reserves data with management and the independent [qualified reserves evaluator[s] or qualified reserves auditor[s]].

The [Reserves Committee of the] board of directors has reviewed the Company's procedures for assembling and reporting other information associated with oil and gas activities and has reviewed that information with management. The board of directors has [, on the recommendation of the Reserves Committee,] approved

(a) the content and filing with securities regulatory authorities of Form 51-101F1 containing reserves data and other oil and gas information;

(b) the filing of Form 51-101F2 which is the report of the independent [qualified reserves evaluator[s] or qualified reserves auditor[s]] on the reserves data; and

(c) the content and filing of this report.

Because the reserves data are based on judgements regarding future events, actual results will vary and the variations may be material. ~~However, any variations should be consistent with the fact that reserves are categorized according to the probability of their recovery.~~

_____

[signature, name and title of chief executive officer]

_____

[signature, name and title of ~~a senior~~**an executive** officer other than the chief executive officer]

1 For the convenience of readers, CSA Staff Notice 51-324 *Glossary to NI 51-101 Standards of Disclosure for Oil and Gas Activities* sets out the meanings of terms that are printed in italics in sections 1 and 2 of this Form or in *NI 51-101*, *Form 51-101F1*, *Form 51-101F2* or Companion Policy 51-101CP.

_____
[signature, name of a director]

_____
[signature, name of a director]

[Date]

COMPANION POLICY 51-101CP
STANDARDS OF DISCLOSURE FOR OIL AND GAS ACTIVITIES

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COMPANION POLICY 51-101CP
STANDARDS OF DISCLOSURE FOR OIL AND GAS ACTIVITIES

This Companion Policy sets out the views of the Canadian Securities Administrators (*CSA*) as to the interpretation and application of National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities* (*NI 51-101*) and related forms.

NI 51-101[1] supplements other continuous disclosure requirements of *securities legislation* that apply to *reporting issuers* in all business sectors.

The requirements under *NI 51-101* for the filing with *securities regulatory authorities* of information relating to *oil and gas activities* are designed in part to assist the public and analysts in making investment decisions and recommendations.

The *CSA* encourage registrants[2] and other persons and companies that wish to make use of information concerning *oil and gas activities* of a *reporting issuer*, including *reserves data*, to review the information filed on *SEDAR* under *NI 51-101* by the *reporting issuer* and, if they are summarizing or referring to this information, to use the applicable terminology consistent with *NI 51-101* and the *COGE Handbook*.

PART 1 APPLICATION AND TERMINOLOGY

1.1 Definitions

(1) **General** – Several terms relating to *oil and gas activities* are defined in section 1.1 of *NI 51-101*. If a term is not defined in *NI 51-101*, *NI 14-101* or the securities statute in the *jurisdiction*, it will have the meaning or interpretation given to it in the *COGE Handbook* if it is defined or interpreted there, pursuant to section 1.2 of *NI 51-101*.

For the convenience of readers, CSA Staff Notice 51-324 *Glossary to NI 51-101 Standards of Disclosure for Oil and Gas Activities* (the NI 51-101 Glossary) sets out the meaning of terms, including those defined in *NI 51-101* and several terms which are derived from the *COGE Handbook*.

(2) ***Forecast Prices and Costs*** – The term *forecast prices and costs* is defined in paragraph 1.1(j) of *NI 51-101* and discussed in the *COGE Handbook*. Except to the extent that the *reporting issuer* is legally bound by fixed or presently determinable future prices or costs[3], *forecast prices and costs* are future prices and costs "generally accepted as being a reasonable outlook of the future".

The *CSA* do not consider that future prices or costs would satisfy this requirement if they fall outside the range of forecasts of comparable prices or costs used, as at the same date, for the same future period, by major *independent qualified reserves evaluators or auditors* or by other reputable sources appropriate to the evaluation.

(3) ***Independent –*** The term *independent* is defined in paragraph 1.1(o) of *NI 51-101*. Applying this definition, the following are examples of circumstances in which the CSA would consider that a *qualified reserves evaluator or auditor* (or other expert) is not *independent*. We consider a *qualified reserves evaluator or auditor* is not *independent* when the *qualified reserves evaluator or auditor*:

(a) is an employee, insider, or director of the *reporting issuer*;

(b) is an employee, insider, or director of a related party of the *reporting issuer*;

(c) is a partner of any person or company in paragraph (a) or (b);

(d) holds or expects to hold securities, either directly or indirectly, of the *reporting issuer* or a related party of the *reporting issuer*;

(e) holds or expects to hold securities, either directly or indirectly, in another *reporting issuer* that has a direct or indirect interest in the property that is the subject of the technical report or an adjacent property;

(f) has or expects to have, directly or indirectly, an ownership, royalty, or other interest in the property that is the subject of the technical report or an adjacent property; or

1 For the convenience of readers, CSA Staff Notice 51-324 *Glossary to NI 51-101 Standards of Disclosure for Oil and Gas Activities* sets out the meanings of terms that are printed in italics in *NI 51-101*, *Form 51-101F1*, *Form 51-101F2* or *Form 51-101F3*, or in this Companion Policy (other than terms italicized in titles of documents that are printed entirely in italics).

2 "Registrant" has the meaning ascribed to the term under *securities legislation* in the *jurisdiction*.

3 Refer to the discussion of financial instruments in subsection 2.7(5) below.

(g) has received the majority of their income, either directly or indirectly, in the three years preceding the date of the technical report from the *reporting issuer* or a related party of the *reporting issuer*.

For the purpose of paragraph (d) above, "related party of the *reporting issuer*" means an affiliate, associate, subsidiary, or control person of the *reporting issuer* as those terms are defined under securities legislation.

There may be instances in which it would be reasonable to consider that the independence of a *qualified reserves evaluator or auditor* would not be compromised even though the *qualified reserves evaluator or auditor* holds an interest in the *reporting issuer's* securities. The *reporting issuer* needs to determine whether a reasonable person would consider such interest would interfere with the *qualified reserves evaluator's or auditor*'s judgement regarding the preparation of the technical report.

There may be circumstances in which the *securities regulatory authorities* question the objectivity of the *qualified reserves evaluator or auditor*. In order to ensure the requirement for independence of the *qualified reserves evaluator or auditor* has been preserved, the *reporting issuer* may be asked to provide further information, additional disclosure or the opinion of another *qualified reserves evaluator or auditor* to address concerns about possible bias or partiality on the part of the *qualified reserves evaluator or auditor*.

(4) ***Product Type*s Arising From *Oil* Sands and Other Non-Conventional Activities** – The definition of *product type* in paragraph 1.1(v) includes products arising from non-conventional *oil and gas activities*. *NI 51-101* therefore applies not only to conventional *oil and gas activities*, but also to non-conventional activities such as the extraction of *bitumen* from *oil* sands with a view to the *production* of *synthetic oil*, the in situ *production* of *bitumen*, the extraction of methane from coal beds and the extraction of shale gas, shale oil and hydrates.

Although *NI 51-101* and *Form 51-101F1* make few specific references to non-conventional *oil and gas activities*, the requirements of *NI 51-101* for the preparation and disclosure of *reserves data* and for the disclosure of *resources* apply to *oil* and *gas reserves* and *resources* relating to *oil* sands, shale, coal or other non-conventional sources of hydrocarbons. The *CSA* encourage *reporting issuers* that are engaged in non-conventional *oil and gas activities* to supplement the disclosure prescribed in *NI 51-101* and *Form 51-101F1* with information specific to those activities that can assist investors and others in understanding the business and results of the *reporting issuer*.

(5) ***Professional Organization***

(a) **Recognized *Professional Organizations***

For the purposes of the *Instrument*, a *qualified reserves evaluator or auditor* must also be a member in good standing with a self-regulatory *professional organization* of engineers, geologists, geoscientists or other professionals.

The definition of "*professional organization*" (in paragraph 1.1(w) of *NI 51-101* and in the NI 51-101 Glossary) has four elements, three of which deal with the basis on which the organization accepts members and its powers and requirements for continuing membership. The fourth element requires either authority or recognition given to the organization by a statute in Canada, or acceptance of the organization by the *securities regulatory authority* or *regulator*.

As at August 1, 2007, each of the following organizations in Canada is a *professional organization*:

- Association of Professional Engineers, Geologists and Geophysicists of Alberta (APEGGA)
- Association of Professional Engineers and Geoscientists of the Province of British Columbia (APEGBC)
- Association of Professional Engineers and Geoscientists of Saskatchewan (APEGS)
- Association of Professional Engineers and Geoscientists of Manitoba (APEGM)
- Association of Professional Geoscientists of Ontario (APGO)
- Professional Engineers of Ontario (PEO)
- Ordre des ingénieurs du Québec (OIQ)
- Ordre des Géologues du Québec (OGQ)

- Association of Professional Engineers of Prince Edward Island (APEPEI)
- Association of Professional Engineers and Geoscientists of New Brunswick (APEGNB)
- Association of Professional Engineers of Nova Scotia (APENS)
- Association of Professional Engineers and Geoscientists of Newfoundland (APEGN)
- Association of Professional Engineers of Yukon (APEY)
- Association of Professional Engineers, Geologists & Geophysicists of the Northwest Territories (NAPEGG) (representing the Northwest Territories and Nunavut Territory)

(b) **Other *Professional Organizations***

The *CSA* are willing to consider whether particular foreign professional bodies should be accepted as "*professional organizations*" for the purposes of *NI 51-101*. A *reporting issuer*, foreign professional body or other interested person can apply to have a self-regulatory organization that satisfies the first three elements of the definition of "*professional organization*" accepted for the purposes of *NI 51-101*.

In considering any such application for acceptance, the *securities regulatory authority* or *regulator* is likely to take into account the degree to which a foreign professional body's authority or recognition, admission criteria, standards and disciplinary powers and practices are similar to, or differ from, those of organizations listed above.

The list of foreign *professional organization*s is updated periodically in *CSA* Staff Notice 51-309 *Acceptance of Certain Foreign Professional Boards as a "Professional Organization"*. As at August 1, 2007, each of the following foreign organizations has been recognized as a *professional organization* for the purposes of *NI 51-101*:

- California Board for Professional Engineers and Land Surveyors,
- State of Colorado Board of Registration for Professional Engineers and Professional Land Surveyors
- Louisiana State Board of Registration for Professional Engineers and Land Surveyors,
- Oklahoma State Board of Registration for Professional Engineers and Land Surveyors
- Texas Board of Professional Engineers
- American Association of Petroleum Geologists (AAPG) but only in respect of Certified Petroleum Geologists who are members of the AAPG's Division of Professional Affairs
- American Institute of Professional Geologists (AIPG), in respect of the AIPG's Certified Professional Geologists
- Energy Institute but only for those members of the Energy Institute who are Members and Fellows

(c) **No *Professional Organization***

A *reporting issuer* or other person may apply for an exemption under Part 8 of *NI 51-101* to enable a *reporting issuer* to appoint, in satisfaction of its obligation under section 3.2 of *NI 51-101*, an individual who is not a member of a *professional organization*, but who has other satisfactory qualifications and experience. Such an application might refer to a particular individual or generally to members and employees of a particular foreign *reserves evaluation* firm. In considering any such application, the *securities regulatory authority* or *regulator* is likely to take into account the individual's professional education and experience or, in the case of an application relating to a firm, to the education and experience of the firm's members and employees, evidence concerning the opinion of a *qualified reserves evaluator or auditor* as to the quality of past work of the individual or firm, and any prior relief granted or denied in respect of the same individual or firm.

(d) **Renewal Applications Unnecessary**

A successful applicant would likely have to make an application contemplated in this subsection 1.1(5) only once, and not renew it annually.

(6) ***Qualified Reserves Evaluator or Auditor*** – The definitions of *qualified reserves evaluator* and *qualified reserves auditor* are set out in paragraphs 1.1(y) and 1.1(x) of *NI 51-101*, respectively, and again in the NI 51-101 Glossary.

The defined terms "*qualified reserves evaluator*" and "*qualified reserves auditor*" have a number of elements. A *qualified reserves evaluator* or *qualified reserves auditor* must

- possess professional qualifications and experience appropriate for the tasks contemplated in the *Instrument*, and
- be a member in good standing of a *professional organization*.

Reporting issuers should satisfy themselves that any person they appoint to perform the tasks of a *qualified reserves evaluator or auditor* for the purpose of the *Instrument* satisfies each of the elements of the appropriate definition.

In addition to having the relevant professional qualifications, a *qualified reserves evaluator or auditor* must also have sufficient practical experience relevant to the *reserves data* to be reported on. In assessing the adequacy of practical experience, reference should be made to section 3 of volume 1 of the *COGE Handbook* – "Qualifications of Evaluators and Auditors, Enforcement and Discipline".

1.2 *COGE Handbook*

Pursuant to section 1.2 of *NI 51-101*, definitions and interpretations in the *COGE Handbook* apply for the purposes of *NI 51-101* if they are not defined in *NI 51-101*, *NI 14-101* or the securities statute in the *jurisdiction* (except to the extent of any conflict or inconsistency with *NI 51-101*, *NI 14-101* or the securities statute).

Section 1.1 of *NI 51-101* and the NI 51-101 Glossary set out definitions and interpretations, many of which are derived from the *COGE Handbook*. *Reserves* and *resources* definitions and categories developed by the Petroleum Society of the Canadian Institute of Mining, Metallurgy & Petroleum (CIM) are incorporated in the *COGE Handbook* and also set out, in part, in the NI 51-101 Glossary.

Subparagraph 5.2(a)(iii) of *NI 51-101* requires that all estimates of *reserves* or *future net revenue* have been prepared or audited in accordance with the *COGE Handbook*. Under sections 5.2, 5.3 and 5.9 of *NI 51-101*, all types of public *oil* and *gas* disclosure, including disclosure of *reserves* and **of** *resources* **other than *reserves*** must be consistent with the *COGE Handbook*.

1.3 Applies to *Reporting Issuers* Only

NI 51-101 applies to *reporting issuers* engaged in *oil and gas activities*. The definition of *oil and gas activities* is broad. For example, a *reporting issuer* with no *reserves*, but a few *prospects*, unproved *properties* or *resources*, could still be engaged in *oil and gas activities* because such activities include exploration and development of unproved *properties*.

NI 51-101 will also apply to an issuer that is not yet a *reporting issuer* if it files a prospectus or other disclosure document that incorporates prospectus requirements. Pursuant to the long-form prospectus requirements, the issuer must disclose the information contained in *Form 51-101F1*, as well as the reports set out in *Form 51-101F2* and *Form 51-101F3*.

1.4 *Materiality* Standard

Section 1.4 of *NI 51-101* states that *NI 51-101* applies only in respect of information that is material. *NI 51-101* does not require disclosure or filing of information that is not material. If information is not required to be disclosed because it is not material, it is unnecessary to disclose that fact.

Materiality for the purposes of *NI 51-101* is a matter of judgement to be made in light of the circumstances, taking into account both qualitative and quantitative factors, assessed in respect of the *reporting issuer* as a whole.

~~This concept of *materiality* is consistent with the concept of *materiality* applied in connection with financial reporting pursuant to the *CICA Handbook*.~~

The reference in subsection 1.4(2) of *NI 51-101* to a "reasonable investor" denotes an objective test: would a notional investor, broadly representative of investors generally and guided by reason, be likely to be influenced, in making an investment decision to buy, sell or hold a security of a *reporting issuer*, by an item of information or an aggregate of items of information? If so, then that item of information, or aggregate of items, is "material" in respect of that *reporting issuer*. An item that is immaterial alone may be material in the context of other information, or may be necessary to give context to other information. For example, a large number of small interests in *oil* and *gas properties* may be material in aggregate to a *reporting issuer*. Alternatively, a small interest in an *oil* and *gas property* may be material to a *reporting issuer*, depending on the size of the *reporting issuer* and its particular circumstances.

PART 2 ANNUAL FILING REQUIREMENTS

2.1 Annual Filings on *SEDAR*

The information required under section 2.1 of *NI 51-101* must be filed electronically on *SEDAR*. Consult National Instrument 13-101 System for Electronic Document Analysis and Retrieval (*SEDAR*) and the current *CSA* "*SEDAR* Filer Manual" for information about filing documents electronically. The information required to be filed under item 1 of section 2.1 of *NI 51-101* is usually derived from a much longer and more detailed *oil* and *gas* report prepared by a *qualified reserves evaluator.* These long and detailed reports cannot be filed electronically on SEDAR. The filing of an oil and gas report, or a summary of an oil and gas report, does not satisfy the requirements of the annual filing under *NI 51-101*.

2.2 Inapplicable or Immaterial Information

Section 2.1 of *NI 51-101* does not require the filing of any information, even if specified in *NI 51-101* or in a form referred to in *NI 51-101*, if that information is inapplicable or not material in respect of the *reporting issuer*. See section 1.4 of this Companion Policy for a discussion of *materiality*.

If an item of prescribed information is not disclosed because it is inapplicable or immaterial, it is unnecessary to state that fact or to make reference to the disclosure requirement.

2.3 Use of Forms

Section 2.1 of *NI 51-101* requires the annual filing of information set out in *Form 51-101F1* and reports in accordance with *Form 51-101F2* and *Form 51-101F3.* Appendix 1 to this Companion Policy provides an example of how certain of the *reserves data* might be presented. While the format presented in Appendix 1 in respect of *reserves data* is not mandatory, we encourage issuers to use this format.

The information specified in all three forms, or any two of the forms, can be combined in a single document. A *reporting issuer* may wish to include statements indicating the relationship between documents or parts of one document. For example, the *reporting issuer* may wish to accompany the report of the *independent qualified reserves evaluator or auditor* (*Form 51-101F2*) with a reference to the *reporting issuer's* disclosure of the *reserves data* (*Form 51-101F1*), and vice versa.

~~The report of management and directors in *Form 51-101F3* may be combined with management's report on financial statements, if any, in respect of the same financial year.~~

A *reporting issuer* may supplement the annual disclosure required under *NI 51-101* with additional information corresponding to that prescribed in *Form 51-101F1, Form 51-101F2* and *Form 51-101F3,* but as at dates, or for periods, subsequent to those for which annual disclosure is required. However, to avoid confusion, such supplementary disclosure should be clearly identified as being interim disclosure and distinguished from the annual disclosure (for example, if appropriate, by reference to a particular interim period). Supplementary interim disclosure does not satisfy the annual disclosure requirements of section 2.1 of *NI 51-101.*

2.4 *Annual Information Form*

Section 2.3 of *NI 51-101* permits *reporting issuers* to satisfy the requirements of section 2.1 of *NI 51-101* by presenting the information required under section 2.1 in an *annual information form*.

(1) **Meaning of "*Annual Information Form*" –** *Annual information form* has the same meaning as "AIF" in National Instrument 51-102 Continuous Disclosure Obligations. Therefore, as set out in that definition, an *annual information form* can be a completed Form 51-102F2 *Annual Information Form* or, in the case of an *SEC* issuer (as defined in NI 51-102), a completed Form 51-102F2 or an annual report or transition report under the *1934 Act* on Form 10-K, Form 10-KSB or Form 20-F.

(2) **Option to Set Out Information in *Annual Information Form* –** Form 51-102F2 *Annual Information Form* requires the information required by section 2.1 of *NI 51-101* to be included in the *annual information form*. That information may be included either by setting out the text of the information in the *annual information form* or by incorporating it, by reference from separately filed documents. The option offered by section 2.3 of *NI 51-101* enables a *reporting issuer* to satisfy its obligations under section 2.1 of *NI 51-101*, as well as its obligations in respect of *annual information form* disclosure, by setting out the information required under section 2.1 only once, in the *annual information form*. If the *annual information form* is on Form 10-K, this can be accomplished by including the information in a supplement (often referred to as a "wrapper") to the Form 10-K.

A *reporting issuer* that elects to set out in full in its *annual information form* the information required by section 2.1 of *NI 51-101* need not also file that information again for the purpose of section 2.1 in one or more separate documents. A**However, a** *reporting issuer* that elects to follow this approach ~~should file its *annual information form* in accordance with usual requirements of *securities legislation*, and~~**continues to be subject to the requirement to file,** at the same time ~~file~~**and** on *SEDAR*, in the **appropriate SEDAR** category ~~for *NI 51-101 oil* and *gas* disclosure, a notification that the information required under section 2.1 of *NI 51-101* is included in the *reporting issuer's* filed *annual information form*. More specifically, the notification should be filed under *SEDAR* Filing Type: "Oil and Gas Annual Disclosure (NI 51-101)" and Filing Subtype/Document Type: "Oil and Gas Annual Disclosure Filing (Forms 51-101F1, F2 & F3)". Alternatively, the notification could be a copy of the news release mandated by section 2.2 of NI 51-101. If this is the case, the news release should be filed under *SEDAR* Filing Type: "Oil and Gas Annual Disclosure (NI 51-101)" and Filing Subtype/Document Type: "News Release (section 2.2 of NI 51-101)".~~ **, the notice in accordance with *Form 51-101F4* (see section 2.2 of *NI 51-101*).**

This notification will assist other SEDAR users in finding that information. It is not necessary to make a duplicate filing of the *annual information form* itself under the SEDAR *NI 51-101 oil and gas* disclosure category.

2.5 *Reporting Issuer* That Has No *Reserves*

The requirement to make annual *NI 51-101* filings is not limited to only those issuers that have *reserves* and related *future net revenue*. *A reporting issuer* with no *reserves* but with *prospects*, unproved *properties* or *resources* may be engaged in *oil and gas activities* (see section 1.3 above) and therefore subject to NI 51-101. That means the issuer must still make annual *NI 51-101* filings and ensure that it complies with other *NI 51-101* requirements. The following is guidance on the preparation of *Form 51-101F1*, *Form 51-101F2*, *Form 51-101F3* and other *oil* and *gas* disclosure if the *reporting issuer* has no *reserves*.

(1) ***Form 51-101F1* –** Section 1.4 of *NI 51-101* states that the *Instrument* applies only in respect of information that is material in respect of a *reporting issuer*. If indeed the *reporting issuer* has no *reserves*, we would consider that fact alone material. The *reporting issuer's* disclosure, under Part 2 of *Form 51-101F1*, should make clear that it has no *reserves* and hence no related *future net revenue*.

Supporting information regarding *reserves data* required under Part 2 (e.g., price estimates) that are not material to the issuer may be omitted. However, if the issuer had disclosed *reserves* and related *future net revenue* in the previous year, and has no *reserves* as at the end of its current financial year, the *reporting issuer* is still required to present a reconcilation to the prior-year's estimates of *reserves*, as required by Part 4 of *Form 51-101F1*.

The *reporting issuer* is also required to disclose information required under Part 6 of *Form 51-101F1*. Those requirements apply irrespective of the quantum of *reserves*, if any. This would include information about *properties* (items 6.1 and 6.2), costs (item 6.6), and exploration and development activities (item 6.7). The disclosure should make clear that the issuer had no *production*, as that fact would be material.

(2) ***Form 51-101F2* –** *NI 51-101* requires *reporting issuers* to retain an *independent qualified reserves evaluator or auditor* to evaluate or audit the company's *reserves data* and report to the board of directors. If the *reporting issuer* had no *reserves* during the year and hence did not retain an evaluator or auditor, then it would not need to retain one just to file a (nil) report of the *independent* evaluators on the *reserves data* in the form of *Form 51-101F2* and the *reporting issuer* would therefore not be required to file a *Form 51-101F2*. If, however, the issuer did retain an evaluator or auditor to evaluate *reserves*, and the evaluator or auditor concluded that they could not be so categorized, or reclassified those *reserves* to *resources*, the issuer would have to file a report of the *qualified reserves evaluator* because the evaluator has, in fact, evaluated the *reserves* and expressed an opinion.

(3) ***Form 51-101F3* –** Irrespective of whether the *reporting issuer* has *reserves*, the requirement to file a report of management and directors in the form of *Form 51-101F3* applies.

(4) **Other *NI 51-101* Requirements –** *NI 51-101* does not require *reporting issuers* to disclose *anticipated results* from their *resources*. However, if a *reporting issuer* chooses to disclose that type of information, section 5.9 of *NI 51-101* applies to that disclosure.

2.6 *Reservation* in Report of *Independent Qualified Reserves Evaluator or Auditor*

A report of an *independent qualified reserves evaluator or auditor* on *reserves data* will not satisfy the requirements of item 2 of section 2.1 of *NI 51-101* if the report contains a *reservation*, the cause of which can be removed by the *reporting issuer* (subsection 2.4(2) of *NI 51-101*).

The *CSA* do not generally consider time and cost considerations to be causes of a *reservation* that cannot be removed by the *reporting issuer*.

A report containing a *reservation* may be acceptable if the *reservation* is caused by a limitation in the scope of the *evaluation* or audit resulting from an event that clearly limits the availability of necessary records and which is beyond the control of the *reporting issuer*. This could be the case if, for example, necessary records have been inadvertently destroyed and cannot be recreated or if necessary records are in a country at war and access is not practicable.

One potential source of *reservations*, which the *CSA* consider can and should be addressed in a different way, could be reliance by a *qualified reserves evaluator or auditor* on information derived or obtained from a *reporting issuer's independent* financial auditors or reflecting their report. The *CSA* recommend that *qualified reserves evaluators or auditors* follow the procedures and guidance set out in both sections 4 and 12 of volume 1 of the *COGE Handbook* in respect of dealings with *independent* financial auditors. In so doing, the *CSA* expect that the quality of *reserves data* can be enhanced and a potential source of *reservations* can be eliminated.

2.7 Disclosure in *Form 51-101F1*

(1) **Royalty Interest in *Reserves*** – *Net reserves* (or "company *net reserves*") of a *reporting issuer* include its royalty interest in *reserves*.

If a *reporting issuer* cannot obtain the information it requires to enable it to include a royalty interest in *reserves* in its disclosure of *net reserves*, it should, proximate to its disclosure of *net reserves*, disclose that fact and its corresponding royalty interest share of *oil* and *gas production* for the year ended on the *effective date*.

Form 51-101F1 requires that certain *reserves data* be provided on both a "*gross*" and "*net*" basis, the latter being adjusted for both royalty entitlements and royalty obligations. However, if a royalty is granted by a trust's subsidiary to the trust, this would not affect the computation of "*net reserves*". The typical *oil* and *gas* income trust structure involves the grant of a royalty by an operating subsidiary of the trust to the trust itself, the royalty being the source of the distributions to trust investors. In this case, the royalty is wholly within the combined or consolidated trust entity (the trust and its operating subsidiary). This is not the type of external entitlement or obligation for which adjustment is made in determining, for example, "*net reserves*". Viewing the trust and its consolidated entities together, the relevant *reserves* and other *oil* and *gas* information is that of the operating subsidiary without deduction of the internal royalty to the trust.

(2) **Government Restriction on Disclosure** – If, because of a restriction imposed by a government or governmental authority having jurisdiction over a *property*, a *reporting issuer* excludes *reserves* information from its *reserves data* disclosed under *NI 51-101*, the disclosure should include a statement that identifies the *property* or country for which the information is excluded and explains the exclusion.

(3) **Computation of *Future Net Revenue***

(a) Tax

Form 51-101F1 requires *future net revenue* to be estimated and disclosed both before and after deduction of income taxes. However, a *reporting issuer* may not be subject to income taxes because of its royalty or income trust structure. In this instance, the issuer should use the tax rate that most appropriately reflects the income tax it reasonably expects to pay on the *future net revenue*. If the issuer is not subject to income tax because of its royalty trust structure, then the most appropriate income tax rate would be zero. In this case, the issuer could present the estimates of *future net revenue* in only one column and explain, in a note to the table, why the estimates of before-tax and after-tax *future net revenue* are the same.

Also, tax pools should be taken into account when computing *future net revenue* after income taxes. The definition of "future income tax expense" is set out in the NI 51-101 Glossary. Essentially, *future income tax expenses* represent estimated cash income taxes payable on the *reporting issuer's* future pre-tax cash flows.

These cash income taxes payable should be computed by applying the appropriate year-end statutory tax rates, taking into account future tax rates already legislated, to future pre-tax *net* cash flows reduced by appropriate deductions of estimated unclaimed costs and losses carried forward for tax purposes and relating to *oil and gas activities* (i.e., tax pools). Such tax pools may include Canadian *oil* and *gas property* expense (COGPE), Canadian development expense (CDE), Canadian exploration expense (CEE), undepreciated capital cost (UCC) and unused prior year's tax losses. (Issuers should be aware of limitations on the use of certain tax pools resulting from acquisitions of *properties* in situations where provisions of the Income Tax Act concerning successor corporations apply.)

(b) Other Fiscal Regimes

Other fiscal regimes, such as those involving *production* sharing contracts, should be adequately explained with appropriate allocations made to various classes of proved *reserves* and to *probable reserves*.

(4) **Supplemental Disclosure of *Future Net Revenue* Using ~~*Constant prices and costs*~~ – In addition to requiring the disclosure of *future net revenue* using *forecast prices and costs,*** *Form 51-101 F1* gives *reporting issuers* the option of disclosing *future net revenue* ~~using *constant prices and costs* in addition to disclosing *future net revenue* using *forecast prices and costs*. *Constant prices and costs* are based on the *reporting issuer's*~~**based on** prices and costs ~~as at the *reporting issuer's* financial year-end.~~ **determined in accordance with the relevant *US oil and gas disclosure requirements*.** In general, these prices and costs are assumed not to change, but rather to remain constant, throughout the life of a *property*, except to the extent of certain fixed or presently determinable future prices or costs to which the *reporting issuer* is legally bound by a contractual or other obligation to supply a physical product (including those for an extension period of a contract that is likely to be extended).

(5) ~~**Financial Instruments** – The definition of "*forecast prices and costs*" in paragraph 1.1(j) of *NI 51-101* and the term "*constant prices and costs*" as defined in the NI 51-101 Glossary refer to fixed or presently determinable future prices to which a *reporting issuer* is legally bound by a contractual or other obligation to supply a physical product. The phrase "contractual or other obligation to supply a physical product" excludes arrangements under which the *reporting issuer* can satisfy its obligations in cash and would therefore exclude an arrangement that would be a "financial instrument" as defined in Section 3855 of the *CICA Handbook*. The *CICA Handbook* discusses when a *reporting issuer's* obligation would be considered a financial instrument and sets out the requirements for presentation and disclosure of these financial instruments (including so-called financial hedges) in the *reporting issuer's* financial statements.~~ **repealed.**

(6) ***Reserves* Reconciliation**

(a) If the *reporting issuer* reports *reserves*, but had no *reserves* at the start of the reconciliation period, a reconciliation of *reserves* must be carried out if any *reserves* added during the previous year are material. Such a reconciliation will have an opening balance of zero.

(b) The reserves reconciliation is prepared on a *gross reserves*, not *net reserves*, basis. For some *reporting issuers* with significant royalty interests, such as royalty trusts, the *net reserves* may exceed the *gross reserves*. In order to provide adequate disclosure given the distinctive nature of its business, the *reporting issuer* may also disclose its *reserves* reconciliation on a *net reserves* basis. The issuer is not precluded from providing this additional information with its disclosure prescribed in *Form 51-101F1* provided that the *net reserves* basis for the reconciliation is clearly identified in the additional disclosure to avoid confusion.

(c) Clause 2(c)(ii) of item 4.1 of *Form 51-101F1* requires reconciliations of *reserves* to separately identify and explain technical revisions. Technical revisions show changes in existing *reserves* estimates, in respect of carried-forward *properties*, over the period of the reconciliation (i.e., between estimates as at the *effective date* and the prior year's estimate) and are the result of new technical information, not the result of capital expenditure. With respect to making technical revisions, the following should be noted:

- Infill Drilling: It would not be acceptable to include infill drilling results as a technical revision. *Reserves* additions derived from infill drilling during the year are not attributable to revisions to the previous year's *reserves* estimates. Infill drilling *reserves* must either be included in the "extensions and improved recovery" category or in an additional stand-alone category in the reserves reconciliation labelled "infill drilling".

- Acquisitions: If an acquisition is made during the year, (i.e., in the period between the *effective date* and the prior year's estimate), the *reserves* estimate to be used in the reconciliation is the estimate of *reserves* at the *effective date*, not at the acquisition date,

plus any *production* since the acquisition date. This *production* must be included as *production* in the reconciliation. If there has been a change in the *reserves* estimate between the acquisition date and the *effective date* other than that due to *production*, the issuer may wish to explain this as part of the reconciliation in a footnote to the reconciliation table.

(7) **Significant Factors or Uncertainties** – Item 5.2 of *Form 51-101F1* requires an issuer to identify and discuss important economic factors or significant uncertainties that affect particular components of the *reserves data*. ~~Like a "subsequent event" note in a financial statement, the issuer should discuss this type of information even if it pertains to a period subsequent to the *effective date*.~~

For example, if events subsequent to the *effective date* have resulted in significant changes in expected future prices, such that the forecast prices reflected in the *reserves data* differ materially from those that would be considered to be a reasonable outlook on the future around the date of the company's "statement of *reserves data* and other information", then the issuer's statement might include, pursuant to item 5.2, a discussion of that change and its effect on the disclosed *future net revenue* estimates. It may be misleading to omit this information.

(8) **Additional Information** – As discussed in section 2.3 above and in the instructions to *Form 51-101F1*, *NI 51-101* offers flexibility in the use of the prescribed forms and the presentation of required information.

The disclosure specified in *Form 51-101F1* is the minimum disclosure required, subject to the *materiality* standard. *Reporting issuers* are free to provide additional disclosure that is not inconsistent with *NI 51-101*.

To the extent that additional, or more detailed, disclosure can be expected to assist readers in understanding and assessing the mandatory disclosure, it is encouraged. Indeed, to the extent that additional disclosure of *material* facts is necessary in order to make mandated disclosure not misleading, a failure to provide that additional disclosure would amount to a misrepresentation.

(9) **Sample *Reserves Data* Disclosure** – Appendix 1 to this Companion Policy sets out an example of how certain of the *reserves data* might be presented in a manner which the *CSA* consider to be consistent with *NI 51-101* and *Form 51-101F1*. The CSA encourages *reporting issuers* to use the format presented in Appendix 1.

The sample presentation in Appendix 1 also illustrates how certain additional information not mandated under *Form 51-101F1* might be incorporated in an annual filing.

2.8 *Form 51-101F2*

(1) **Negative Assurance by *Qualified Reserves Evaluator or Auditor* –** A *qualified reserves evaluator or auditor* conducting a review may wish to express only negative assurance -- for example, in a statement such as "Nothing has come to my attention which would indicate that the *reserves data* have not been prepared in accordance with principles and definitions presented in the Canadian Oil and Gas Evaluation Handbook". This can be contrasted with a positive statement such as an opinion that "The *reserves data* have, in all material respects, been determined and presented in accordance with the Canadian Oil and Gas *Evaluation* Handbook and are, therefore, free of material misstatement".

The *CSA* are of the view that statements of negative assurance can be misinterpreted as providing a higher degree of assurance than is intended or warranted.

The *CSA* believe that a statement of negative assurance would constitute so *material* a departure from the report prescribed in *Form 51-101F2* as to fail to satisfy the requirements of item 2 of section 2.1 of *NI 51-101*.

In the rare case, if any, in which there are compelling reasons for making such disclosure (e.g., a prohibition on disclosure to external parties), the *CSA* believe that, to avoid providing information that could be misleading, the *reporting issuer* should include in such disclosure useful explanatory and cautionary statements. Such statements should explain the limited nature of the work undertaken by the *qualified reserves evaluator or auditor* and the limited scope of the assurance expressed, noting that it does not amount to a positive opinion.

(2) **Variations in Estimates** ~~–~~ **The report prescribed by** *Form 51-101F2* ~~(and *Form 51-101F3*)~~ contains ~~a statement~~**statements to the effect** that variations between *reserves data* and actual results may be material but ~~that any variations should be consistent with the fact that *reserves* are categorized according to the probability of their recovery~~***reserves* have been determined in accordance with the *COGE Handbook*, consistently applied**.

Reserves estimates are made at a point in time, being the *effective date*. A reconciliation of a *reserves* estimate to actual results is likely to show variations and the variations may be material. This variation may arise from factors such as exploration discoveries, acquisitions, divestments and economic factors that were not considered in the initial *reserves* estimate. Variations that occur with respect to *properties* that were included in both the *reserves* estimate and the actual results may be due to technical or economic factors. Any variations arising due to technical factors ~~should~~**must** be consistent with the fact that *reserves* are categorized according to the probability of their recovery. For example, the requirement that reported *proved reserves* "must have at least a 90 percent probability that the quantities actually recovered will equal or exceed the estimated *proved reserves*" (section 5 of volume 1 of the *COGE Handbook*) implies that as more technical data becomes available, a positive, or upward, revision is significantly more likely than a negative, or downward, revision. Similarly, it should be equally likely that revisions to an estimate of *proved* plus *probable reserves* will be positive or negative.

Reporting issuers must assess the magnitude of such variation according to their own circumstances. A *reporting issuer* with a limited number of *properties* is more likely to be affected by a change in one of these *properties* than a *reporting issuer* with a greater number of *properties*. Consequently, *reporting issuers* with few *properties* are more likely to show larger variations, both positive and negative, than those with many *properties*.

Variations may result from factors that cannot be reasonably anticipated, such as the fall in the price of *bitumen* at the end of 2004 that resulted in significant negative revisions in *proved reserves*, or the unanticipated activities of a foreign government. If such variations occur, the reasons will usually be obvious. However, the assignment of a *proved reserve*, for instance, should reflect a degree of confidence in all of the relevant factors, at the *effective date*, such that the likelihood of a negative revision is low, especially for a *reporting issuer* with many properties. Examples of some of the factors that could have been reasonably anticipated, that have led to negative revisions of *proved* or of *proved* plus *probable reserves* are:

- Over-optimistic activity plans, for instance, booking reserves for *proved* or *probable undeveloped reserves* that have no reasonable likelihood of being drilled.
- *Reserves* estimates that are based on a forecast of *production* that is inconsistent with historic performance, without solid technical justification.
- Assignment of drainage areas that are larger than can be reasonably expected.
- The use of inappropriate analogs.

(3) ***Effective date* of *Evaluation* –** A *qualified reserves evaluator or auditor* cannot prepare an *evaluation* using information that relates to events that occurred after the *effective date*, being the financial year-end. Information that relates to events that occurred after the year-end should not be incorporated into the forecasts. For example, information about drilling results from wells drilled in January or February, or changes in *production* that occurred after year-end date of December 31, should not be used. Even though this more recent information is available, the evaluator or auditor should not go back and change the forecast information. The forecast is to be based on the evaluator's or auditor's perception of the future as of December 31, the *effective date* of the report.

Similarly, the evaluator or auditor should not use price forecasts for a date subsequent to the year-end date of, in this example, December 31. The evaluator or auditor should use the prices that he or she forecasted on or around December 31. The evaluator or auditor should also use the December forecasts for exchange rates and inflation. Revisions to price, exchange rate or inflation rate forecasts after December 31 would have resulted from events that occurred after December 31.

PART 3 RESPONSIBILITIES OF *REPORTING ISSUERS* AND DIRECTORS

3.1 *Reserves* Committee

Section 3.4 of *NI 51-101* enumerates certain responsibilities of the board of directors of a *reporting issuer* in connection with the preparation of *oil* and *gas* disclosure.

The *CSA* believe that certain of these responsibilities can in many cases more appropriately be fulfilled by a smaller group of directors who bring particular experience or abilities and an *independent* perspective to the task.

Subsection 3.5(1) of *NI 51-101* permits a board of directors to delegate responsibilities (other than the responsibility to approve the content or filing of certain documents) to a committee of directors, a majority of whose members are *independent* of management. Although subsection 3.5(1) is not mandatory, the *CSA* encourage *reporting issuers* and their directors to adopt this approach.

3.2 Responsibility for Disclosure

NI 51-101 requires the involvement of an *independent qualified reserves evaluator or auditor* in preparing or reporting on certain *oil* and *gas* information disclosed by a *reporting issuer*, and in section 3.2 mandates the appointment of an *independent qualified reserves evaluator or auditor* to report on *reserves data*.

The *CSA* do not intend or believe that the involvement of an *independent qualified reserves evaluator or auditor* relieves the *reporting issuer* of responsibility for information disclosed by it for the purposes of *NI 51-101*.

PART 4 MEASUREMENT

4.1 Consistency in Dates

Section 4.2 of *NI 51-101* requires consistency in the timing of recording the effects of events or transactions for the purposes of both annual financial statements and annual *reserves data* disclosure.

To ensure that the effects of events or transactions are recorded, disclosed or otherwise reflected consistently (in respect of timing) in all public disclosure, a *reporting issuer* will wish to ensure that both its financial auditors and its *qualified reserves evaluators or auditors*, as well as its directors, are kept apprised of relevant events and transactions, and to facilitate communication between its financial auditors and its *qualified reserves evaluators or auditors*.

Sections 4 and 12 of volume 1 of the *COGE Handbook* set out procedures and guidance for the conduct of *reserves evaluations* and *reserves* audits, respectively. Section 12 deals with the relationship between a *reserves* auditor and the client's financial auditor. Section 4, in connection with *reserves evaluations*, deals somewhat differently with the relationship between the *qualified reserves evaluator or auditor* and the client's financial auditor. The *CSA* recommend that *qualified reserves evaluators or auditors* carry out the procedures discussed in both sections 4 and 12 of volume 1 of the *COGE Handbook*, whether conducting a *reserves evaluation* or a *reserves* audit.

PART 5 REQUIREMENTS APPLICABLE TO ALL DISCLOSURE

5.1 Application of Part 5

Part 5 of *NI 51-101* imposes requirements and restrictions that apply to all "disclosure" (or, in some cases, all written disclosure) of a type described in section 5.1 of *NI 51-101*. Section 5.1 refers to disclosure that is either

- filed by a reporting issuer with the securities regulatory authority, or
- if not filed, otherwise made to the public or made in circumstances in which, at the time of making the disclosure, the *reporting issuer* expects, or ought reasonably to expect, the disclosure to become available to the public.

As such, Part 5 applies to a broad range of disclosure including

- the annual filings required under Part 2 of *NI 51-101*,
- other continuous disclosure filings, including material change reports (which themselves may also be subject to Part 6 of *NI 51-101*),
- public disclosure documents, whether or not filed, including news releases,
- public disclosure made in connection with a distribution of securities, including a prospectus, and
- except in respect of provisions of Part 5 that apply only to written disclosure, public speeches and presentations made by representatives of the *reporting issuer* on behalf of the *reporting issuer*.

For these purposes, the *CSA* consider written disclosure to include any writing, map, plot or other printed representation whether produced, stored or disseminated on paper or electronically. For example, if material distributed at a company presentation refers to *BOEs*, the material should include, near the reference to *BOEs*, the cautionary statement required by paragraph 5.14(d) of *NI 51-101*.

To ensure compliance with the requirements of Part 5, the *CSA* encourage *reporting issuers* to involve a *qualified reserves evaluator or auditor*, or other person who is familiar with *NI 51-101* and the *COGE Handbook*, in the preparation, review or approval of all such *oil* and *gas* disclosure.

5.2 Disclosure of *Reserves* and Other Information

(1) **General –** A *reporting issuer* must comply with the requirements of section 5.2 in its disclosure, to the public, of *reserves* estimates and other information of a type specified in *Form 51-101F1*. This would include, for example, disclosure of such information in a news release.

(2) ***Reserves* –** *NI 51-101* does not prescribe any particular methods of estimation but it does require that a *reserve* estimate be prepared in accordance with the *COGE Handbook*. For example, section 5 of volume 1 of the *COGE Handbook* specifies that, in respect of an issuer's reported proved *reserves*, there is to be at least a 90 percent probability that the total remaining quantities of *oil* and *gas* to be recovered will equal or exceed the estimated total proved *reserves*.

Additional guidance on particular topics is provided below.

(3) ***Possible Reserves* –** A *possible reserves* estimate – either alone or as part of a sum – is often a relatively large number that, by definition, has a low probability of actually being produced. For this reason, the cautionary language prescribed in subparagraph 5.2(a)(v) of *NI 51-101* must accompany the written disclosure of a *possible reserves* estimate.

(4) **Probabilistic and Deterministic *Evaluation* Methods –** Section 5 of volume 1 of the *COGE Handbook* states that "In principle, there should be no difference between estimates prepared using probabilistic or deterministic methods".

When deterministic methods are used, in the absence of a "mathematically derived quantitative measure of probability", the classification of *reserves* is based on professional judgment as to the quantitative measure of certainty attained.

When probabilistic methods are used in conjunction with good engineering and geological practice, they will provide more statistical information than the conventional deterministic method. The following are a few critical criteria that an evaluator must satisfy when applying probabilistic methods:

- The evaluator must still estimate the *reserves* applying the definitions and using the guidelines set out in the *COGE Handbook*.
- Entity level probabilistic *reserves* estimates should be aggregated arithmetically to provide reported level *reserves*.
- If the evaluator also prepares aggregate *reserves* estimates using probabilistic methods, the evaluator should explain in the *evaluation* report the method used. In particular, the evaluator should specify what confidence levels were used at the entity, *property*, and reported (i.e., total) levels for each of proved, proved + *probable* and proved + *probable* + *possible* (if reported) *reserves*.
- If the *reporting issuer* discloses the aggregate *reserves* that the evaluator prepared using probabilistic methods, the issuer should provide a brief explanation, near its disclosure, about the *reserves* definitions used for estimating the *reserves*, about the method that the evaluator used, and the underlying confidence levels that the evaluator applied.

(5) **Availability of Funding –** In assigning *reserves* to an undeveloped *property*, the *reporting issuer* is not required to have the funding available to develop the *reserves*, since they may be developed by means other than the expenditure of the *reporting issuer's* funds (for example by a farm-out or sale). *Reserves* must be estimated assuming that development of the *properties* will occur without regard to the likely availability of funding required for that *property*. The *reporting issuer's* evaluator is not required to consider whether the *reporting issuer* will have the capital necessary to develop the *reserves*. (See section 7 of *COGE Handbook* and subparagraph 5.2(a)(iv) of *NI 51-101*.)

However, item 5.3 of *Form 51-101F1* requires a *reporting issuer* to discuss its expectations as to the sources and costs of funding for estimated future *development costs* **as a part of its annual disclosure**. If the issuer expects that the costs of funding would make development of a *property* unlikely, then even if *reserves* were assigned, it must also discuss that expectation and its plans for the *property*.

Disclosure of an estimate of *reserves, contingent resources* or *prospective resources* in respect of which timely availability of funding for development is not assured may be misleading if that disclosure is not accompanied, proximate to it, by a discussion (or a cross-reference to such a discussion in other disclosure filed by the *reporting issuer* on *SEDAR*) of the funding uncertainties and their anticipated effect on the timing or completion of such development (or on any particular

stage of multi-stage development such as often observed in oilsands developments).

(6) **Proved or Probable *Undeveloped Reserves* –** Proved or probable *undeveloped reserves* must be reported in the year in which they are recognized. If the *reporting issuer* does not disclose the proved or probable *undeveloped reserves* just because it has not yet spent the capital to develop these *reserves*, it may be omitting *material* information, thereby causing the *reserves* disclosure to be misleading. If the proved or probable *undeveloped reserves* are not disclosed to the public, then those who have a special relationship with the issuer and know about the existence of these *reserves* would not be permitted to purchase or sell the securities of the issuer until that information has been disclosed. If the issuer has a prospectus, the prospectus might not contain full true and plain disclosure of all *material* facts if it does not contain information about these proved or probable *undeveloped reserves*.

(7) **Mechanical Updates** – So-called "mechanical updates" of *reserves* reports are sometimes created, often by rerunning previous *evaluations* with a new price deck. This is problematic since there may have been material changes other than price that may lead to the report being misleading. If a *reporting issuer* discloses the results of the mechanical update it should ensure that all relevant material changes are also disclosed to ensure that the information is not misleading.

5.3 Classification of *Reserves* and of *Resources* ~~Classification~~Other than *Reserves*

Section 5.3 of *NI 51-101* requires that any disclosure of *reserves* or **of** *resources* **other than *reserves*** must ~~be made using~~**apply** the categories and terminology ~~as~~ set out in the *COGE Handbook*. The definitions of the various ~~*reserves* and *resources*~~***resource*** categories~~,~~ derived from the *COGE Handbook*~~,~~ are provided in the NI 51-101 Glossary. In addition, section 5.3 of *NI 51-101* requires that disclosure of *reserves* ~~or~~**and of** *resources* **other than *reserves*** must relate to the most specific category of *reserves* or **of** *resources* **other than *reserves*** in which the *reserves* or *resources* **other than *reserves*** can be classified. For instance, there are several subcategories of *discovered resources* including *reserves*, *contingent resources* and *discovered unrecoverable resources*. *Reporting issuers* must classify *discovered resources* into one of the subcategories of *discovered resources*. ~~In exceptional circumstances, a *reporting issuer* may be unable to classify the *resources* in a subcategory of *discovered resources*, in which case it must provide a comprehensive explanation as to why the *resources* cannot be classified in a *subcategory*.~~

In addition, *reserves* can be estimated using three subcategories, namely proved, probable or *possible reserves*, according to the probability that such quantities ~~of *reserves*~~ will actually be produced. As described in the *COGE Handbook* proved, probable and *possible reserves* represent conservative, realistic and optimistic estimates of *reserves*, respectively. Therefore any disclosure of *reserves* must be broken down into one of the three subcategories of *reserves*, namely proved, *probable* or *possible reserves*. For further guidance on disclosure of reserves and **of** *resources* **other than *reserves*** please see sections 5.2 and 5.5 of this Companion Policy.

5.4 Written Consents

Section 5.7 of *NI 51-101* restricts a *reporting issuer's* use of a report of a *qualified reserves evaluator or auditor* without written consent. The consent requirement does not apply to the direct use of the report for the purposes of *NI 51-101* (filing *Form 51-101F1*; making direct or indirect reference to the conclusions of that report in the filed *Form 51-101F1* and *Form 51-101F3*; and identifying the report in the news release referred to in section 2.2). The *qualified reserves evaluator or auditor* retained to report to a *reporting issuer* for the purposes of *NI 51-101* is expected to anticipate these uses of the report. However, further use of the report (for example, in a securities offering document or in other news releases) would require written consent.

5.5 Disclosure of *Resources* Other than *Reserves*

(1) **Disclosure of *Resources* Generally -**The disclosure of *resources*, excluding proved and *probable reserves*, is not mandatory under *NI 51-101*, except that a *reporting issuer* must make disclosure concerning its unproved *properties* and *resource* activities in its annual filings as described in Part 6 of *Form 51-101F1*. Additional disclosure beyond this is voluntary and must comply with section 5.9 of *NI 51-101* if *anticipated results* from the *resources* **other than *reserves*** are voluntarily disclosed.

For prospectuses, the general securities disclosure obligation of "full, true and plain" disclosure of all *material* facts would require the disclosure of *reserves* or **of** *resources* **other than *reserves*** that are *material* to the issuer, even if the disclosure is not mandated by *NI 51-101*. Any such disclosure should be based on supportable analysis.

Disclosure of *resources* **other than *reserves*** may involve the use of statistical measures that may be unfamiliar to a user. It is the responsibility of the evaluator and the *reporting issuer* to be familiar with these measures and for the *reporting issuer* to be able to explain them to investors. Information on statistical measures may be found in the *COGE Handbook* (section 9 of volume 1 and section 4 of volume 2) and in the

extensive technical literature[4] on the subject.

(2) **Disclosure of *Anticipated Results* under Subsection 5.9(1) of *NI 51-101* –** If a *reporting issuer* voluntarily discloses *anticipated results* from *resources* that are not classified as *reserves*, it must disclose certain basic information concerning the *resources*, which is set out in subsection 5.9(1) of *NI 51-101*. Additional disclosure requirements arise if the *anticipated results* disclosed by the issuer include an estimate of a *resource* quantity or associated value, as set out below in subsection 5.5(3).

If a *reporting issuer* discloses *anticipated results* relating to numerous aggregated *properties, prospects* or *resources*, the issuer may, depending on the circumstances, satisfy the requirements of subsection 5.9(1) by providing summarized information in respect of each prescribed requirement. The *reporting issuer* must ensure that its disclosure is reasonable, meaningful and at a level appropriate to its size. For a *reporting issuer* with only few *properties*, it may be appropriate to make the disclosure for each *property*. Such disclosure may be unreasonably onerous for a *reporting issuer* with many *properties*, and it may be more appropriate to summarize the information by major areas or for major projects. However, if a *reporting issuer* discloses an aggregate *resource* estimate (or associated value) referred to in subsection 5.9(2) of *NI 51-101*, the issuer must ensure that any aggregation of *properties* occurs within the most specific category of *resource* classification as required by paragraph 5.9(2)(b). A *reporting issuer* ~~cannot aggregate *properties* across~~**must not disclose an estimate reflecting a summation of** different categories of *resources* ~~if a *resource* estimate referenced in subsection 5.9(2) is disclosed~~**(see section 5.16 of *NI 51-101*)**.

In respect of the requirement to disclose the risk and level of uncertainty associated with the *anticipated result* under paragraph 5.9(1)(d) of *NI 51-101*, risk and uncertainty are related concepts. Section 9 of volume 1 of the *COGE Handbook* provides the following definition of risk:

> "Risk refers to a likelihood of loss and … It is less appropriate to *reserves* evaluation because economic viability is a prerequisite for defining *reserves*."

The concept of risk may have some limited relevance in disclosure related to *reserves*, for instance, for incremental *reserves* that depend on the installation of a compressor, the likelihood that the compressor will be installed. Risk is often relevant to the disclosure of *resource* categories other than *reserves*, in particular the likelihood that an exploration well will, or will not, be successful.

Section 9 of volume 1 of the *COGE Handbook* provides the following definition of uncertainty:

> "Uncertainty is used to describe the range of possible outcomes of a *reserves* estimate."

However, the concept of uncertainty is generally applicable to any estimate, including not only *reserves*, but also to all other categories of *resource*.

In satisfying the requirement of paragraph 5.9(1)(d) of *NI 51-101,* a *reporting issuer* should ensure that their disclosure includes the risks and uncertainties that are appropriate and meaningful for their activities. This may be expressed quantitatively as probabilities or qualitatively by appropriate description. If the *reporting issuer* chooses to express the risks and level of uncertainty qualitatively, the disclosure must be meaningful and not in the nature of a general disclaimer.

If the *reporting issuer* discloses the estimated value of an *unproved property* other than a value attributable to an estimated *resource* quantity, then the issuer must disclose the basis of the calculation of the value, in accordance with paragraph 5.9(1)(e). This type of value is typically based on petroleum land management practices that consider activities and land prices in nearby areas. If done *independently*, it would be done by a valuator with petroleum land management expertise who would generally be a member of a *professional organization* such as the Canadian Association of Petroleum Landmen. This is distinguishable from the determination of a value attributable to an estimated *resource* quantity, as contemplated in subsection 5.9(2). This latter type of value estimate must be prepared by a *qualified reserves evaluator or auditor*.

The calculation of an estimated value described in paragraph 5.9(1)(e) may be based on one or more of the following factors:

4 For example, Determination of Oil and Gas Reserves, Monograph No. 1, Chapter 22, Petroleum Society of CIM, Second Edition 2004. (ISBN 0-9697990-2-0)) Newendorp, P., & Schuyler, J., 2000, Decision Analysis for Petroleum Exploration, Planning Press, Aurora, Colorado (ISBN 0-9664401-1-0). Rose, P. R., Risk Analysis and Management of Petroleum Exploration Ventures, AAPG Methods in Exploration Series No. 12, AAPG (ISBN 0-89181-062-1)

- the acquisition cost of the *unproved property* to the *reporting issuer*, provided there have been no material changes in the *unproved property*, the surrounding *properties*, or the general *oil* and *gas* economic climate since acquisition;
- recent sales by others of interests in the same *unproved property*;
- terms and conditions, expressed in monetary terms, of recent farm-in agreements related to the *unproved property*;
- terms and conditions, expressed in monetary terms, of recent work commitments related to the *unproved property*;
- recent sales of similar *properties* in the same general area;
- recent exploration and discovery activity in the general area;
- the remaining term of the *unproved property*; or
- burdens (such as overriding royalties) that impact on the value of the *property*.

The *reporting issuer* must disclose the basis of the calculation of the value of the *unproved property*, which may include one or more of the above-noted factors.

The *reporting issuer* must also disclose whether the value was prepared by an *independent* party. In circumstances in which paragraph 5.9(1)(e) applies and where the value is prepared by an *independent* party, in order to ensure that the *reporting issuer* is not making public disclosure of misleading information, the *CSA* expect the *reporting issuer* to provide all relevant information to the valuator to enable the valuator to prepare the estimate.

(3) **Disclosure of an Estimate of Quantity or Associated Value of a *Resource* under Subsection 5.9(2) of *NI 51-101***

(a) Overview of Subsection 5.9(2) of *NI 51-101*

Pursuant to subsection 5.9(2) of *NI 51-101*, if a *reporting issuer* discloses an estimate of a *resource* quantity or an associated value, the estimate must have been prepared by a *qualified reserves evaluator or auditor*. If a *reporting issuer* obtains or carries out an evaluation of *resources* and wishes to file or disseminate a report in a format comparable to that prescribed in *Form 51-101F2*, it may do so. However, the title of such a form must not contain the term "*Form 51-101 F2*" as this form is specific to the evaluation of *reserves data*. *Reporting issuers* must modify the report on *resources* to reflect that *reserves data* is not being reported. A heading such as "Report on *Resource* Estimate by *Independent Qualified Reserves Evaluator or Auditor*" may be appropriate. Although such an evaluation is required to be carried out by a *qualified reserves evaluator or auditor*, there is no requirement that it be *independent*. If an *independent* party does not prepare the report, *reporting issuers* should consider amending the title or content of the report to make it clear that the report has not been prepared by an *independent* party and the *resource* estimate is not an independent *resource* estimate.

The *COGE Handbook* recommends the use of probabilistic *evaluation* methods for making *resource* estimates, and although it does not provide detailed guidance there is a considerable amount of technical literature on the subject.

In addition, pursuant to section 5.3 and paragraph 5.9(2)(b) of *NI 51-101*, the *reporting issuer* must ensure that the estimated *resource* relates to the most specific category of *resources* in which the *resource* can be classified. As discussed above in subsection 5.5(2) of this Companion Policy, if a *reporting issuer* wishes to disclose an aggregate *resource* estimate which involves the aggregation of numerous *properties, prospects* or *resources*, it must ensure that the disclosure does not result in a contravention of the requirement in paragraph 5.9(2)(b) of *NI 51-101*.

Subsection 5.9(2) requires the *reporting issuer* to disclose certain information in addition to that prescribed in subsection 5.9(1) of *NI 51-101* to assist recipients of the disclosure in understanding the nature of risks associated with the estimate. This information includes a definition of the *resource* category used for the estimate, disclosure of factors relevant to the estimate and cautionary language.

(b) Definitions of *Resource* Categories

For the purpose of complying with the requirement of defining the *resource* category, the *reporting issuer* must ensure that disclosure of the definition is consistent with the *resource* categories and terminology set out in the *COGE Handbook*, pursuant to section 5.3 of *NI 51-101*. Section 5 of volume 1 of the *COGE Handbook* and the NI 51-101 Glossary identify and define the various *resource* categories.

A *reporting issuer* may wish to report *reserves* or *resources* **other than *reserves*** of *oil* or *gas* as "in-place volumes". By definition, *reserves* of any type, *contingent resources* and *prospective resources* are estimates of volumes that are recoverable or potentially recoverable and, as such, cannot be described as being "in-place". Terms such as "potential *reserves*", "undiscovered *reserves*", "*reserves* in place", "in-place *reserves*" or similar terms must not be used because they are incorrect and misleading. The disclosure of *reserves* or **of** *resources* **other than *reserves*** must be consistent with the ~~*reserves* and *resources*~~ terminology and categories set out in the *COGE Handbook*, pursuant to section 5.3 of *NI 51-101*.

The *reporting issuer* can report other categories of *resources*, such as *discovered* ~~and *undiscovered resources*, as in-place volumes. However, the issuer should caution the reader that this does not represent recoverable volumes~~***petroleum initially-in-place, undiscovered petroleum initially-in-place* and *total petroleum initially-in-place*. However, the additional disclosure required by section 5.16 of *NI 51-101* must also be included**.

(c) Application of Subsection 5.9(2) of *NI 51-101*

If the *reporting issuer* discloses an estimate of a *resource* quantity or associated value, the *reporting issuer* must additionally disclose the following:

(i) a definition of the *resource* category used for the estimate;

(ii) the *effective date* of the estimate;

(iii) significant positive and negative factors relevant to the estimate;

(iv) the contingencies which prevent the classification of a contingent *resource* as a *reserve*; and

(v) cautionary language as prescribed by subparagraph 5.9(2)(c)(v) of *NI 51-101*.

The *resource* estimate may be disclosed as a single quantity such as a median or mean, representing the best estimate. Frequently, however, the estimate consists of three values that reflect a range of reasonable likelihoods (the low value reflecting a conservative estimate, the middle value being the best estimate, and the high value being an optimistic estimate).

Guidance concerning defining the *resource* category is provided above in section 5.3 and paragraph 5.5(3)(b) of this Companion Policy.

Reporting issuers are required to disclose significant positive and negative factors relevant to the estimate pursuant to subparagraph 5.9(2)(c)(iii). For example, if there is no infrastructure in the region to transport the resource, this may constitute a significant negative factor relevant to the estimate. Other examples would include a significant lease expiry or any legal, capital, political, technological, business or other factor that is highly relevant to the estimate. To the extent that the *reporting issuer* discloses an estimate for numerous properties that are aggregated, it may disclose significant positive and negative factors relevant to the aggregate estimate, unless discussion of a particular material *resource* or *property* is warranted in order to provide adequate disclosure to investors.

The cautionary language in subparagraph 5.9(2)(c)(v) includes a prescribed disclosure that there is no certainty that it will be commercially viable to produce any portion of the resources. The concept of commercial viability would incorporate the meaning of the word "commercial" provided in the NI 51-101 Glossary.

The general disclosure requirements of paragraph 5.9(2)(c) of *NI 51-101* may be illustrated by an example. If a *reporting issuer* discloses, for example, an estimate of a volume of its *bitumen* which is a *contingent resource* to the issuer, the disclosure would include information of the following nature:

> The *reporting issuer* holds a [●] interest in [provide description and location of interest]. As of [●] date, it estimates that, in respect of this interest, it has [●] bbls of *bitumen*, which would be classified as a *contingent resource*. A *contingent resource* is defined as [cite current definition in the *COGE Handbook*]. There is no certainty that it will be commercially viable to produce any portion of the *resource*. The contingencies which currently prevent the classification of the *resource* as a *reserve* are [state specific capital costs required to render *production* economic, applicable regulatory considerations, pricing, specific supply costs, technological considerations, and/or other relevant factors]. A significant factor relevant to the estimate is [e.g.] an existing legal dispute concerning title to the interest.

To the extent that this information is provided in a previously filed document, and it relates to the same interest in *resources*, the issuer can omit disclosure of significant positive and negative factors relevant to the estimate and the contingencies which prevent the classification of the *resource* as a *reserve*. However, the issuer must make reference

in the current disclosure to the title and date of the previously filed document.

5.6 *Analogous Information*

A *reporting issuer* may wish to base an estimate on, or include comparative *analogous information* for their area of interest, such as *reserves*, *resources*, and *production*, from *fields* or wells, in nearby or geologically similar areas. Particular care must be taken in using and presenting this type of information. Using only the best wells or *fields* in an area, or ignoring dry holes, for instance, may be particularly misleading. It is important to present a factual and balanced view of the information being provided.

The *reporting issuer* must comply with the disclosure requirements of section 5.10 of *NI 51-101*, when it discloses *analogous information*, as that term is broadly defined in *NI 51-101*, for an area which includes an area of the *reporting issuer's* area of interest. Pursuant to subsection 5.10(2) of *NI 51-101*, if the issuer discloses an estimate of its own *reserves* or *resources* based on an extrapolation from the *analogous information*, or if the *analogous information* itself is an estimate of its own *reserves* or *resources*, the issuer must ensure the estimate is prepared in accordance with the *COGE Handbook* and disclosed in accordance with *NI 51-101* generally. For example, in respect of a *reserves* estimate, the estimate must be classified and prepared in accordance with the *COGE Handbook* by a *qualified reserves evaluator or auditor* and must otherwise comply with the requirements of section 5.2 of *NI 51-101*.

5.7 Consistent Use of Units of Measurement

Reporting issuers should be consistent in their use of units of measurement within and between disclosure documents, to facilitate understanding and comparison of the disclosure. For example, *reporting issuers* should not, without compelling reason, switch between imperial units of measure (such as barrels) and Système International (SI) units of measurement (such as tonnes) within or between disclosure documents. Issuers should refer to Appendices B and C of volume 1 of the *COGE Handbook* for the proper reporting of units of measurement.

In all cases, in accordance with subparagraph 5.2(a)(iii) and section 5.3 of *NI 51-101*, *reporting issuers* should apply the relevant terminology and unit prefixes set out in the *COGE Handbook***.**

5.8 *BOEs* and *McfGEs*

Section 5.14 of *NI 51-101* sets out requirements that apply if a *reporting issuer* chooses to make disclosure using units of equivalency such as *BOEs* or *McfGEs*. The requirements include prescribed methods of calculation and cautionary disclosure as to the possible limitations of those calculations. Section 13 of the *COGE Handbook*, under the heading "Barrels of Oil Equivalent", provides additional guidance.

5.9 Finding and *Development costs*

Section 5.15 of *NI 51-101* sets out requirements that apply if a *reporting issuer* chooses to make disclosure of finding and *development costs*.

Because the prescribed methods of calculation under section 5.15 involve the use of *BOEs*, section 5.14 of *NI 51-101* necessarily applies to disclosure of finding and *development costs* under section 5.15. As such, the finding and development cost calculations must apply a conversion ratio as specified in section 5.14 and the cautionary disclosure prescribed in section 5.14 will also be required.

BOEs are based on imperial units of measurement. If the *reporting issuer* uses other units of measurements (such as SI or "metric" measures), any corresponding departure from the requirements of section 5.15 should reflect the use of units other than *BOEs*.

5.10 Prospectus Disclosure

In addition to the general disclosure requirements in *NI 51-101* which apply to prospectuses, the following commentary provides additional guidance on topics of frequent enquiry.

(1) **Significant Acquisitions –** To the extent that an issuer engaged in *oil and gas activities* discloses a significant acquisition in its prospectus, it must disclose sufficient information for a reader to determine how the acquisition affected the *reserves data* and other information previously disclosed in the issuer's *Form 51-101F1*. This requirement stems from Part 6 of *NI 51-101* with respect to material changes. This is in addition to specific prospectus requirements for financial information satisfying significant acquisitions.

(2) **Disclosure of *Resources* –** The disclosure of *resources*, excluding proved and *probable reserves*, is generally not mandatory under *NI 51-101*, except for certain disclosure concerning the issuer's unproved *properties* and *resource* activities as described in Part 6 of *Form 51-101F1*, which information would be

incorporated into the prospectus. Additional disclosure beyond this is voluntary and must comply with sections 5.9 and 5.10 of *NI 51-101*, as applicable. However, the general securities disclosure obligation of "full, true, and plain" disclosure of all *material* facts in a prospectus would require the disclosure of *resources* that are *material* to the issuer, even if the disclosure is not mandated by *NI 51-101*. Any such disclosure should be based on supportable analysis.

(3) **Proved or Probable *Undeveloped reserves* –** Further to the guidance provided in subsection 5.2(4) of this Companion Policy, proved or probable *undeveloped reserves* must be reported in the year in which they are recognized. If the *reporting issuer* does not disclose the proved or probable *undeveloped reserves* just because it has not yet spent the capital to develop these *reserves*, it may be omitting *material* information, thereby causing the *reserves* disclosure to be misleading. If the issuer has a prospectus, the prospectus might not contain full, true and plain disclosure of all *material* facts if it does not contain information about these proved *undeveloped reserves*.

(4) ***Reserves* Reconciliation in an Initial Public Offering –** In an initial public offering, if the issuer does not have a *reserves* report as at its prior year-end, or if this report does not provide the information required to carry out a *reserves* reconciliation pursuant to item 4.1 of *Form 51-101F1*, the *CSA* may consider granting relief from the requirement to provide the *reserves* reconciliation. A condition of the relief may include a description in the prospectus of relevant changes in any of the categories of the *reserves* reconciliation.

(5) **Relief to Provide More Recent *Form 51-101F1* Information in a Prospectus -**If an issuer is filing a preliminary prospectus and wishes to disclose *reserves data* and other *oil* and *gas* information as at a more recent date than its applicable year-end date, the *CSA* may consider relieving the issuer of the requirement to disclose the *reserves data* and other information as at year-end.

An issuer may determine that its obligation to provide full, true and plain disclosure obliges it to include in its prospectus *reserves data* and other *oil* and *gas* information as at a date more recent than specified in the prospectus requirements. The prospectus requirements state that the information must be as at the issuer's most recent financial year-end in respect of which the prospectus includes financial statements. The prospectus requirements, while certainly not presenting an obstacle to such more current disclosure, would nonetheless require that the corresponding information also be provided as at that financial year-end.

We would consider granting relief on a case-by-case basis to permit an issuer in these circumstances to include in its prospectus the *oil* and *gas* information prepared with an *effective date* more recent than the financial year-end date, without also including the corresponding information effective as at the year-end date. A consideration for granting this relief may include disclosure of *Form 51-101F1* information with an *effective date* that coincides with the date of interim financial statements. The issuer should request such relief in the covering letter accompanying its preliminary prospectus. The grant of the relief would be evidenced by the prospectus receipt.

PART 6 MATERIAL CHANGE DISCLOSURE

6.1 Changes from Filed Information

Part 6 of *NI 51-101* requires the inclusion of specified information in disclosure of certain material changes.

The information to be filed each year under Part 2 of *NI 51-101* is prepared as at, or for a period ended on, the *reporting issuer's* most recent financial year-end. That date is the *effective date* referred to in subsection 6.1(1) of *NI 51-101*. When a material change occurs after that date, the filed information may no longer, as a result of the material change, convey meaningful information, or the original information may have become misleading in the absence of updated information.

Part 6 of *NI 51-101* requires that the disclosure of the material change include a discussion of the *reporting issuer's* reasonable expectation of how the material change has affected the issuer's *reserves data* and other information contained in its filed disclosure. This would not necessarily require that an *evaluation* be carried out. However, the *reporting issuer* should ensure it complies with the general disclosure requirements set out in Part 5, as applicable. For example, if the material change report discloses an updated *reserves* estimate, this should be prepared in accordance with the *COGE Handbook* and by a *qualified reserves evaluator or auditor*.

This material change disclosure can reduce the likelihood of investors being misled, and maintain the usefulness of the original filed *oil* and *gas* information when the two are read together.

APPENDIX 1
to
COMPANION POLICY 51-101CP *STANDARDS OF DISCLOSURE FOR OIL AND GAS ACTIVITIES*

SAMPLE *RESERVES DATA* DISCLOSURE

Format of Disclosure

NI 51-101 and *Form 51-101F1* do not mandate the format of the disclosure of *reserves data* and related information by *reporting issuers*. However, the CSA encourages *reporting issuers* to use the format presented in this Appendix.

Whatever format and level of detail a *reporting issuer* chooses to use in satisfying the requirements of *NI 51-101*, the objective should be to enable reasonable investors to understand and assess the information, and compare it to corresponding information presented by the *reporting issuer* for other reporting periods or to similar information presented by other *reporting issuers*, in order to be in a position to make informed investment decisions concerning securities of the *reporting issuer*.

A logical and legible layout of information, use of descriptive headings, and consistency in terminology and presentation from document to document and from period to period, are all likely to further that objective.

Reporting issuers and their advisers are reminded of the *materiality* standard under section 1.4 of *NI 51-101*, and of the instructions in *Form 51-101F1*.

See also sections 1.4, 2.2 and 2.3 and subsections 2.7(~~8~~**7**) and 2.7(~~9~~**8**) of Companion Policy 51-101CP.

Sample Tables

The following sample tables provide an example of how certain of the *reserves data* might be presented in a manner consistent with *NI 51-101*.

These sample tables do not reflect all of the information required by *Form 51-101F1*, and they have been simplified to reflect *reserves* in one country only. For the purpose of illustration, the sample tables also incorporate information not mandated by *NI 51-101* but which *reporting issuers* might wish to include in their disclosure; shading indicates this non-mandatory information.

SUMMARY OF OIL AND GAS RESERVES
as of December 31, 2006

CONSTANT PRICES AND COSTS [OPTIONAL SUPPLEMENTAL DISCLOSURE]

	RESERVES[1]							
	LIGHT AND MEDIUM OIL		HEAVY OIL		NATURAL GAS[2]		NATURAL GAS LIQUIDS	
RESERVES CATEGORY	Gross (Mbbl)	Net (Mbbl)	Gross (Mbbl)	Net (Mbbl)	Gross (MMcf)	Net (MMcf)	Gross (Mbbl)	Net (Mbbl)
PROVED								
Developed Producing	xx	xx	xx	xx	xx	xx	xx	xx
Developed Non-Producing	xx	xx	xx	xx	xx	xx	xx	xx
Undeveloped	xx	xx	xx	xx	xx	xx	xx	xx
TOTAL PROVED	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx
PROBABLE	xx	xx	xx	xx	xx	xx	xx	xx
TOTAL PROVED PLUS PROBABLE	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx

(1) Other product types must be added if material.
(2) Estimates of reserves of natural gas may be reported separately for (i) associated and non-associated gas (combined), (ii) solution gas and (iii)coal bed methane.

OPTIONAL
SUPPLEMENTAL

SUMMARY OF NET PRESENT VALUES OF FUTURE NET REVENUE
as of December 31, 2006

CONSTANT PRICES AND COSTS [OPTIONAL SUPPLEMENTAL DISCLOSURE]

	NET PRESENT VALUES OF FUTURE NET REVENUE										
	BEFORE INCOME TAXES DISCOUNTED AT (%/year)					AFTER INCOME TAXES DISCOUNTED AT (%/year)					UNIT VALUE BEFORE INCOME TAX DISCOUNTED AT 10%/year
RESERVES CATEGORY	0 (MM$)	5 (MM$)	10 (MM$)	15 (MM$)	20 (MM$)	0 (MM$)	5 (MM$)	10 (MM$)	15 (MM$)	20 (MM$)	($/Mcf) ($/bbl)
PROVED											
Developed Producing	xx	xx	xx	xx	xx	xx	xx	xx	xx	xx	xx
Developed Non-Producing	xx	xx	xx	xx	xx	xx	xx	xx	xx	xx	xx
Undeveloped	xx	xx	xx	xx	xx	xx	xx	xx	xx	xx	xx
TOTAL PROVED	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xx
PROBABLE	xx	xx	xx	xx	xx	xx	xx	xx	xx	xx	xx
TOTAL PROVED PLUS PROBABLE	xxxx	xxxx	xxxx	xxxx	xxxx	xxxx	xxxx	xxxx	xxxx	xxxx	xxx

OPTIONAL SUPPLEMENTAL

Reference: Item 2.2 of *Form 51-101F1*

TOTAL FUTURE NET REVENUE
(UNDISCOUNTED)
as of December 31, 2006

CONSTANT PRICES AND COSTS [OPTIONAL SUPPLEMENTAL DISCLOSURE]

RESERVES CATEGORY	REVENUE (M$)	ROYALTIES (M$)	OPERATING COSTS (M$)	DEVELOP-MENT COSTS (M$)	ABANDON-MENT AND RECLAMA-TION COSTS (M$)	FUTURE NET REVENUE BEFORE INCOME TAXES (M$)	INCOME TAXES (M$)	FUTURE NET REVENUE AFTER INCOME TAXES (M$)
Proved Reserves	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx
Proved Plus Probable Reserves	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx

OPTIONAL

SUPPLEMENTAL

Reference: Item 2.2 of *Form 51-101F1*

FUTURE NET REVENUE
BY PRODUCTION GROUP
as of December 31, 2006

CONSTANT PRICES AND COSTS [OPTIONAL SUPPLEMENTAL DISCLOSURE]

RESERVES CATEGORY	PRODUCTION GROUP	FUTURE NET REVENUE BEFORE INCOME TAXES (discounted at 10%/year) (M$)
Proved Reserves	Light and Medium Crude Oil (including solution gas and other by-products)	xxx
	Heavy Oil (including solution gas and other by-products)	xxx
	Natural Gas (including by-products but excluding solution gas from oil wells)	xxx
	Non-Conventional Oil and Gas Activities	xxx
Proved Plus Probable Reserves	Light and Medium Crude Oil (including solution gas and other by-products)	xxx
	Heavy Oil (including solution gas and other by-products)	xxx
	Natural Gas (including by-products but excluding solution gas from oil wells)	xxx
	Non-Conventional Oil and Gas Activities	xxx

OPTIONAL SUPPLEMENTAL Reference: Item 2.2 of Form 51-101 F1

SUMMARY OF OIL AND GAS RESERVES
as of December 31, 2006

FORECAST PRICES AND COSTS

	RESERVES[1]							
	LIGHT AND MEDIUM OIL		HEAVY OIL		NATURAL GAS [2]		NATURAL GAS LIQUIDS	
RESERVES CATEGORY	Gross (Mbbl)	Net (Mbbl)	Gross (Mbbl)	Net (Mbbl)	Gross (MMcf)	Net (MMcf)	Gross (Mbbl)	Net (Mbbl)
PROVED								
Developed Producing	xx	xx	xx	xx	xx	xx	xx	xx
Developed Non-Producing	xx	xx	xx	xx	xx	xx	xx	xx
Undeveloped	xx	xx	xx	xx	xx	xx	xx	xx
TOTAL PROVED	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx
PROBABLE	xx	xx	xx	xx	xx	xx	xx	xx
TOTAL PROVED PLUS PROBABLE	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx

(1) Other product types must be added if material.
(2) Estimates of reserves of natural gas may be reported separately for (i) associated and non-associated gas (combined), (ii) solution gas and (iii)coal bed methane.

SUMMARY OF NET PRESENT VALUES OF FUTURE NET REVENUE
as of December 31, 2006

FORECAST PRICES AND COSTS

	NET PRESENT VALUES OF FUTURE NET REVENUE										
	BEFORE INCOME TAXES DISCOUNTED AT (%/year)					AFTER INCOME TAXES DISCOUNTED AT (%/year)					UNIT VALUE BEFORE INCOME TAX DISCOUNTED AT 10%/year
RESERVES CATEGORY	0 (MM$)	5 (MM$)	10 (MM$)	15 (MM$)	20 (MM$)	0 (MM$)	5 (MM$)	10 (MM$)	15 (MM$)	20 (MM$)	($/Mcf) ($/bbl)
PROVED											
Developed Producing	xx	xx	xx	xx	xx	xx	xx	xx	xx	xx	xx
Developed Non-Producing	xx	xx	xx	xx	xx	xx	xx	xx	xx	xx	xx
											xx
Undeveloped	xx	xx	xx	xx	xx	xx	xx	xx	xx	xx	
TOTAL PROVED	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xx
PROBABLE	xx	xx	xx	xx	xx	xx	xx	xx	xx	xx	xx
TOTAL PROVED PLUS PROBABLE	xxxx	xxxx	xxxx	xxxx	xxxx	xxxx	xxxx	xxxx	xxxx	xxxx	xxx

(1) A reporting issuer may wish to satisfy its requirement to disclose these unit values by inserting this disclosure for each category of proved reserves and for probable reserves, by production group, in the chart for item 2.1(3)(c) of *Form 51-101F1* (see sample chart below entitled Future Net Revenue by Production Group).
(2) The unit values are based on net reserve volumes.

Reference: Item 2.1(1) and (2) of *Form 51-101F1*

TOTAL FUTURE NET REVENUE
(UNDISCOUNTED)
as of December 31, 2006

FORECAST PRICES AND COSTS

RESERVES CATEGORY	REVENUE (M$)	ROYALTIES (M$)	OPERATING COSTS (M$)	DEVELOP-MENT COSTS (M$)	ABANDON-MENT AND RECLAMA-TION COSTS (M$)	FUTURE NET REVENUE BEFORE INCOME TAXES (M$)	INCOME TAXES (M$)	FUTURE NET REVENUE AFTER INCOME TAXES (M$)
Proved Reserves	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx
Proved Plus Probable Reserves	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx

Reference: Item 2.1(3)(b) of *Form 51-101F1*

FUTURE NET REVENUE
BY PRODUCTION GROUP
as of December 31, 2006

FORECAST PRICES AND COSTS

RESERVES CATEGORY	PRODUCTION GROUP	FUTURE NET REVENUE BEFORE INCOME TAXES (discounted at 10%/year) (M$)	UNIT VALUE ($/Mcf) ($/bbl)
Proved Reserves	Light and Medium Crude Oil (including solution gas and other by-products)	xxx	xxx
	Heavy Oil (including solution gas and other by-products)	xxx	xxx
	Natural Gas (including by-products but excluding solution gas and by-products from oil wells)	xxx	xxx
	Non-Conventional Oil and Gas Activities	xxx	xxx
	Total	xxx	
Proved Plus Probable Reserves	Light and Medium Crude Oil (including solution gas and other by-products)	xxx	xxx
	Heavy Oil (including solution gas and other by-products)	xxx	xxx
	Natural Gas (including by-products but excluding solution gas from oil wells)	xxx	xxx
	Non-Conventional Oil and Gas Activities	xxx	xxx
	Total	xxx	

Reference: Item 2.1(3)(c) of *Form 51-101F1*

SUMMARY OF PRICING ASSUMPTIONS
as of December 31, 2006

CONSTANT PRICES AND COSTS[1]

Year	OIL[2]				NATURAL GAS[2]	NATURAL GAS LIQUIDS	EXCHANGE RATE[3]
	WTI Cushing Oklahoma ($US/bbl)	Edmonton Par Price 40^0 API ($Cdn/bbl)	Hardisty Heavy 12^0 API ($Cdn/bbl)	Cromer Medium 29.3^0 API ($Cdn/bbl)	AECO Gas Price ($Cdn/ MMBtu	FOB Field Gate ($Cdn/bbl)	($US/$Cdn)
Historical (Year End)							
2003	xx	xx	xx	xx	xx	xx	xx
2004	xx	xx	xx	xx	xx	xx	xx
2005	xx	xx	xx	xx	xx	xx	xx
2006 (Year End)	xx	xx	xx	xx	xx	xx	xx

OPTIONAL SUPPLEMENTAL

(1) This disclosure is triggered by optional supplemental disclosure of item 2.2 of *Form 51-101F1*.
(2) This summary table identifies benchmark reference pricing schedules that might apply to a reporting issuer.
(3) The exchange rate used to generate the benchmark reference prices in this table.

Reference: Item 3.1 of Form 51-101 F1

SUMMARY OF PRICING AND INFLATION RATE ASSUMPTIONS
as of December 31, 2006

FORECAST PRICES AND COSTS

Year	OIL[1] WTI Cushing Oklahoma $US/bbl	OIL[1] Edmonton Par Price 40^0 API $Cdn/bbl	OIL[1] Hardisty Heavy 12^0 API $Cdn/bbl	OIL[1] Cromer Medium 29.3^0 API $Cdn/bbl	NATURAL GAS[1] AECO Gas Price ($Cdn/ MMBtu)	NATURAL GAS LIQUIDS FOB Field Gate ($Cdn/bbl)	INFLATION RATES[2] %/Year	EXCHANGE RATE[3] $US/$Cdn
Historical[4]								
2003	xx	xx	xx	xx	xx	xx	xx	xx
2004	xx	xx	xx	xx	xx	xx	xx	xx
2005	xx	xx	xx	xx	xx	xx	xx	xx
2006	xx	xx	xx	xx	xx	xx	xx	xx
Forecast								
2007	xx	xx	xx	xx	xx	xx	xx	xx
2008	xx	xx	xx	xx	xx	xx	xx	xx
2009	xx	xx	xx	xx	xx	xx	xx	xx
2010	xx	xx	xx	xx	xx	xx	xx	xx
2011	xx	xx	xx	xx	xx	xx	xx	xx
Thereafter	xx	xx	xx	xx	xx	xx	xx	xx

(1) This summary table identifies benchmark reference pricing schedules that might apply to a reporting issuer.
(2) Inflation rates for forecasting prices and costs.
(3) Exchange rates used to generate the benchmark reference prices in this table
(4) Item 3.2 (1)(b) of *Form 51-101F1* also requires disclosure of the *reporting issuer's* weighted average historical prices for the most recent financial year (2006, in this example).

OPTIONAL SUPPLEMENTAL

Reference: Item 3.2 of Form 51-101 F1

RECONCILIATION OF
COMPANY GROSS RESERVES
BY PRODUCT TYPE[1]

FORECAST PRICES AND COSTS

	LIGHT AND MEDIUM OIL			HEAVY OIL			ASSOCIATED AND NON-ASSOCIATED GAS		
FACTORS	Gross Proved (Mbbl)	Gross Probable (Mbbl)	Gross Proved Plus Probable (Mbbl)	Gross Proved (Mbbl)	Gross Probable (Mbbl)	Gross Proved Plus Probable (Mbbl)	Gross Proved (MMcf)	Gross Probable (MMcf)	Gross Proved Plus Probable (MMcf)
December 31, 2005	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx
Extensions & Improved Recovery	xx	xx	xx	xx	xx	xx	xx	xx	xx
Technical Revisions	xx	xx	xx	xx	xx	xx	xx	xx	xx
Discoveries	xx	xx	xx	xx	xx	xx	xx	xx	xx
Acquisitions	xx	xx	xx	xx	xx	xx	xx	xx	xx
Dispositions	xx	xx	xx	xx	xx	xx	xx	xx	xx
Economic Factors	xx	xx	xx	xx	xx	xx	xx	xx	xx
Production	xx	xx	xx	xx	xx	xx	xx	xx	xx
December 31, 2006	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx

(1) The reserves reconciliation must include other product types, including synthetic oil, bitumen, coal bed methane, hydrates, shale oil and shale gas, if material for the reporting issuer.

Reference: Item 4.1 of *Form 51-101F1*

Chapter 7

Insider Reporting

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

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

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

Chapter 8

Notice of Exempt Financings

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

Transaction Date	# of Purchasers	Issuer/Security	Total Purchase Price ($)	# of Securities Distributed
12/02/2009	9	Abbastar Uranium Corp. - Flow-Through Shares	300,100.00	1,000,332.00
10/15/2009	9	Advandtel Minerals (Canada) Ltd. - Units	97,500.00	420,000.00
11/25/2009	1	Altra Holdings, Inc. - Notes	259,063.88	1.00
11/25/2009	2	Andean American Mining Corp. - Units	608,000.00	1,600,000.00
11/18/2009	15	Apella Resources Inc. - Common Shares	291,250.00	2,330,000.00
11/26/2009	33	ATAC Resources Ltd. - Units	9,152,500.00	N/A
11/26/2009	44	Atlanta Gold Inc. - Common Shares	794,280.00	6,619,000.00
11/20/2009	32	Ava Resources Corp. - Units	1,000,000.00	20,000,000.00
10/28/2009	8	Base Resources Inc. - Common Shares	340,000.00	N/A
11/20/2009	5	Blueprint Software Systems Inc. - Notes	183,470.95	N/A
11/03/2009	31	BNP Paribas (Canada) - Notes	19,750,000.00	19,775.00
11/30/2009	5	BTI Systems Inc. - Debentures	338,368.00	N/A
11/19/2009 to 11/20/2009	28	Canadian Horizons First Mortgage Investment Corporation - Preferred Shares	631,748.00	631,748.00
11/16/2009	1	Canadian Oil Recovery & Remediation Enterprises Ltd. - Debentures	4,250,000.00	N/A
11/19/2009	23	CareVest Blended Mortgage Investment Corporation - Preferred Shares	819,841.00	819,841.00
11/19/2009	23	CareVest Capital Blended Mortgage Investment Corporation - Preferred Shares	974,568.00	974,568.00
11/19/2009	11	CareVest First Mortgage Investment Corporation - Preferred Shares	845,000.00	845,000.00
11/16/2009	21	CBI Property Income Corp. - Common Shares	1,097,500.00	9,500.00
11/18/2009	43	CGE Resources 2009 L.P. - Units	898,000.00	898.00
12/03/2009	1	Cinemark Holdings, Inc. - Common Shares	3,115,688.10	230,000.00
11/19/2009	1	Claymore Investments Inc. - Trust Units	10,000,000.00	500,000.00
11/20/2009	1	Connor, Clark & Lunn GVest Traditional Infrastructure Limited Partnership - Limited Partnership Interest	0.00	N/A
11/27/2009	18	Continental Gold Limited - Debentures	3,000,000.00	N/A

Transaction Date	# of Purchasers	Issuer/Security	Total Purchase Price ($)	# of Securities Distributed
11/16/2009	33	Delphi Energy Corp. - Common Shares	6,360,000.00	3,000,000.00
11/20/2009	8	Emerald Bay Energy Inc. - Units	500,000.00	N/A
11/19/2009	303	Emerge Oil & Gas Inc. - Receipts	65,550,000.00	32,775,000.00
02/26/2009	1	Emerging Markets Value Portfolio - Common Shares	1,755,354.66	97,357.44
11/17/2009	41	Exchequer Resource Corp. - Units	525,500.00	N/A
11/19/2009	2	Explor Resources Inc. - Common Shares	34,200.00	60,000.00
10/28/2009 to 10/29/2009	2	Financial Select Sector SPDR - Common Shares	3,109,554.03	200,000.00
11/24/2009	40	First Gold Exploration Inc. - Units	900,000.00	9,000,000.00
11/19/2009 to 11/25/2009	47	Galena Capital Corp. - Common Shares	1,027,500.00	20,550,000.00
03/13/2009 to 12/09/2009	52	Gastem Inc. - Units	6,249,999.60	9,615,384.00
11/09/2009 to 11/13/2009	5	General Motors Acceptance Corporation of Canada Limited - Notes	1,133,413.71	1,133,413.71
11/23/2009 to 11/27/2009	5	General Motors Acceptance Corporation of Canada, Limited - Notes	2,739,856.15	27,399.00
11/19/2009	98	Golden Peaks Resources Ltd. - Units	2,041,690.00	4,000,000.00
10/31/2009	1	Goldman Sachs CORE International Equity Fund - Common Shares	258.58	25.37
10/31/2009	1	Goldman Sachs Strategic International Equity Fund - Class A - Common Shares	193.93	18.75
10/31/2009	2	Goldman Sachs Structured Small Cap Growth Fund - Class A - Common Shares	517.14	40.87
10/31/2009	2	Goldman Sachs Structured U.S. Equity Fund - Class A - Common Shares	517.14	26.02
11/18/2009	1	Gray Capital Energy Fund L.P. - Limited Partnership Interest	500,000.00	N/A
12/01/2009	38	Hana Mining Ltd. - Units	2,499,999.45	4,545,455.00
10/05/2009 to 10/29/2009	2	Health Care Select Sector - Common Shares	488,648.43	15,900.00
10/02/2009	1	Horizons Betapro NYMEXCrude - Common Shares	1,238.86	100.00
11/25/2009	20	Hudson River Minerals Ltd. - Common Shares	436,225.05	6,979,600.00
11/25/2009	8	Hudson River Minerals Ltd. - Common Shares	250,000.00	5,000,000.00
11/20/2009	23	iCo Therapeutics Inc. - Common Shares	1,119,999.84	2,333,333.00
11/12/2009	46	Indico Resources Ltd. - Units	450,000.00	3,000,000.00
11/27/2009	2	Inmarsat Finance plc - Notes	1,317,750.00	1.00

Transaction Date	# of Purchasers	Issuer/Security	Total Purchase Price ($)	# of Securities Distributed
11/20/2009	10	Intelligent Hospital Systems Ltd. - Preferred Shares	2,468,500.00	4,937,000.00
11/19/2009	1	Intelligent Mechatronic Systems Inc. - Common Shares	20,000,000.00	53,333,332.00
02/26/2009	1	International Small Cap Value Portfolio - Common Shares	1,880,820.40	166,297.12
10/08/2009	1	iPath S&P500 VIX Short-Term futures ETN - Common Shares	20,673.70	400.00
11/19/2009	25	Ironhose Oil & Gas Inc. - Flow-Through Shares	3,518,393.20	2,513,138.00
10/01/2009 to 10/28/2009	5	iShares Cdn S&P/TSX 60 Index Fund - Common Shares	4,711,893.59	256,544.00
10/08/2009 to 10/09/2009	1	iShares Inc MSCI Australia Index - Common Shares	126,820.58	5,000.00
10/09/2009 to 10/27/2009	3	iShares Inc MSCI Japan Index - Common Shares	393,801.80	36,400.00
10/19/2009 to 10/20/2009	2	iShares Material Sector Index Fund - Common Shares	152,890.08	8,000.00
10/28/2009	1	iShares MSCI Brazil - Common Shares	1,070,682.95	14,300.00
03/20/2009 to 10/28/2009	4	iShares MSCI Emerging Mkts Index - Common Shares	27,883,002.65	674,663.00
10/07/2009	1	iShares MSCI Malaysia F - Common Shares	1,770,659.02	157,500.00
10/01/2009	2	iShares Russell 1000 Value - Common Shares	179,473.52	3,044.00
09/30/2009 to 10/28/2009	4	iShares Russell 2000 - Common Shares	14,514,988.77	331,200.00
10/01/2009 to 10/23/2009	2	iShares S&P Global materials Sector Index Fund - Common Shares	331,054.37	5,200.00
10/13/2009 to 10/30/2009	1	iShares S&P NA Tech IDX Fund - Common Shares	1,037,614.36	21,400.00
10/22/2009	1	iShares TR S&P Euro Plus - Common Shares	39,448.15	900.00
11/24/2009	4	Ivanhoe Nickel & Platinum Ltd. - Units	3,713,860.80	N/A
11/20/2009	2	James River Coal Company - Notes	534,800.00	N/A
10/14/2009 to 10/23/2009	23	JKR Gold Resources Inc. - Common Shares	1,677,805.00	4,013,571.00
11/19/2009 to 11/27/2009	2	JKR Gold Resources Inc. - Common Shares	325,000.00	650,000.00
11/24/2009	3	JohnsonDiversey Holdings Inc. - Notes	474,450.22	451,000.00
11/27/2009	86	KBP Capital Corp. - Bonds	1,998,800.00	19,988.00
11/27/2009	86	Keystone Business Park Inc. - Common Shares	1,998.80	19,988.00
12/10/2009	7	Killdeer Minerals Inc. - Flow-Through Units	700,000.00	2,800,000.00

Transaction Date	# of Purchasers	Issuer/Security	Total Purchase Price ($)	# of Securities Distributed
11/23/2009	1	King's Bay Gold Corporation - Units	200,000.00	2,000,000.00
11/30/2009	5	Kingwest High Income Fund - Units	1,743,800.00	344,583.65
11/19/2009	9	Knight Resources Ltd. - Common Shares	2,576,000.00	32,200,000.00
12/01/2009	3	Koppers Inc. - Notes	210,244.44	205,000.00
11/30/2009	3	Landry's Restaurants, Inc. - Notes	15,649,893.00	N/A
11/17/2009	1	Longview Capital Partners Incorporated - Units	625,000.00	6,250,000.00
11/27/2009	16	Lorus Therapeutics Inc. - Units	2,460,000.00	41,000,000.00
11/25/2009	2	Lounor Exploration inc. - Common Shares	500,000.00	6,250,000.00
11/27/2009 to 12/01/2009	9	Magenta II Mortgage Investment Corporation - Common Shares	821,396.45	82,139.60
11/23/2009 to 12/01/2009	2	Magenta Mortgage Investment Corporation - Common Shares	210,000.00	21,000.00
10/01/2009	2	Market Vectors NCLR - Common Shares	15,043.73	600.00
12/02/2009	32	MBAC Opportunities and Financing Inc. - Receipts	40,500,000.00	3,240,000.00
11/30/2009	1	Montana Re Ltd. - Notes	11,631,400.00	11,000,000.00
11/30/2009	1	Montana Re Ltd. - Notes	17,975,800.00	17,000,000.00
11/25/2009	5	Montero Mining and Exploration Ltd. - Common Shares	60,693.60	505,780.00
09/30/2009	1	Multiplan Empreendimentos Imobiliarios S.A. - Common Shares	800,500.00	50,000.00
11/25/2009 to 12/02/2009	59	Nelson Financial Group Ltd. - Notes	3,537,818.80	66,751.29
09/30/2009	9	Newstart Canada - Debt	261,000.00	N/A
11/01/2009	1	North American Capital Inc. - Preferred Shares	48,000.00	1.00
11/01/2009	6	North American Financial Group Inc. - Debt	315,000.00	6.00
11/20/2009	1	OCP Investment Trust - Units	186,800,000.00	20,000,000.00
11/18/2009	1	Orafresh Enterprises Inc. - Common Shares	401,000.00	9,120,000.00
11/24/2009	21	Palisade Capital Limited Partnership - Units	1,021,601.77	427.00
11/24/2009	25	Palisade Vantage Fund - Units	1,407,861.00	173,810.00
10/29/2009	1	Powershares QQQ NASDAQ 100 - Common Shares	3,391,750.37	75,000.00
10/14/2009	1	PowerSHS DB USD IDX BL FD - Common Shares	65,373.69	2,700.00
11/12/2009	6	Premium Exploration Inc. - Units	1,275,000.00	6,375,000.00
11/23/2009	165	Result Energy Inc. - Units	26,000,000.00	58,823,529.00

Transaction Date	# of Purchasers	Issuer/Security	Total Purchase Price ($)	# of Securities Distributed
11/17/2009	20	Richmond Minerals Inc. - Flow-Through Shares	273,200.00	N/A
11/20/2009	16	Rock Tech Resources Inc. - Common Shares	1,008,001.00	6,300,000.00
11/23/2009	2	Salem Communications Corporation - Notes	4,193,600.46	N/A
11/16/2009	1	Seahold Investments Inc. - Notes	25,000.00	1.00
11/13/2009 to 11/15/2009	80	Skyline Apartment Real Estate Investment Trust - Units	6,365,978.43	578,725.31
11/27/2009 to 12/05/2009	49	South American Silver Corp. - Units	3,250,500.00	8,126,250.00
10/05/2009 to 10/14/2009	1	SPDR Gold Trust - Common Shares	76,105.16	700.00
10/05/2009 to 10/14/2009	1	SPDR S&P HomebuildersETF - Common Shares	144,035.50	9,000.00
10/08/2009 to 10/30/2009	1	SPDR S&P Retail ETF - Common Shares	59,824.69	1,600.00
11/24/2009	4	State of Qatar - Notes	3,174,698.59	3,000,000.00
10/05/2009 to 10/30/2009	7	S&P Depository Receipts TR Unit - Common Shares	89,257,819.56	787,583.00
06/01/2009 to 08/11/2009	9	TCW Total Return Bond Fund - Common Shares	4,845,475.00	N/A
11/25/2009	20	Teryl Resources Corp. - Units	279,945.00	1,646,734.00
11/19/2009	1	The Toronto-Dominion Bank - Notes	200,000.00	N/A
11/19/2009	1	The Toronto-Dominion Bank - Notes	200,000.00	N/A
11/26/2009	32	Theralase Technologies Inc. - Common Shares	1,319,750.00	4,235,833.00
11/18/2009	13	Thundermin Resources Inc. - Flow-Through Shares	500,000.00	2,777,778.00
11/24/2009 to 11/27/2009	1	TIEX Inc. - Flow-Through Units	60,000.00	400,000.00
11/24/2009	34	TIEX Inc. - Units	440,000.00	3,666,667.00
11/06/2009 to 11/13/2009	4	UBS AG, London Branch - Certificate	673,456.79	46.00
10/01/2009 to 10/02/2009	1	Ultrashort Realestate Proshares - Common Shares	1,150,994.51	100,000.00
10/13/2009 to 10/15/2009	2	United States Oil Fund LP - Common Shares	916,257.28	22,000.00
01/27/2009	1	U.S. Core Equity 2 Portfolio - Common Shares	316,335.26	38,766.58
02/26/2009	1	U.S. Small Cap Value Portfolio - Common Shares	3,009,115.28	214,477.21
11/20/2009	11	Valley of the Sun Fund - Trust Units	842,500.00	84,250.00
11/20/2009	11	Valley of the Sun Limited Partnership - Limited Partnership Units	842,500.00	84,250.00

Transaction Date	# of Purchasers	Issuer/Security	Total Purchase Price ($)	# of Securities Distributed
10/20/2009	1	Vanguard Emergng Mazrket Vipers - Common Shares	104,675.46	2,380.00
11/26/2009	2	Vault Minerals Inc. - Units	550,000.00	1,000,000.00
11/24/2009	4	Viasystems Inc. - Notes	1,427,668.13	N/A
06/16/2008 to 05/29/2009	17	Westboro Mortgage Investment Corp. - Common Shares	4,440,000.00	444,000.00
12/04/2009	3	Western Copper Corporation - Units	5,375,000.00	2,150,000.00
11/20/2009	26	Winnipeg Airport Authority Inc. - Bonds	300,000,000.00	N/A
11/19/2009	5	York Medtech Commercialization Fund Limited - Units	150,000.00	750,000.00
11/09/2009	6	Zinccorp Resources Inc. - Common Shares	95,500.00	400,000.00

Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:
Brookfield Properties Corporation
Principal Regulator - Ontario
Type and Date:
Preliminary Shelf Prospectus dated December 8, 2009
NP 11-202 Receipt dated December 9, 2009
Offering Price and Description:
US$1,000,000,000.00:
Class AAA Preference Shares
Common Shares
Debt Securities
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1513174

Issuer Name:
CC&L Balanced Growth Portfolio
CC&L Balanced Income Portfolio
CC&L Balanced Portfolio
CC&L Growth Portfolio
CC&L Money Market Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectuses dated December 9, 2009
NP 11-202 Receipt dated December 10, 2009
Offering Price and Description:
PI Financial Series Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
Connor Clark & Lunn Managed Portfolios Inc.
Project #1513583

Issuer Name:
Centerra Gold Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated December 14, 2009
NP 11-202 Receipt dated December 14, 2009
Offering Price and Description:
$908,339,338.00 - 88,618,472 Common Shares Price: $10.25 per Common Share
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
Scotia Capital Inc.
HSBC Securities (Canada) Inc.
Morgan Stanley Canada Limited
National Bank Financial Inc.
TD Securities Inc.
UBS Securities Canada Inc.
BNP Paribas (Canada) Inc.
Canaccord Financial Ltd.
Desjardins Securities Inc.
GMP Securities L.P.
Macquarie Capital Markets Canada Ltd.
Salman Partners Inc.
Promoter(s):
-
Project #1514793

Issuer Name:
Chartwell Seniors Housing Real Estate Investment Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated December 10, 2009
NP 11-202 Receipt dated December 10, 2009
Offering Price and Description:
$70,060,000.00 -11,300,000 Units Price: $6.20 per Unit
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
Scotia Capital Inc.
National Bank Financial Inc.
TD Securities Inc.
Blackmont Capital Inc.
Canaccord Financial Ltd.
HSBC Securities (Canada) Inc.
Promoter(s):
-
Project #1513837

Issuer Name:
Claymore Gold Bullion ETF
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated December 14, 2009
NP 11-202 Receipt dated December 15, 2009
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Claymore Investments, Inc.
Promoter(s):
Claymore Investments, Inc.
Project #1515309

Issuer Name:
CMP 2010 Resource Limited Partnership
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated December 8, 2009
NP 11-202 Receipt dated December 10, 2009
Offering Price and Description:
$100,000,000.00 (maximum) 100,000 Limited Partnership Units Price per Unit: $1,000 Minimum Subscription: $5,000 (Five Units)
Underwriter(s) or Distributor(s):
Dundee Securities Corporation
CIBC World Markets Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
Scotia Capital Inc.
TD Securities Inc.
Canaccord Capital Ltd.
Blackmont Capital Inc.
GMP Securities L.P.
HSBC Securities (Canada) Inc.
Raymond James Ltd.
Wellington West Capital Markets Inc.
Promoter(s):
CMP/CDR GP Inc.
Goodman & Company, Investment Counsel Ltd.
Project #1513485

Issuer Name:
COMPASS Income Fund
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated December 10, 2009
NP 11-202 Receipt dated December 10, 2009
Offering Price and Description:
OFFERING OF * RIGHTS TO PURCHASE A MAXIMUM OF * TRUST UNITS
Subscription Price: One Right and $* per Trust Unit The Subscription Price equals approximately * % of the closing price per Trust Unit on the Toronto Stock Exchange on *, 2009
Underwriter(s) or Distributor(s):
Middlefield Capital Corporation
Promoter(s):
-
Project #1514182

Issuer Name:
Dundee Real Estate Investment Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated December 15, 2009
NP 11-202 Receipt dated December 15, 2009
Offering Price and Description:
$90,000,000.00 - 4,800,000 REIT Units, Series A Price: $18.75 per Unit
Underwriter(s) or Distributor(s):
TD Securities Inc.
Scotia Capital Inc.
CIBC World Markets Inc.
Dundee Securities Corporation
BMO Nesbitt Burns Inc.
RBC Dominion Securities Inc.
Brookfield Financial Corp.
Desjardins Securities Inc.
Genuity Capital Markets
HSBC Securities (Canada) Inc.
National Bank Financial Inc.
Raymond James Ltd.
Promoter(s):
-
Project #1515372

Issuer Name:
ECU Silver Mining Inc.
Principal Regulator - Quebec
Type and Date:
Preliminary Short Form Prospectus dated December 10, 2009
NP 11-202 Receipt dated
Offering Price and Description:
$12,201,120.00 - 16,946,000 Units comprised of 16,946,000 Special Warrant Shares and 8,473,000 Purchase Warrants issuable upon the exercise of 16,946,000 outstanding Special Warrants
Price: $0.72 per Special Warrant
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1514120

Issuer Name:
Formation Metals Inc. (formerly Formation Capital Corporation)
Principal Regulator - British Columbia
Type and Date:
Amended and Restated Preliminary Prospectus dated December 10, 2009
NP 11-202 Receipt dated December 10, 2009
Offering Price and Description:
$60,000,000,180.00 - * Common Shares and 102,014 Notes Units Price: US$980.00 per Unit
and C$ * per Common Share
Underwriter(s) or Distributor(s):
Jennings Capital Inc.
Blackmont Capital Inc.
Acumen Capital Finance Partners Limited
Promoter(s):
-
Project #1496778

Issuer Name:
Golden Minerals Company
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated December 14, 2009
NP 11-202 Receipt dated December 15, 2009
Offering Price and Description:
US$ * - * Shares of Common Stock; $ US$ * per Share of Common Stock
Underwriter(s) or Distributor(s):
Canaccord Financial Ltd.
Promoter(s):
-
Project #1515200

Issuer Name:
HUSKY ENERGY INC.
Principal Regulator - Alberta
Type and Date:
Preliminary Base Shelf Prospectus dated December 14, 2009
NP 11-202 Receipt dated December 14, 2009
Offering Price and Description:
$1,000,000,000.00 - Medium Term Notes (Unsecured)
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
HSBC Securities (Canada) Inc.
CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
Scotia Capital Inc.
TD Securities Inc.
Promoter(s):
-
Project #1515026

Issuer Name:
InnVest Real Estate Investment Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated December 14, 2009
NP 11-202 Receipt dated December 14, 2009
Offering Price and Description:
$50,000,000 - 6.75% Convertible Unsecured Subordinated Debentures
Price: $1,000 per Debenture
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
TD Securities Inc.
Canaccord Financial Ltd.
Blackmont Capital Inc.
Promoter(s):
-
Project #1514882

Issuer Name:
MDPIM Canadian Mid/Long Bond Pool
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectus dated December 9, 2009
NP 11-202 Receipt dated December 10, 2009
Offering Price and Description:
Mutual Fund Securities Net Asset Value
Underwriter(s) or Distributor(s):
MD Management Limited
MD Management Ltd.
Promoter(s):
-
Project #1513774

Issuer Name:
Medmira Inc.
Principal Regulator - Nova Scotia
Type and Date:
Preliminary Short Form Prospectus dated December 11, 2009
NP 11-202 Receipt dated December 11, 2009
Offering Price and Description:
Up to $10,000,000.00 Common Shares Price: $ * per Common Share
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1514271

Issuer Name:
Novus Energy Inc. (formerly, Regal Energy Ltd.)
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated December 9, 2009
NP 11-202 Receipt dated December 10, 2009
Offering Price and Description:
$30,030,000 - 46,200,000 Common Shares Issuable upon Exercise of 46,200,000 Subscription Receipts
Price: $0.65 Per Subscription Receipt
Underwriter(s) or Distributor(s):
Cormark Securities Inc.
GMP Securities L.P.
Canaccord Financial Ltd.
Clarus Securities Inc.
CIBC World Markets Inc.
Acumen Capital Finance Partners Limited
National Bank Financial Inc.
Toll Cross Securities Inc.
Promoter(s):
-
Project #1513582

Issuer Name:
Pethealth Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated December 9, 2009
NP 11-202 Receipt dated December 9, 2009
Offering Price and Description:
$5,750,000.00 -3,965,517 Common Shares Price: $1.45 per Share
Underwriter(s) or Distributor(s):
Industrial Alliance Securities Inc.
Promoter(s):
-
Project #1513423

Issuer Name:
Sprott Physical Gold Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated December 8, 2009
NP 11-202 Receipt dated December 10, 2009
Offering Price and Description:
US$ * - * Units Price: US$10.00 per Unit; Minimum Subscription: US$1,000 (100 Units)
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
Morgan Stanley Canda Limited
Promoter(s):
Sprott Asset Management LP
Project #1513451

Issuer Name:
TransAlta Corporation
Principal Regulator - Alberta
Type and Date:
Preliminary Base Shelf Prospectus dated December 9, 2009
NP 11-202 Receipt dated December 9, 2009
Offering Price and Description:
$1,000,000,000.00 - Medium Term Note Debentures (Unsecured)
RATES ON APPLICATION
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
RBC Dominion Securities Inc.
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
HSBC Securities (Canada) Inc.
National Bank Financial Inc.
TD Securities Inc.
Merrill Lynch Canada Inc.
Promoter(s):
-
Project #1513525

Issuer Name:
Tranzeo Wireless Technologies Inc.
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated December 10, 2009
NP 11-202 Receipt dated December 10, 2009
Offering Price and Description:
$6,000,000.00 - 6,000,000 Common Shares Price: $1.00 per Common Share
Underwriter(s) or Distributor(s):
Canaccord Financial Ltd.
Dundee Securities Corporation
Promoter(s):
-
Project #1514230

Issuer Name:
WPC Resources Inc.
Principal Regulator - British Columbia
Type and Date:
Preliminary Long Form Prospectus dated December 14, 2009
NP 11-202 Receipt dated December 15, 2009
Offering Price and Description:
$1,400,000.00 - 7,000,000 Units Price: $0.20 per Unit
Underwriter(s) or Distributor(s):
Jordan Capital Markets Inc.
Promoter(s):
W.K. Crichton Clarke
Project #1514981

Issuer Name:
Alliance Pipeline Limited Partnership
Principal Regulator - Alberta
Type and Date:
Final Base Shelf Prospectus dated December 9, 2009
NP 11-202 Receipt dated December 9, 2009
Offering Price and Description:
$500,000,000.00:
MEDIUM TERM NOTES
(unsecured)
Underwriter(s) or Distributor(s):
National Bank Financial Inc.
CIBC World Markets Inc.
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
Promoter(s):
-
Project #1511970

Issuer Name:
Atlantic Power Corporation
Principal Regulator - British Columbia
Type and Date:
Final Short Form Prospectus dated December 10, 2009
NP 11-202 Receipt dated December 10, 2009
Offering Price and Description:
Cdn$75,000,000.00 - 6.25% Convertible Unsecured Subordinated Debentures due March 15, 2017
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
RBC Dominion Securities Inc.
National Bank Financial Inc.
Scotia Capital Inc.
UBS Securities Canada Inc.
Promoter(s):
-
Project #1511784

Issuer Name:
Azure Dynamics Corporation
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated December 15, 2009
NP 11-202 Receipt dated December 15, 2009
Offering Price and Description:
Minimum $15,000,000.00 (83,333,333 Common Shares); Maximum $30,000,000.00 (166,666,667 Common Shares)
Underwriter(s) or Distributor(s):
Raymond James Ltd.
Cormark Securities Inc.
Paradigm Capital Inc.
Promoter(s):
-
Project #1501395

Issuer Name:
BluMont Canadian Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus dated December 9, 2009
NP 11-202 Receipt dated December 11, 2009
Offering Price and Description:
Mutual Fund Units @ Net Asset Value
Underwriter(s) or Distributor(s):
BluMont Capital Corporation
BluMont Capital Corporation
Promoter(s):
BluMont Capital Corporation
Project #1491769

Issuer Name:
Cathay Forest Products Corp.
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated December 10, 2009
NP 11-202 Receipt dated December 11, 2009
Offering Price and Description:
$15,250,000.00 - 25,000,000 Common Shares $0.61 per Common Share
Underwriter(s) or Distributor(s):
Dundee Securities Corporation
Canaccord Financial Ltd.
Octagon Capital Corporation
Research Capital Corporation
Promoter(s):
-
Project #1506706

Issuer Name:
CI Financial Corp.
Principal Regulator - Ontario
Type and Date:
Final Base Shelf Prospectus dated December 10, 2009
NP 11-202 Receipt dated December 10, 2009
Offering Price and Description:
$1,000,000,000.00:
Debt Securities (unsecured)
Subscription Receipts
Common Shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1512204

Issuer Name:
Compton Petroleum Corporation
Principal Regulator - Alberta
Type and Date:
Final Base Shelf Prospectus dated December 14, 2009
NP 11-202 Receipt dated December 14, 2009
Offering Price and Description:
$750,000,000.00:
Common Shares
Subscription Receipts
Warrants
Rights
Options
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1504941

Issuer Name:
Crocodile Gold Corp.
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated December 11, 2009
NP 11-202 Receipt dated December 11, 2009
Offering Price and Description:
$25,090,000.00 - 19,300,000 Common Shares Per Common Share $1.30
Underwriter(s) or Distributor(s):
Macquarie Capital Markets Canada Ltd.
Cormark Securities Inc.
GMP Securities L.P.
Fraser Mackenzie Limited
Wellington West Capital Markets Inc.
Promoter(s):
-
Project #1512142

Issuer Name:
Enbridge Income Fund
Principal Regulator - Alberta
Type and Date:
Final Shelf Prospectus dated December 8, 2009
NP 11-202 Receipt dated December 9, 2009
Offering Price and Description:
$500,000,000.00 - Trust Units Medium Term Notes
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1511028

Issuer Name:
Golden Star Resources Ltd.
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated December 10, 2009
NP 11-202 Receipt dated December 10, 2009
Offering Price and Description:
U.S.$75,000,000.00 - 20,000,000 Common Shares Price: U.S.$3.75 per Common Share
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
Wellington West Capital Markets Inc.
Macquarie Capital Markets Canada Ltd.
Promoter(s):
-
Project #1511705

Issuer Name:
ING DIRECT Streetwise Balanced Fund
ING DIRECT Streetwise Balanced Growth Fund
ING DIRECT Streetwise Balanced Income Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated December 11, 2009
NP 11-202 Receipt dated December 11, 2009
Offering Price and Description:
Mutual Fund Securities at Net Asset Value
Underwriter(s) or Distributor(s):
ING Direct Funds Limited
Promoter(s):
-
Project #1498350

Issuer Name:
Macquarie Power & Infrastructure Income Fund
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated December 14, 2009
NP 11-202 Receipt dated December 14, 2009
Offering Price and Description:
$50,000,000.00 - 6.50% Convertible Unsecured Subordinated Debentures Due December 31, 2016
Underwriter(s) or Distributor(s):
TD Securities Inc.
BMO Nesbitt Burns Inc.
Macquarie Capital Markets Canada Ltd.
CIBC World Markets Inc.
Brookfield Financial Corp.
HSBC Securities (Canada) Inc.
Cormark Securities Inc.
Genuity Capital Markets
Promoter(s):
-
Project #1512554

Issuer Name:
Magma Metals Limited
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated December 14, 2009
NP 11-202 Receipt dated December 14, 2009
Offering Price and Description:
C$11,655,000.00 -18,500,000 Ordinary Shares Price: C$0.63 per Ordinary Share
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
Cormark Securities Inc.
GMP Securities L.P.
Dundee Securities Corporation
Promoter(s):
-
Project #1511207

Issuer Name:
Northquest Ltd.
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated December 15, 2009
NP 11-202 Receipt dated December 15, 2009
Offering Price and Description:
$1,400,000.00 - A MINIMUM OF 5,000,000 UNITS AND A MAXIMUM OF 7,000,000 UNITS $0.20 PER UNIT
Underwriter(s) or Distributor(s):
Toll Cross Securities Inc.
Promoter(s):
Jon North
Project #1491641

Issuer Name:
Pounder Venture Capital Corp.
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated December 8, 2009
NP 11-202 Receipt dated December 9, 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:
Scotia Money Market Fund
Scotia Canadian Income Fund
Scotia Diversified Monthly Income Fund
Scotia Canadian Tactical Asset Allocation Fund
Scotia Canadian Dividend Fund
Scotia Canadian Growth Fund
Scotia International Value Fund
Scotia Global Growth Fund
Scotia Global Opportunities Fund
Scotia Global Climate Change Fund
Scotia Selected Income & Modest Growth Portfolio
Scotia Selected Balanced Income & Growth Portfolio
Scotia Selected Moderate Growth Portfolio
Scotia Selected Aggressive Growth Portfolio
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated December 11, 2009
NP 11-202 Receipt dated December 15, 2009
Offering Price and Description:
Mutual fund trust units at net asset value
Underwriter(s) or Distributor(s):
Scotia Securities Inc.

Promoter(s):
-
Project #1499431

Issuer Name:
Manager Class Units of:
Scotia Money Market Fund
Scotia Canadian Income Fund
Scotia Canadian Corporate Bond Fund
(formerly, Scotia Cassels Canadian Corporate Bond Fund) (also Class I Units)
Scotia Short-Mid Government Bond Fund
(formerly, Scotia Cassels Short-Mid Government Bond Fund) (also Class I Units)
Scotia Advantaged Income Fund
(formerly, Scotia Cassels Advantaged Income Fund)
Scotia Canadian Dividend Fund
Scotia Canadian Equity Fund
(formerly, Scotia Cassels Canadian Equity Fund) (also Class I Units)
Scotia Canadian Small Cap Fund
Scotia North American Equity Fund
(formerly, Scotia Cassels North American Equity Fund)
Scotia Cyclical Opportunities Fund
(formerly, Scotia Cassels Cyclical Opportunities Fund)
Scotia U.S. Equity Fund
(formerly, Scotia Cassels U.S. Equity Fund) (also Class I Units)
Scotia International Equity Fund
(formerly, Scotia Cassels International Equity Fund) (also Class I Units)
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated December 11, 2009
NP 11-202 Receipt dated December 15, 2009
Offering Price and Description:
Mutual fund trust units at net asset value
Underwriter(s) or Distributor(s):
Scotia Securities Inc.
Promoter(s):
-
Project #1499384

Issuer Name:
Sino-Forest Corporation
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated December 10, 2009
NP 11-202 Receipt dated December 11, 2009
Offering Price and Description:
$319,200,000.00 - 19,000,000 Common Shares Price: $16.80 per Common Share
Underwriter(s) or Distributor(s):
Credit Suisse Securities (Canada) Inc.
TD Securities Inc.
Dundee Securities Corporation
RBC Dominion Securities Inc.
Scotia Capital Inc.
CIBC World Markets Inc.
Merrill Lynch Canada Inc.
Canaccord Capital Corporation
Maison Placements Canada Inc.
Promoter(s):
-
Project #1510777

Issuer Name:
Tonbridge Power Inc.
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated December 11, 2009
NP 11-202 Receipt dated December 11, 2009
Offering Price and Description:
$13,502,000.00 6,280,000 Units Price: $2.15 per Unit
Underwriter(s) or Distributor(s):
Clarus Securities Inc.
Macquarie Capital Markets Canada Ltd.
Dundee Securities Corporation
Promoter(s):
-
Project #1496518

Issuer Name:
Vuzix Corporation
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated December 7, 2009
NP 11-202 Receipt dated December 9, 2009
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Canaccord Capital Corporation
Bolder Investment Partners, Ltd.
Promoter(s):
-
Project #1443965

Issuer Name:
WEX Pharmaceuticals Inc.
Principal Regulator - British Columbia
Type and Date:
Final Short Form Prospectus dated December 11, 2009
NP 11-202 Receipt dated December 11, 2009
Offering Price and Description:
UP TO APPROXIMATELY $34,512,813.00 - 176,988,785 rights to subscribe for up to 265,483,177 restricted voting shares at a price of $0.13 per restricted voting share
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1506704

Issuer Name:
YPG Holdings Inc.
Principal Regulator - Quebec
Type and Date:
Final Short Form Prospectus dated December 14, 2009
NP 11-202 Receipt dated December 14, 2009
Offering Price and Description:
$125,000,000.00 - 5,000,000 Cumulative Rate Reset First Preferred Shares, Series 5
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
CIBC Wold Markets Inc.
RBC Dominion Securities Inc.
Scotia Capital Inc.
TD Securities Inc.
National Bank Financial Inc.
HSBC Securities (Canada) Inc.
Desjardins Securities Inc.
Promoter(s):
-
Project #1512586

Issuer Name:
Zungui Haixi Corporation
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated December 11, 2009
NP 11-202 Receipt dated December 11, 2009
Offering Price and Description:
$37,375,000.00 - 11,500,000 Common Shares Price: $3.25 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:
BRADES RESOURCE CORP.
Principal Jurisdiction - British Columbia
Type and Date:
Preliminary Long Form Prospectus dated August 28, 2009
Closed on December 15, 2009
Offering Price and Description:
$349,999.95 - 2,333,333 Shares - $0.15 per Share
Price: $0.15 per Share
Underwriter(s) or Distributor(s):
Canaccord Capital Corporation
Promoter(s):
CHERYL MORE
Project #1472180

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Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
Amalgamation	GMP Private Client L.P. and Richardson Partners Financial Limited To Form: Richardson GMP Limited	Investment Dealer	November 12, 2009
Name Change	From: Barclays Global Investors Canada Limited / Investisseurs Globaux Barclays Canada Limitée, To: Blackrock Asset Management Canada Limited/Gestion D'actifs Blackrock Canada Limitée	Exempt Market Dealer, Portfolio Manager and Commodity Trading Manager,	December 1, 2009
Name Change	From: Canaccord Capital Corporation To: Canaccord Financial Ltd.	Investment Dealer	December 1, 2009
Voluntary Surrender of Registration	McLean Budden Funds Inc.	Mutual Fund Dealer	December 9, 2009
Voluntary Surrender of Registration	Roynat Capital Inc.	Exempt Market Dealer	December 10, 2009
Voluntary Surrender of Registration	RedRock Capital Partners Investment Management Ltd.	Exempt Market Dealer	December 10, 2009
Voluntary Surrender of Registration	M.R.S. Trust Company	Portfolio Manager	December 10, 2009
Voluntary Surrender of Registration	Blackbay Wealth Management Ltd.	Commodity Trading Manager	December 11, 2009

Type	Company	Category of Registration	Effective Date
Change of Category	W.A. Robinson & Associates Ltd.	From: Exempt Market Dealer & Portfolio Manager To: Exempt Market Dealer & Portfolio Manager & Investment Fund Manager	December 11, 2009
Voluntary Surrender of Registration	Blackbay Wealth Management Ltd.	Exempt Market Dealer, Portfolio Manager	December 14, 2009
Voluntary Surrender of Registration	Standish Mellon Asset Management Company Llc	Portfolio Manager	December 14, 2009
Voluntary Surrender of Registration	Stoneleigh Capital Partners Inc.	Exempt Market dealer	December 14, 2009

Chapter 13

SRO Notices and Disciplinary Proceedings

13.1.1 MFDA Announces Date of Hearing on the Merits in the Matter of Kevin Desbois

NEWS RELEASE
For immediate release

MFDA ANNOUNCES DATE OF HEARING ON THE MERITS IN THE MATTER OF KEVIN DESBOIS

December 10, 2009 (Toronto, Ontario) – The Mutual Fund Dealers Association of Canada ("MFDA") commenced a disciplinary proceeding against Kevin Desbois by Notice of Hearing issued June 27, 2008. A first appearance in this proceeding took place on September 25, 2008 at which time the matter was adjourned to a date to be determined.

An appearance by teleconference took place in this proceeding today before a three-member Hearing Panel of the MFDA's Central Regional Council.

The hearing of this matter on its merits has been scheduled to take place before the Hearing Panel on March 9, 2010 commencing at 10:00 a.m. (Eastern), or as soon thereafter as the hearing can be held, in the Hearing Room located at the offices of the MFDA at 121 King Street West, Suite 1000, Toronto, Ontario. The hearing will be open to the public, except as may be required for the protection of confidential matters.

A copy of the Notice of Hearing is available on the MFDA 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 143 Members and their approximately 75,000 Approved Persons with a mandate to protect investors and the public interest

For further information, please contact:
Marco Wynnyckyj
Hearings Coordinator
416-945-5146 or mwynnyckyj@mfda.ca

13.1.2 MFDA Sets Date for Hearing on the Merits in the Matter of Jeffrey Levy

NEWS RELEASE
For immediate release

MFDA SETS DATE FOR HEARING ON THE MERITS IN THE MATTER OF JEFFREY LEVY

December 11, 2009 (Toronto, Ontario) – The Mutual Fund Dealers Association of Canada ("MFDA") commenced a disciplinary proceeding in respect of Jeffrey Mark Levy by Notice of Hearing dated June 27, 2008.

The first appearance in this proceeding took place on September 10, 2008 at which time the matter was adjourned pending the resolution of Taub v. Investment Dealers Association of Canada before the Ontario Court of Appeal.

The hearing of this matter on its merits has been scheduled to take place on May 19, 2010 at 10:00 a.m. (Eastern), or as soon thereafter as the hearing can be held, in the Hearing Room located at the offices of the MFDA at 121 King Street West, Suite 1000, Toronto, Ontario.

The hearing will be open to the public, except as may be required for the protection of confidential matters.

A copy of the Notice of Hearing is available on the MFDA web site at www.mfda.ca.

The MFDA is the self-regulatory organization for Canadian mutual fund dealers, regulating the operations, standards of practice and business conduct of its 143 Members and their approximately 75,000 Approved Persons with a mandate to protect investors and the public interest.

For further information, please contact:
Marco Wynnyckyj
Hearings Coordinator
416-945-5146 or mwynnyckyj@mfda.ca

13.1.3 MFDA Adjourns Hearing on the Merits in the Matter of Carmine Mazzotta

NEWS RELEASE
For immediate release

MFDA ADJOURNS HEARING ON THE MERITS IN THE MATTER OF CARMINE MAZZOTTA

December 11, 2009 (Toronto, Ontario) – The Mutual Fund Dealers Association of Canada ("MFDA") commenced a disciplinary proceeding against Carmine P. Mazzotta by Notice of Hearing dated June 29, 2009.

The hearing of this matter on its merits, originally scheduled to take place on December 15-17, 2009, has been adjourned on consent of the parties to a date to be determined.

An appearance in this matter will take place by teleconference on December 17, 2009 at 10:00 a.m. (Eastern) to reschedule the hearing. The appearance will take place in the Hearing Room located at the offices of the MFDA, 121 King Street West, Suite 1000, Toronto, Ontario, and will be open to the public, except as may be required for the protection of confidential matters.

The MFDA is the self-regulatory organization for Canadian mutual fund dealers, regulating the operations, standards of practice and business conduct of its 143 Members and their approximately 75,000 Approved Persons with a mandate to protect investors and the public interest.

For further information, please contact:
Marco Wynnyckyj
Hearings Coordinator
416-945-5146 or mwynnyckyj@mfda.ca

13.1.4 MFDA Issues Notice of Hearing Regarding The Investment House of Canada Inc., Sanjiv Sawh and Vlad Trkulja

NEWS RELEASE
For immediate release

MFDA ISSUES NOTICE OF HEARING REGARDING THE INVESTMENT HOUSE OF CANADA INC., SANJIV SAWH AND VLAD TRKULJA

December 15, 2009 (Toronto, Ontario) – The Mutual Fund Dealers Association of Canada ("MFDA") today announced that it has commenced disciplinary proceedings against Investment House of Canada Inc., Sanjiv Sawh and Vlad Trkulja (the "Respondents").

MFDA staff alleges in its Notice of Hearing that the Respondents engaged in the following conduct contrary to the By-laws, Rules or Policies of the MFDA:

Allegation 1: Between October 2005 and February 2007, Sanjiv Sawh ("Sawh") and Vlad Trkulja ("Trkulja') recommended, sold or facilitated the sale of securities sold pursuant to exemptions under applicable securities legislation ("exempt securities") to clients without ensuring that:

(a) the exempt securities were suitable for the clients, and in keeping with their investment objectives, contrary to MFDA Rules 2.2.1 and 2.1.1; and/or

(b) the clients qualified as accredited investors in accordance with Ontario Securities Commission Rule 45-501 and subsequently National Instrument 45-106, contrary to MFDA Rule 2.1.1, thereby engaging the jurisdiction of the Hearing Panel to impose a penalty pursuant to s. 24.1.1(h) of MFDA By-law No. 1.

Allegation 2: Between October 2005 and February 2007, The Investment House of Canada Inc. ("The Investment House") approved and allowed the sale of exempt securities to clients without having conducted reasonable due diligence on the nature and the appropriate risk ranking of the exempt securities and without having made reasonable inquiries to determine whether the exempt securities were suitable for sale to its clients, contrary to MFDA Rule 2.2.1 and 2.1.1.

Allegation 3: Between October 2005 and February 2007, The Investment House failed to establish, implement and maintain policies and procedures to adequately and effectively supervise the sale of exempt securities to its

clients, contrary to MFDA Rules 2.5.1 and 2.1.1 and MFDA Policy No. 2.

Allegation 4: Between October 2005 and February 2007, The Investment House failed to maintain adequate books, records, documentation and other information regarding clients of The Investment House who purchased exempt securities, contrary to MFDA Rule 5.6.

Allegation 5: Commencing in or around May 2009, The Investment House failed to produce for inspection and provide copies of documents and information requested by the MFDA for the purpose of investigating a client complaint made against The Investment House, contrary to s. 22.1 of MFDA By-law No. 1.

Allegation 6: Between June 2006 and September 2006, The Investment House, Trkulja and Sawh failed to ensure that a conflict or potential conflict between their interests and those of The Investment House's clients in relation to the sale of exempt securities in which the Investment House might have a direct or indirect interest was addressed by the exercise of responsible business judgment influenced only by the best interests of the clients, contrary to MFDA Rule 2.1.4.[1]

Allegation 7: In or about July 2007, The Investment House breached an Agreement and Undertaking entered into with MFDA Staff in which The Investment House undertook and agreed, among other things, that it would not increase its non-allowable assets without first receiving written approval from the MFDA, by advancing $60,511 to a related company without receiving authorization from the MFDA, thereby engaging the authority of the Hearing Panel to impose a penalty on The Investment House pursuant to s. 24.1.2 of MFDA By-law No. 1.

Allegation 8: Between May 1, 2006 and January 31, 2009, The Investment House failed to establish, implement and maintain a two-tier compliance structure consisting of adequate supervision at the head office level of client account activity, contrary to MFDA Rule 2.5 and MFDA Policy No. 2.

Allegation 9: Between May 1, 2006 and January 31, 2009, The Investment House failed to conduct adequate trade supervision at the branch office level, contrary to MFDA Rule 2.5 and MFDA Policy No. 2.

Allegation 10: Between May 1, 2006 and January 31, 2009, The Investment House failed to ensure that trades in client accounts in mutual funds and other securities were suitable for the clients and consistent with the clients' documented investment objectives and KYC information, contrary to MFDA Rule 2.2.1.

Allegation 11: Between May 1, 2006 and January 31, 2009, The Investment House failed to collect complete New Account Application Form ("NAAF") and Know-Your-Client ("KYC") information for client accounts, and permitted trading in such accounts, contrary to MFDA Rules 2.2.1, 2.2.2 and 2.2.3.

Allegation 12: Between May 1, 2006 and January 31, 2009, The Investment House failed to establish, implement and maintain an adequate branch review program in accordance with the requirements of MFDA Policy No. 5 (Branch Review Requirements), contrary to MFDA Rule 2.5 and MFDA Policy No. 5.

Allegation 13: Between October 2005 to January 31, 2009, Trkulja and Sawh, as directors and officers of The Investment House, engaged in business conduct or practice that was unbecoming or detrimental to the public interest by failing to ensure that The Investment House maintained a compliance program that identified and addressed material risks of non-compliance and that appropriate supervision and compliance procedures to manage those risks had been implemented, and more specifically failed to ensure that The Investment House complied with MFDA By-laws, Rules and Policies as set out in Allegations 2 to 12 inclusive, contrary to MFDA Rules 2.1.1(c) and 2.5.1 and MFDA Policy 2.

The first appearance in this matter will take place by teleconference before a Hearing Panel of the MFDA's Central Regional Council on January 14, 2010 at 10:00 a.m. (Eastern), or as soon thereafter as the appearance can be held. The purpose of the first appearance is to schedule the date for the commencement of the hearing of this matter on its merits and to address any other procedural matters and will be open to the public, except as may be required for the protection of confidential matters.

A copy of the Notice of Hearing is available on the MFDA 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 143 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

[1] MFDA Rule 2.1.4 was amended effective February 27, 2006. It is alleged The Investment House, Trkulja and Sawh contravened the requirements of MFDA Rule 2.1.4 both pre-amendment and post-amendment.

13.1.5 Notice of Commission Approval – Amendments to MFDA Policy 3, Policy 6 and Rule 2.11 – Complaint Handling, Supervisory Investigations and Internal Discipline

MUTUAL FUND DEALERS ASSOCIATION OF CANADA (MFDA)

AMENDMENTS TO POLICY 3, POLICY 6 AND RULE 2.11
REGARDING COMPLAINT HANDLING, SUPERVISORY INVESTIGATIONS AND INTERNAL DISCIPLINE

NOTICE OF COMMISSION APPROVAL

The Ontario Securities Commission has approved amendments to MFDA Policy 3, Policy 6 and Rule 2.11 regarding complaint handling, supervisory investigations and internal discipline. In addition, the Alberta Securities Commission, the Manitoba Securities Commission, New Brunswick Securities Commission, Nova Scotia Securities Commission, and Saskatchewan Financial Services Commission approved, and the British Columbia Securities Commission did not object to the MFDA's proposal. The amendments provide minimum standards for members' obligations in handling client complaints and in subsequent supervisory investigations in order to ensure fair and prompt handling of such complaints. The proposal also harmonizes the MFDA's complaint handling requirements with those of the Investment Industry Regulatory Organization of Canada and the Canadian Securities Administrators.

The MFDA's proposal was published for comment on March 13, 2009 at (2009) 32 OSCB 2423. The MFDA summarized the comments it received on the proposal and provided responses. A summary of the comments and MFDA responses, a copy of the amendments and a blacklined copy of the amendments showing the changes to the version published in March 2009 are included in Chapter 13 of this Bulletin.

MFDA POLICY NO. 3

COMPLAINT HANDLING, SUPERVISORY INVESTIGATIONS AND INTERNAL DISCIPLINE

I. Complaints

1. Introduction

MFDA Rule 2.11 requires Members to establish and implement written policies and procedures for dealing with client complaints that ensure that such complaints are dealt with promptly and fairly. This Policy establishes minimum standards for the development and implementation of those procedures.

Compliance with the requirements of MFDA Rule 2.11 and this Policy must be supervised and monitored by the Member and its personnel in accordance with MFDA Rule 2.5.

2. Definition

A "complaint" shall be deemed to include any written or verbal statement of grievance, including electronic communications from a client, former client, or any person who is acting on behalf of a client and has written authorization to so act, or of a prospective client who has dealt with a Member or Approved Person, alleging a grievance involving the Member, Approved Person of the Member or former Approved Person of the Member, if the grievance involves matters that occurred while the Approved Person was an Approved Person of the Member.

3. Duty to Assess All Complaints

Members have a duty to engage in an adequate and reasonable assessment of all complaints.

All complaints are subject to the complaint handling requirements set out in Part I of this Policy. Certain complaints are subject to additional complaint handling requirements as set out in Part II of this Policy. Complaints must be assessed to determine whether, in the reasonable professional judgment of the Member's supervisory staff handling the complaint, they should be treated in accordance with the Additional Complaint Handling Requirements prescribed by Part II of this Policy.

All complaints, including complaints from non-clients in respect of their own affairs, in any way relating to the following must be dealt with in accordance with the Additional Complaint Handling Requirements prescribed by Part II of this Policy:

- a breach of client confidentiality;
- unsuitable investments or leveraging (except for non-clients);
- theft, fraud, misappropriation , forgery, misrepresentation, unauthorized trading;
- engaging in securities related business outside of the Member;
- engaging in an undeclared occupation outside the Member;
- personal financial dealings with a client, money laundering, market manipulation or insider trading.

In determining whether any other complaints not relating to the matters set out above should be subject to the Additional Complaint Handling Requirements prescribed by Part II of this Policy supervisory staff should consider whether the complaint alleges a matter similar in nature or seriousness to those set out above, the complainant's expectation as to how the complaint should be handled and whether the complainant is alleging any financial harm. Where supervisory staff determines that a complaint does not meet any of these criteria the complaint must be handled fairly and promptly but can be concluded through an informal resolution.

4. Minimum Requirements for Complaints Subject to Informal Resolution

Any complaints that are subject to informal resolution must be handled fairly and responded to promptly (i.e. generally in less time than it would take for complaints subject to the Additional Complaint Handling Requirements prescribed by Part II of this Policy). Such complaints must also be resolved in accordance with internal Member complaint handling policies and procedures that clearly describe the process to be followed in the assessment and resolution of such matters. Certain complaints subject to informal resolution must also be reported under Policy No. 6.

Where a complaint subject to informal resolution is received in writing the Member must provide its substantive response in writing.

5. Member Assistance in Documenting Verbal Complaints

Members should be prepared to assist clients in documenting verbal complaints where it is apparent that such assistance is required.

6. Client Access

At the time of account opening, Members must provide to new clients a written summary of the Member's complaint handling procedures, which is clear and can easily be understood by clients. On account opening, the Member must also provide a Client Complaint Information Form ("CCIF"), as approved by MFDA staff, describing complaint escalation options, including complaining to the Ombudsman for Banking Services and Investments and complaining to the MFDA.

Members must ensure that information about their complaint handling process is made generally available to clients so that clients are informed as to how to file a complaint and to whom they should address a complaint. For example, Members who maintain a website must post their complaint handling procedures on their website.

Member procedures must provide a specific point of initial contact at head office for complaints or information about the Member's complaint handling process. This contact may be a designated person or may be a general inbox or telephone number that is continuously monitored. Members may also advise clients to address their complaints to the Approved Person servicing their account and to the Branch Manager supervising the Approved Person.

7. Fair Handling of Client Complaints

To achieve the objective of handling complaints fairly, Members' complaint handling procedures must include standards that allow for a factual investigation and an analysis of the matters specific to the complaint. Members must not have policies that allow for complaints to be dismissed without due consideration of the facts of each case. There must be a balanced approach to the gathering of facts that objectively considers the interests of the complainant, the Approved Person and the Member.

The basis of the Member's analysis must be reasonable. For example, a suitability complaint must be considered in light of the same principles that would be applied by a reasonable Member in conducting a suitability review, which would include an acknowledgement of the complainant's stated risk tolerance. It would not be reasonable for a Member to assess suitability based on a risk level presumed by the Member that is higher than that indicated by the complainant. A further example of an unreasonable analysis is where a Member dismisses a complaint due to a simple uncorroborated denial by the Approved Person notwithstanding evidence in support of the complainant.

A Member's obligation to handle complaints in accordance with this Policy is not altered when a complainant engages legal counsel in the complaint process and where no litigation has commenced. Where litigation has been initiated by the complainant, the Member is expected to participate in the litigation process in a timely manner in accordance with the rules of procedure of the applicable jurisdiction and to refrain from acting in a way that is clearly unfair.

The Member's review of the complaint must result in the Member's substantive response to the complainant. Examples of an appropriate substantive response include a fair offer to resolve the complaint or a denial of the complaint with reasons. MFDA staff does not require that the complainant accept the Member's offer in order for the offer to be considered fair.

8. Prompt Handling of Client Complaints

The Member must handle the complaint and provide its substantive response within the time period expected of a Member acting diligently in the circumstances. The time period may vary depending on the complexity of the matter. The Member should determine its substantive response and notify the complainant in writing in most cases within three months of receipt of the complaint.

Further, staff recognizes that, if the complainant fails to co-operate during the complaint resolution process, or if the matter requires an extensive amount of fact-finding or complex legal analysis, time frames for the substantive response may need to be extended. In cases where a substantive response will not be provided within three months, the Member must advise the complainant as such, provide an explanation for the delay and also provide the Member's best estimate of the time required for the completion of the substantive response.

It is not required that the complainant accept the Member's substantive response. Where the Member has communicated its substantive response, the Member must continue to proactively address further communications from the complainant in a timely manner until no further action on the part of the Member is required.

9. General Complaint Handling Requirements

1. All client complaints and supervisory obligations must be handled by qualified sales supervisors/compliance staff. An individual who is the subject of a complaint must not handle the complaint unless the Member has no other supervisory staff who are qualified to handle such complaints.

2. Each Approved Person must report certain complaints and other information relevant to this Policy to the Member as required under MFDA Policy No. 6.

3. Each Member must put procedures in place so that senior management is made aware of complaints of serious misconduct and of all legal actions.

4. Members may use the electronic reporting system designated under MFDA Policy No. 6 (the "Member Event Tracking System" or "METS") as their complaint log for those complaints reported on METS. For complaints that are not required to be reported through METS Members must have policies and procedures for the detection of frequent and repetitive complaints made with respect to the same matter which may, on a cumulative basis, indicate a serious problem.

5. Follow-up documentation for all complaints must be kept in a central location along with the consolidated log of complaints. Alternatively, where a Member has various regional head offices or branches, the Member may keep follow-up documentation at any one regional head office or branch, so long as information about the handling of the complaint is in the Member head office log and the follow-up documentation can be produced in a timely manner.

6. Where the events relating to a complaint took place in part at another Member or a member of another SRO, Members and Approved Persons must cooperate with other Members or SRO members in the sharing of information necessary to address the complaint.

10. Settlement Agreements

No Approved Person shall, without the prior written consent of the Member, enter into any settlement agreement with, pay any compensation to or make any restitution to a client.

No Member or Approved Person of such Member may impose confidentiality restrictions on clients or a requirement to withdraw a complaint with respect to the MFDA or a securities commission, regulatory authority, law enforcement agency, SRO, stock exchange or other trading market as part of a resolution of a dispute or otherwise.

II. Additional Complaint Handling Requirements

Each Member's procedures for handling complaints that are subject to the requirements of this section must include the following:

1. **Initial Response** – An initial response letter must be sent to the complainant within a reasonable time, and generally within 5 business days of receipt of the complaint. If a complaint can be concluded in less than 5 business days then an initial response letter is not necessary. The initial response letter must include the following information:

   - A written acknowledgment of the complaint;
   - A request to the complainant for any additional reasonable information required to resolve the complaint;
   - The name, job title and full contact information of the individual at the Member handling the complaint;
   - A statement indicating that the complainant should contact the individual at the Member handling the complaint if he/she would like to inquire about the status of the complaint;
   - A summary of the Member's internal complaint handling process, including general timelines for providing the Member's response to complaints and a statement advising clients that each province and territory has a time limit for taking legal action; and
   - A reference to an attached copy of the CCIF, and a reference to the fact that the CCIF contains information about applicable limitation periods.

2. **Substantive Response** – The substantive response letter, which Members must provide to the complainant, may be accompanied by a summary of the Member's complaint handling procedures and must include a copy of the CCIF. The substantive response letter to complainants must also include the following information:

   - An outline of the complaint;
   - The Member's substantive decision on the complaint, including reasons for the decision; and
   - A reminder to the complainant that he/she has the right to consider: (i) presenting the complaint to the Ombudsman for Banking Services and Investments which will consider complaints brought to it within six months of the substantive response letter; (ii) making a complaint to the MFDA; (iii) litigation/civil action; or (iv) any other applicable options, such as an internal ombudservice provided by an affiliate of the Member.

III. Supervisory Investigations

A Member must monitor, through its supervisory personnel, all information that it receives regarding potential breaches of applicable requirements on the part of the Member and its current and former Approved Persons that raise the possibility of risk to the Member's clients or other investors. Applicable requirements include MFDA By-laws, Rules and Policies, other applicable legal and regulatory requirements and the Member's related internal policies and procedures. This applies to information received from both internal and external sources. For example, such information may come from client complaints, be identified during the Member's routine supervisory activity, or come from other Approved Persons of the Member or individuals outside the Member who are not clients.

For purposes of clarity, where the information is received by way of a client complaint, the supervisory duty goes beyond addressing the relief requested by the complainant and extends to a consideration of general risk at the Member. The duty to deal with the supervisory aspects of the matter continues when a complainant purports to withdraw the complaint or indicates satisfaction with the result of the Member's complaint handling.

Members must take reasonable supervisory action in relation to such information, the extent of which will in part depend on the severity of the allegation and the complexity of the issues. In all cases, the Member must track such information and note trends in risk, including those related to specific Approved Persons or branches, subject matter, product types, procedures and cases, and take necessary action in response to those trends as appropriate. In some cases, it will be necessary to conduct an active supervisory investigation in relation to the information received in specific situations and the level of the investigation must be reasonable in the circumstances.

For example, where the Member identifies unsuitable investment or leveraging recommendations by one if its Approved Persons, the investigation may extend to include determining relevant matters such as the understanding of the Approved Person and applicable supervisory personnel of the Member's policies and procedures and the possibility that such conduct occurred in relation to other clients.

With regard to the type of conduct outlined in Part I, Section 3 of this Policy, other than suitability, the Member has a duty to conduct a detailed investigation in all situations where there is information from any source, written or verbal, whether from an identified source or anonymous, to raise the possibility that such conduct occurred. This duty applies to all conduct by the current or former Approved Person, whether it occurred inside or outside the Member.

The investigation must be sufficiently detailed and must include all reasonable steps to determine whether the potential activity occurred. Examples of the activities that the Member may need to take include:

(a) interviewing or otherwise communicating with individuals such as:

   - the individuals of concern;
   - related supervisory personnel;
   - other branch staff;
   - head office personnel;
   - the client or other external individuals who brought the information to the Member's attention; or
   - other clients who may have been affected by the activity.

(b) conducting a review at the branch or sub-branch.

(c) reviewing documentation such as:

- files of the Approved Person relating to Member business; or
- files and other documents in the Approved Person's custody or control that relate to outside business, where there is a reasonable possibility that such information is relevant to the investigation. Members have the right to require such information to meet their supervisory responsibilities and Approved Persons have an obligation to cooperate with such requests.

IV. Internal Discipline

Each Member must establish procedures to ensure that breaches of MFDA By-laws, Rules and Policies are subjected to appropriate internal disciplinary measures.

V. Record Retention

Documentation associated with a Member's activity under this Policy shall be maintained for a minimum of 7 years from the creation of the record and made available to the MFDA upon request.

CONSEQUENTIAL AMENDMENTS

Rule 2.11 (Complaints)

Every Member shall establish written policies and procedures for dealing with complaints which ensure that such complaints are dealt with promptly and fairly, and in accordance with the minimum standards prescribed by the Corporation from time to time.

. . .

Policy No. 6 *Information Reporting Requirements*

4. Approved Person Reporting Requirements

4.1. An Approved Person shall report the following events to his or her current Member in such detail as required by the Member, within 2 business days:

(a) the Approved Person is the subject of a client complaint in writing;

(b) the Approved Person is aware of a complaint from any person, whether in writing or any other form, and with respect to him or herself, or any other Approved Person, involving allegations of:

(i) theft, fraud, misappropriation, forgery, money laundering, market manipulation, insider trading, misrepresentation, or unauthorized trading;

(ii) a breach of client confidentiality;

(iii) engaging in securities related business outside of the Member;

(iv) engaging in an undeclared occupation outside the Member; or

(v) personal financial dealings with a client.

(c) whenever the Approved Person has reason to believe that he or she has or may have contravened, or is named as a defendant or respondent in any proceeding, in any jurisdiction, alleging the contravention of:

(i) any securities law; or

(ii) any regulatory requirements.

(d) the Approved Person is charged with, convicted of, pleads guilty or no contest to, any criminal offence, in any jurisdiction;

(e) the Approved Person is named as a defendant in a civil claim, in any jurisdiction, relating to the handling of client accounts or trading or advising in securities;

(f) the Approved Person is denied registration or a license that allows the Approved Person to deal with the public in any capacity by any regulatory body, or has such registration or license cancelled, suspended or terminated, or made subject to terms and conditions;

(g) the Approved Person becomes bankrupt or suspends payment of debts generally or makes an arrangement with creditors or makes an assignment or is deemed insolvent;

(h) there are garnishments outstanding or rendered against the Approved Person.

. . .

6. General Events to be Reported

6.1. Members shall report to the MFDA:

(a) all client complaints in writing, against the Member or a current or former Approved Person, relating to member business, except service complaints;

(b) whenever a Member is aware, through a written or verbal complaint or otherwise, that the Member or any current or former Approved Person has or may have contravened any law or regulatory requirement, relating to:

(i) theft, fraud, misappropriation, forgery, money laundering, market manipulation, insider trading, misrepresentation, or unauthorized trading;

(ii) a breach of client confidentiality;

(iii) engaging in securities related business outside of the Member;

(iv) engaging in an undeclared occupation outside the Member; or

(v) personal financial dealings with a client.

(c) whenever the Member, or a current or former Approved Person, is:

(i) charged with, convicted of, pleads guilty or no contest to, any criminal offence, in any jurisdiction;

(ii) named as a defendant or respondent in, or is subject of, any proceeding or disciplinary action, in any jurisdiction, alleging contravention of any securities law;

(iii) named as a defendant or respondent in, or is the subject of, any proceeding or disciplinary action, in any jurisdiction, alleging contravention of regulatory requirements;

(iv) denied registration or a license that allows a person to deal with the public in any capacity by any regulatory body, or has such registration or license cancelled, suspended or terminated, or made subject to terms and conditions;

(v) named as a defendant in a civil claim, in any jurisdiction, relating to handling of client accounts or trading or advising in securities.

(d) whenever an Approved Person becomes bankrupt or suspends payment of debts generally or makes an arrangement with creditors or makes an assignment or is deemed insolvent;

(e) there are garnishments outstanding or rendered against the Member or an Approved Person.

7. Reporting of Updates and Resolution of Events

7.1. Members shall update event reports previously reported to reflect updates to, or the resolution of, any event that has been reported pursuant to section 6.1 of this Policy within 5 business days of the occurrence of the update or resolution and such update or resolution shall include but not be limited to:

(a) any judgments, awards, arbitration awards or orders and settlements in any jurisdiction;

(b) compensation paid to clients directly or indirectly, or any benefit received by clients from a Member or Approved Person directly or indirectly;

(c) any internal disciplinary action or sanction against an Approved Person by a Member;

(d) the termination of an Approved Person;

(e) the results of any internal investigation conducted.

. . .

Section 24.A.5 (Ombudservice – Member to Provide Written Material to Clients) of By-law No. 1

[Section has been deleted]

MFDA POLICY NO. 3
(Amendments to Version Published for Comment on March 13, 2009)

COMPLAINT HANDLING, SUPERVISORY INVESTIGATIONS AND INTERNAL DISCIPLINE

I. Complaints

1. Introduction

MFDA Rule 2.11 requires Members to establish and implement written policies and procedures for dealing with client complaints that ensure that such complaints are dealt with promptly and fairly. This Policy establishes minimum standards for the development and implementation of those procedures.

Compliance with the requirements of MFDA Rule 2.11 and this Policy must be supervised and monitored by the Member and its personnel in accordance with MFDA Rule 2.5.

2. Definition

A "complaint" shall be deemed to include any written or verbal statement of grievance, including electronic communications from a client, former client, or any person who is acting on behalf of a client and has written authorization to so act, or of a prospective client who has dealt with a Member or Approved Person, alleging a grievance involving the Member, Approved Person of the Member or former Approved Person of the Member, if the grievance involves matters that occurred while the Approved Person was an Approved Person of the Member.

3. Duty to Assess All Complaints

Members have a duty to engage in an adequate and reasonable assessment of all complaints.

All complaints are subject to the complaint handling requirements set out in Part I of this Policy. Certain complaints are subject to additional complaint handling requirements as set out in Part II of this Policy. Complaints must be assessed to determine whether, in the reasonable professional judgment of the Member's supervisory staff handling the complaint, ~~that it~~ they should be treated in accordance with the Additional Complaint Handling Requirements prescribed by Part II of this Policy.

All complaints, including complaints from non-clients in respect of their own affairs, in any way relating to the following must be dealt with in accordance with the Additional Complaint Handling Requirements prescribed by Part II of this Policy:

- a breach of client confidentiality;
- unsuitable investments or leveraging (except for non-clients);
- theft, fraud, misappropriation ~~of funds or securities~~, forgery, misrepresentation, unauthorized trading;
- engaging in securities related business outside of the Member;
- engaging in an undeclared occupation outside the Member;
- personal financial dealings with a client, money laundering, market manipulation or insider trading.

In determining whether any other complaints not relating to the matters set out above should be subject to the Additional Complaint Handling Requirements prescribed by Part II of this Policy supervisory staff should consider whether the complaint alleges a matter similar in nature or seriousness to those set out above, the complainant's expectation as to how the complaint should be handled and whether the complainant is alleging any financial harm. Where supervisory staff determines that a complaint does not meet any of these criteria the complaint must be handled fairly and promptly but can be concluded through an informal resolution.

4. Minimum Requirements for Complaints Subject to Informal Resolution

Any complaints that are subject to informal resolution must be handled fairly and responded to promptly (i.e. generally in less time than it would take for complaints subject to the Additional Complaint Handling Requirements prescribed by Part II of this Policy). Such complaints must also be resolved in accordance with internal Member complaint handling policies and procedures that clearly describe the process to be followed in the assessment and resolution of such matters. Certain complaints subject to informal resolution must also be reported under Policy No. 6.

Where a complaint subject to informal resolution is received in writing the Member must provide its substantive response in writing.

5. Member Assistance in Documenting Verbal Complaints

Members should be prepared to assist clients in documenting verbal complaints where it is apparent that such assistance is required.

6. Client Access

At the time of account opening, Members must provide to new clients a written summary of the Member's complaint handling procedures, which is clear and can easily be understood by clients. On account opening, the Member must also provide a Client Complaint Information Form ("CCIF"), as approved by MFDA staff, describing complaint escalation options, including complaining to the Ombudsman for Banking Services and Investments and complaining to the MFDA.

Members must ensure that information about their complaint handling process is made generally available to clients so that clients are informed as to how to file a complaint and to whom they should address a complaint. For example, Members who maintain a website must post their complaint handling procedures on their website.

Member procedures must provide a specific point of initial contact at head office for complaints or information about the Member's complaint handling process. This contact may be a designated person or may be a general inbox or telephone number that is continuously monitored. Members may also advise clients to address their complaints to the Approved Person servicing their account and to the Branch Manager supervising the Approved Person.

7. Fair Handling of Client Complaints

To achieve the objective of handling complaints fairly, Members' complaint handling procedures must include standards that allow for a factual investigation and an analysis of the matters specific to the complaint. Members must not have policies that allow for complaints to be dismissed without due consideration of the facts of each case. There must be a balanced approach to the gathering of facts that objectively considers the interests of the complainant, the Approved Person and the Member.

The basis of the Member's analysis must be reasonable. For example, a suitability complaint must be considered in light of the same principles that would be applied by a reasonable Member in conducting a suitability review, which would include an acknowledgement of the complainant's stated risk tolerance. It would not be reasonable for a Member to assess suitability based on a risk level presumed by the Member that is higher than that indicated by the complainant. A further example of an unreasonable analysis is where a Member dismisses a complaint due to a simple uncorroborated denial by the Approved Person notwithstanding evidence in support of the complainant.

A Member's obligation to handle complaints in accordance with this Policy is not altered when a complainant engages legal counsel in the complaint process and where no litigation has commenced. Where litigation has been initiated by the complainant, the Member is expected to participate in the litigation process in a timely manner in accordance with the rules of procedure of the applicable jurisdiction and to refrain from acting in a way that is clearly unfair.

The Member's review of the complaint must result in the Member's substantive response to the complainant. Examples of an appropriate substantive response include a fair offer to resolve the complaint or a denial of the complaint with reasons. MFDA staff does not require that the complainant accept the Member's offer in order for the offer to be considered fair.

8. Prompt Handling of Client Complaints

The Member must handle the complaint and provide its substantive response within the time period expected of a Member acting diligently in the circumstances. The time period may vary depending on the complexity of the matter. The Member should determine its substantive response and notify the complainant in writing in most cases within three months of receipt of the complaint.

Further, staff recognizes that, if the complainant fails to co-operate during the complaint resolution process, or if the matter requires an extensive amount of fact-finding or complex legal analysis, time frames for the substantive response may need to be extended. In cases where a substantive response will not be provided within three months, the Member must advise the complainant as such, provide an explanation for the delay and also provide the Member's best estimate of the time required for the completion of the substantive response.

It is not required that the complainant accept the Member's substantive response. Where the Member has communicated its substantive response, the Member must continue to proactively address further communications from the complainant in a timely manner until no further action on the part of the Member is required.

9. General Complaint Handling Requirements

1. All client complaints and supervisory obligations must be handled by qualified sales supervisors/compliance staff. ~~Generally, individuals who are the subject of a complaint should not handle the complaints unless other qualified supervisory staff is not available.~~ An individual who is the subject of a complaint must not handle the complaint unless the Member has no other supervisory staff who are qualified to handle such complaints.

2. Each Approved Person must report certain complaints and other information relevant to this Policy to the Member as required under MFDA Policy No. 6.

3. Each Member must put procedures in place so that senior management is made aware of complaints of serious misconduct and of all legal actions.

4. Members may use the electronic reporting system designated under MFDA Policy No. 6 (the "Member Event Tracking System" or "METS") as their complaint log for those complaints reported on METS. For complaints that are not required to be reported through METS Members must have policies and procedures for the detection of frequent and repetitive complaints made with respect to the same matter which may, on a cumulative basis, indicate a serious problem.

5. Follow-up documentation for all complaints must be kept in a central location along with the consolidated log of complaints. Alternatively, where a Member has various regional head offices or branches, the Member may keep follow-up documentation at any one regional head office or branch, so long as information about the handling of the complaint is in the Member head office log and the follow-up documentation can be produced in a timely manner.

6. Where the events relating to a complaint took place in part at another Member or a member of another SRO, Members and Approved Persons must cooperate with other Members or SRO members in the sharing of information necessary to address the complaint.

10. Settlement Agreements

No Approved Person shall, without the prior written consent of the Member, enter into any settlement agreement with, pay any compensation to or make any restitution to a client.

No Member or Approved Person of such Member may impose confidentiality restrictions on clients or a requirement to withdraw a complaint with respect to the MFDA or a securities commission, regulatory authority, law enforcement agency, SRO, stock exchange or other trading market as part of a resolution of a dispute or otherwise.

II. Additional Complaint Handling Requirements

Each Member's procedures for handling complaints that are subject to the requirements of this section must include the following:

1. **Initial Response** – An initial response letter must be sent to the complainant within a reasonable time, and generally within 5 business days of receipt of the complaint. If a complaint can be concluded in less than 5 business days then an initial response letter is not necessary. The initial response letter must include the following information:

   - A written acknowledgment of the complaint;
   - A request to the complainant for any additional reasonable information required to resolve the complaint;
   - The name, job title and full contact information of the individual at the Member handling the complaint;
   - A statement indicating that the complainant should contact the individual at the Member handling the complaint if he/she would like to inquire about the status of the complaint;
   - A summary of the Member's internal complaint handling process, including general timelines for providing the Member's response to complaints and a statement advising clients that each province and territory has a time limit for taking legal action; and
   - A reference to an attached copy of the CCIF, and a reference to the fact that the CCIF contains information about applicable limitation periods.

2. **Substantive Response** – The substantive response letter, which Members must provide to the complainant, may be accompanied by a summary of the Member's complaint handling procedures and must include a copy of the CCIF. The substantive response letter to complainants must also include the following information:

   - An outline of the complaint;
   - The Member's substantive decision on the complaint, including reasons for the decision; and
   - A reminder to the complainant that he/she has the right to consider: (i) presenting the complaint to the Ombudsman for Banking Services and Investments which will consider complaints brought to it within six months of the substantive response letter; (ii) making a complaint to the MFDA; (iii) litigation/civil action; or (iv) any other applicable options, such as an internal ombudservice provided by an affiliate of the Member.

III. Supervisory Investigations

A Member must monitor, through its supervisory personnel, all information that it receives regarding potential breaches of applicable requirements on the part of the Member and its current and former Approved Persons that raise the possibility of risk to the Member's clients or other investors. Applicable requirements include MFDA By-laws, Rules and Policies, other applicable legal and regulatory requirements and the Member's related internal policies and procedures. This applies to information received from both internal and external sources. For example, such information may come from client complaints, be identified during the Member's routine supervisory activity, or come from other Approved Persons of the Member or individuals outside the Member who are not clients.

For purposes of clarity, where the information is received by way of a client complaint, the supervisory duty goes beyond addressing the relief requested by the complainant and extends to a consideration of general risk at the Member. The duty to deal with the supervisory aspects of the matter continues when a complainant purports to withdraw the complaint or indicates satisfaction with the result of the Member's complaint handling.

Members must take reasonable supervisory action in relation to such information, the extent of which will in part depend on the severity of the allegation and the complexity of the issues. In all cases, the Member must track such information and note trends in risk, including those related to specific Approved Persons or branches, subject matter, product types, procedures and cases, and take necessary action in response to those trends as appropriate. In some cases, it will be necessary to conduct an active supervisory investigation in relation to the information received in specific situations and the level of the investigation must be reasonable in the circumstances.

For example, where the Member identifies unsuitable investment or leveraging recommendations by one if its Approved Persons, the investigation may extend to include determining relevant matters such as the understanding of the Approved Person and applicable supervisory personnel of the Member's policies and procedures and the possibility that such conduct occurred in relation to other clients.

With regard to the type of conduct outlined in Part I, Section 3 of this Policy, other than suitability, the Member has a duty to conduct a detailed investigation in all situations where there is information from any source, written or verbal, whether from an identified source or anonymous, to raise the possibility that such conduct occurred. This duty applies to all conduct by the current or former Approved Person, whether it occurred inside or outside the Member.

The investigation must be sufficiently detailed and must include all reasonable steps to determine whether the potential activity occurred. Examples of the activities that the Member may need to take include:

(a) interviewing or otherwise communicating with individuals such as:

   - the individuals of concern;
   - related supervisory personnel;
   - other branch staff;
   - head office personnel;
   - the client or other external individuals who brought the information to the Member's attention; or
   - other clients who may have been affected by the activity.

(b) conducting a review at the branch or sub-branch.

(c) reviewing documentation such as:

- files of the Approved Person relating to Member business; or
- files and other documents in the Approved Person's custody or control that relate to outside business, where there is a reasonable possibility that such information is relevant to the investigation. Members have the right to require such information to meet their supervisory responsibilities and Approved Persons have an obligation to cooperate with such requests.

IV. Internal Discipline

Each Member must establish procedures to ensure that breaches of MFDA By-laws, Rules and Policies are subjected to appropriate internal disciplinary measures.

V. Record Retention

Documentation associated with a Member's activity under this Policy shall be maintained for a minimum of 7 years from the creation of the record ~~termination of the Member's relationship with the client~~ and made available to the MFDA upon request.

CONSEQUENTIAL AMENDMENTS

Rule 2.11 (Complaints)

Every Member shall establish written policies and procedures for dealing with complaints which ensure that such complaints are dealt with promptly and fairly, and in accordance with the minimum standards prescribed by the Corporation from time to time.

Policy No. 6 *Information Reporting Requirements*

4. Approved Person Reporting Requirements

4.1. An Approved Person shall report the following events to his or her current Member in such detail as required by the Member, within 2 business days:

(a) the Approved Person is the subject of a client complaint in writing;

(b) the Approved Person is aware of a complaint from any person, whether in writing or any other form, and with respect to him or herself, or any other Approved Person, involving allegations of:

(i) theft, fraud, misappropriation ~~of funds or securities~~, forgery, money laundering, market manipulation, insider trading, misrepresentation, or unauthorized trading;

(ii) a breach of client confidentiality;

(iii) engaging in securities related business outside of the Member;

(iv) engaging in an undeclared occupation outside the Member; or

(v) personal financial dealings with a client.

(c) whenever the Approved Person has reason to believe that he or she has or may have contravened, or is named as a defendant or respondent in any proceeding, in any jurisdiction, alleging the contravention of:

(i) any securities law; or

(ii) any regulatory requirements.

(d) the Approved Person is charged with, convicted of, pleads guilty or no contest to, any criminal offence, in any jurisdiction;

(e) the Approved Person is named as a defendant in a civil claim, in any jurisdiction, relating to the handling of client accounts or trading or advising in securities;

(f) the Approved Person is denied registration or a license that allows the Approved Person to deal with the public in any capacity by any regulatory body, or has such registration or license cancelled, suspended or terminated, or made subject to terms and conditions;

(g) the Approved Person becomes bankrupt or suspends payment of debts generally or makes an arrangement with creditors or makes an assignment or is deemed insolvent;

(h) there are garnishments outstanding or rendered against the Approved Person.

6. General Events to be Reported

6.1. Members shall report to the MFDA:

(a) all client complaints in writing, against the Member or a current or former Approved Person, relating to member business, except service complaints;

(b) whenever a Member is aware, through a written or verbal complaint or otherwise, that the Member or any current or former Approved Person has or may have contravened any law or regulatory requirement, relating to:

(i) theft, fraud, misappropriation ~~of funds or securities~~, forgery, money laundering, market manipulation, insider trading, misrepresentation, or unauthorized trading;

(ii) a breach of client confidentiality;

(iii) engaging in securities related business outside of the Member;

(iv) engaging in an undeclared occupation outside the Member; or

(v) personal financial dealings with a client.

(c) whenever the Member, or a current or former Approved Person, is:

(i) charged with, convicted of, pleads guilty or no contest to, any criminal offence, in any jurisdiction;

(ii) named as a defendant or respondent in, or is subject of, any proceeding or disciplinary action, in any jurisdiction, alleging contravention of any securities law;

(iii) named as a defendant or respondent in, or is the subject of, any proceeding or disciplinary action, in any jurisdiction, alleging contravention of regulatory requirements;

(iv) denied registration or a license that allows a person to deal with the public in any capacity by any regulatory body, or has such registration or license cancelled, suspended or terminated, or made subject to terms and conditions;

(v) named as a defendant in a civil claim, in any jurisdiction, relating to handling of client accounts or trading or advising in securities.

(d) whenever an Approved Person becomes bankrupt or suspends payment of debts generally or makes an arrangement with creditors or makes an assignment or is deemed insolvent;

(e) there are garnishments outstanding or rendered against the Member or an Approved Person.

7. Reporting of Updates and Resolution of Events

7.1. Members shall update event reports previously reported to reflect updates to, or the resolution of, any event that has been reported pursuant to section 6.1 of this Policy within 5 business days of the occurrence of the update or resolution and such update or resolution shall include but not be limited to:

(a) any judgments, awards, arbitration awards or orders and settlements in any jurisdiction;

(b) compensation paid to clients directly or indirectly, or any benefit received by clients from a Member or Approved Person directly or indirectly;

(c) any internal disciplinary action or sanction against an Approved Person by a Member;

(d) the termination of an Approved Person;

(e) the results of any internal investigation conducted.

Section 24.A.5 (Ombudservice – Member to Provide Written Material to Clients) of By-law No. 1

[Section has been deleted]

Summary of Public Comments Respecting Proposed Amendments to MFDA Policy No. 3 *Complaint Handling, Supervisory Investigations and Internal Discipline* and Responses of the MFDA

On March 13, 2009, the British Columbia Securities Commission and Ontario Securities Commission published proposed amendments to MFDA Policy No. 3 *Complaint Handling, Supervisory Investigations and Internal Discipline* (the "**Proposed Amendments**") for a second 60-day public comment period.

The public comment period expired on May 12, 2009.

14 submissions were received during the public comment period:

1. Association of Canadian Compliance Professionals ("ACCP")
2. BMO Investments Inc. ("BMO")
3. Federation of Mutual Fund Dealers ("Federation")
4. HUB Capital Inc. ("HUB")
5. IGM Financial Inc. ("IGM")
6. Independent Financial Brokers of Canada ("IFB")
7. Investment Funds Institute of Canada ("IFIC")
8. Kenmar Associates ("Kenmar")
9. Primerica Financial Services (Canada) Ltd. ("PFSL")
10. Quadrus Investment Services Ltd. ("Quadrus")
11. Royal Mutual Funds Inc. ("RMFI") and Phillips, Hager & North Investment Funds Ltd.("PH&N")
12. Scotia Securities Inc. ("SSI")
13. Small Investor Protection Association ("SIPA")
14. Sun Life Financial Investment Services (Canada) Inc. ("Sun Life")

Copies of comment submissions may be viewed at the offices of the MFDA, 121 King Street West, Suite 1000, Toronto, Ontario by contacting Ken Woodard, Director, Communications and Membership Services, (416) 943-4602.

The following is a summary of the comments received, together with the MFDA's responses.

Complaint Handling Procedures of Other Regulators

Harmonization with NI 31-103 and IIROC

The Federation, HUB, IFIC, RMFI and PH&N recommended that the Proposed Amendments be harmonized with the corresponding proposal of the Investment Industry Regulatory Organization of Canada ("IIROC") and with proposed National Instrument 31-103 *Registration Requirements* ("NI 31-103"). SIPA recommended that the complaint handling regimes of the MFDA and IIROC be harmonized with a view to achieving maximum investor protection and precision. IGM stressed the need for harmonization between MFDA's and IIROC's complaint handling proposals, noting that this issue is of particular interest to firms that have both MFDA and IIROC dealer subsidiaries.

PFSL commended the MFDA for its attempt to harmonize complaint handling policies and eliminate conflicting, duplicative and potentially confusing obligations and entitlements, noting; however, that there may still be areas in which the degree of harmonization between the proposed Policy and other securities-related regulation can be improved.

IFIC noted certain differences between the Proposed Amendments and proposed NI 31-103, such as the definition of complaint and the requirement to acknowledge receipt of a complaint to the complainant within five versus ten business days. IFIC expressed the view that the differences between the MFDA proposal, IIROC proposal and NI 31-103 are not merited based on unique situations and recommended that the MFDA reconstitute the working group between IIROC, MFDA and the Canadian Securities Administrators ("CSA") in a further effort to bring about more consistency and harmonization.

MFDA Response

In May 2008, a working group comprised of staff of the CSA, MFDA and IIROC was established by the CSA for the purpose of developing a complaint handling framework to be used to ensure that the requirements to be adopted by the two self-regulatory organizations ("SROs") and in NI 31-103 were harmonized. This working group met and had discussions over the summer and fall of 2008, during which the complaint handling proposals of the two SROs were reviewed to ensure that they were consistent with this framework document, met the same regulatory objectives and minimized differences. MFDA staff made additional amendments to Policy No. 3 as a result of these discussions.

While meeting the same regulatory objectives, the complaint handling policies of the two SROs are structured differently. This approach has been adopted to accommodate differences in the existing structure of the respective Rulebooks of the two SROs.

With respect to harmonization with the complaint handling requirements of NI 31-103, we note that, at the time the proposal was published for comment, the CSA had not finalized its position on complaint handling. Our understanding is that the working group approach noted above was adopted to ensure that the requirements under NI 31-103 in respect of complaint handling would be consistent with those proposed by the SROs.

MFDA staff considers Policy No. 3 to be consistent with the complaint handling requirements under NI 31-103. The Policy meets the regulatory objectives of such requirements and also establishes additional, more specific requirements.

Finally, we note that the requirement to acknowledge receipt of a complaint to the complainant within five business days (versus ten business days) is consistent with the IIROC proposal.

Exemption from Complaint Handling Provisions of NI 31-103

SSI recommended that, in order to avoid confusion and overlap, the CSA and MFDA agree to include an exemption in the final version of NI 31-103 for MFDA Members from the complaint handling sections of NI 31-103.

IFIC expressed concern with respect to a lack of consistency across the MFDA, IIROC and CSA regimes, which will require IFIC members to examine all rules in deciding which standards to comply with and encouraged the MFDA, as part of ongoing and future discussions with the CSA, to recommend that the CSA provide an exemption from the complaint handling regime for SRO members when NI 31-103 comes up for review.

MFDA Response

In the CSA "Notice of Rule, Companion Policy and Consequential Amendments" with respect to NI 31-103, issued on July 17, 2009, the CSA indicated that they "anticipate providing an exemption for SRO members from any detailed provisions that are eventually included in the instrument."

Other Regulators

Kenmar recommended that the industry adopt the International Organization for Standardization's ("ISO") Standard ISO 10002:2004 *Guidelines for Complaints Handling in Organizations* as the standard for complaint handling.

SIPA recommended that the MFDA caution investors going through the complaint process that decisions made by firms about their complaints may be unreliable and that they should seek a second opinion. Kenmar recommended that the special needs of seniors, the handicapped and immigrants be a consideration in the Policy.

MFDA Response

When drafting the amendments to Policy No. 3, MFDA staff reviewed ISO Standard ISO 10002:2004, and considers Policy No. 3 to be aligned with its recommendations.

The principle of fairness applies to all MFDA Policies, as evidenced by the requirement in section 5 of Part I, which requires Members to provide assistance to complainants in documenting verbal complaints, where it is apparent that such assistance is required. This is just one example of how the special needs of seniors, the handicapped and immigrants were considered when drafting Policy No. 3. Finally, with respect to SIPA's comment, the information in the Client Complaint Information Form ("CCIF") clearly provides alternative options for clients going through the complaint process.

Principles-based Approach

PFSL expressed support for the principles-based approach to regulating complaint handling adopted in the Proposed Amendments and noted that this approach may reduce the potential for unnecessary regulatory duplication and redundancy and increase the scope and adaptability of regulation without hindering innovation and diversity among market participants.

The Federation and HUB suggested that micro-regulation be avoided and that a principles-based framework continue to be the priority.

MFDA Response

The MFDA employs a combination of prescriptive and principles-based approaches in establishing its regulatory requirements. When amending or developing new requirements, the MFDA considers which approach is the most appropriate and effective to achieve its investor protection mandate. Certain aspects of the complaint handling process are common to all Members and, accordingly, Policy No. 3 provides more prescriptive requirements in these areas.

Clarification under Policy No. 6

For the purposes of clarity, PFSL requested further guidance with respect to what is intended by the term "update" in the revised section 7 of MFDA Policy No. 6 *Information Reporting Requirements*. Under the Proposed Amendments, Members would now be required to report updates in addition to their existing requirement to report resolutions. However, the list of reportable events contained in the five subsections relates only to the resolution of a complaint and does not provide any further insight or direction on what is to be considered an "update".

MFDA Response

At the time an event is reported by a Member on Member Event Tracking System ("METS"), not all required facts are known. Members must update METS to ensure that all information is complete and accurate at the time of complaint resolution. For example, the outcome of an event is unknown at the time the event is first submitted, therefore the event must be updated to reflect the outcome before the complaint is closed. The MFDA is planning to provide guidance on METS reporting issues after the implementation of Policy No. 3. The issue of updates will be covered in such guidance.

Enforcement

SIPA expressed concern about the effectiveness of the Proposed Amendments in achieving the objective of fair and prompt complaint handling given that they do not contain reference to any sanctions or penalties for failure to comply with the Policy.

MFDA Response

MFDA Policy No. 3 is made under the requirements of MFDA Rule 2.11. A violation of any MFDA Rule may be subject to disciplinary action under section 24 (Discipline Powers) of MFDA By-law No. 1.

Definition of a "Complaint"

Definition is Too Broad

PFSL, IGM, SSI, Quadrus and ACCP expressed concern that the proposed definition of "complaint" is overly broad and may inappropriately capture immaterial or otherwise innocuous communications between Members and their clients. Specifically, commenters expressed the view that the reference to "any written or verbal statement of grievance" is over-inclusive. IGM expressed concern that the inclusion of "expressions of dissatisfaction" in the definition of "complaint" makes it too broad.

MFDA Response

The term "grievance" was used in the previous version of Policy No. 3 and experience has demonstrated this is a workable term in the context of defining complaints.

With respect to the comment that the inclusion of "expressions of dissatisfaction" in the definition of "complaint" makes it too broad, we wish to point out that the MFDA proposal does not use this language.

Exclude Service Complaints/Matters Settled in the Ordinary Course of Business from the Policy

IFIC noted that redrafting the definition of "complaint" to exclude initial expressions of dissatisfaction and service complaints would remove the necessity for the requirements in section 4 of the Proposed Amendments to divide the handling of complaints into two parts. IFIC commented that considerable attention to the oversight of client complaints is already built into existing Rules. If the MFDA agrees to exclude initial expressions of dissatisfaction and service complaints from the definition of "complaint", IFIC recommended removal of section 4 of the Policy and recommended that all complaints be handled in accordance with Part II of the proposed Policy.

SSI recommended that the definition of "complaint" exclude "service complaints" as defined in Policy No. 6. Sun Life recommended that the definition of "service complaint" under MFDA Policy No. 6 be included in Policy No. 3. Sun Life and Quadrus requested clarification regarding complaint handling requirements specific to service complaints, including whether service complaints are subject to only informal resolution by the Member.

PFSL and Quadrus recommended that the definition of "complaint" be amended to exclude client communications and matters "settled in the ordinary course of business". SSI, IGM, ACCP, IFB and Quadrus recommended that the regulatory requirements only relate to complaints that raise issues of regulatory nature while service and other complaints be dealt with in the ordinary course of business and not be considered complaints for the purposes of the Policy. IFIC, IGM and ACCP recommended that service complaints only be caught under the complaint handling regime if they relate to trading and advising activities. IFIC recommended that service complaints be dealt with under the Member's internal guidelines, because the handling of service

complaints is a basis for competition. IFIC recommended adopting Autorité des marchés financiers' and IIROC's approach of excluding initial expressions of dissatisfaction by a client, whether in writing or otherwise, from the definition of "complaint" where the issue is settled in the ordinary course of business.

The IFB expressed the view that the Proposed Amendments do not provide enough recognition to situations where "complaints" may be misunderstandings that can be easily resolved without triggering a formal complaint process. The IFB and PFSL expressed the view that the investigation, record keeping and reporting requirements are not necessary when dealing with routine service matters and would prove to be more of a hindrance than a benefit for all parties involved. The IFB expressed concern that this inclusion could jeopardize the reputation of an Approved Person in cases where there was no wrongdoing and the misunderstanding was successfully resolved.

MFDA Response

In keeping with the regulatory objectives expressed at the meetings of the CSA, MFDA and IIROC staff working group, service complaints must be included in the definition of "complaint." The CSA does not exclude service complaints in NI 31-103. The IIROC proposal does not make reference to eliminating issues settled in the ordinary course of business, therefore, in the interest of harmonization, the MFDA has not included this concept in its proposed Policy No. 3. Policy No. 3 requires Members to engage in an adequate and reasonable assessment of all complaints. If, upon such consideration, the Member determines that it would be appropriate to resolve the complaint informally, the Member may do so in accordance with section 4 (Minimum Requirements for Complaints Subject to Informal Resolution) of Part I of the Policy and the complaint need not be subject to the formal complaint handling procedures specified by Part II of the Policy.

A determination as to whether a complaint involves a potential regulatory issue cannot be made until the matter is appropriately reviewed. In this regard, we note that the Policy also requires that such complaints be logged and tracked in a complaint log so as to allow for a trend analysis of such matters, as even easily resolved issues that occur frequently, or with respect to the same matters, may, on a cumulative basis, indicate a serious problem.

MFDA staff is of the view that the review of a complaint should not cease simply because the specific issue has been settled in the ordinary course of business. While it is important to address client dissatisfaction in as timely a manner as possible, this is not the exclusive purpose of a definition of complaint or a complaint handling process. An additional and equally important regulatory objective is to discover and address any potential underlying regulatory issues.

The amendments to the definition of "complaint" were made so as to allow the Policy to more clearly recognize that not all complaints (e.g. those exclusively of a service nature) need to be subject to the formally prescribed complaint handling procedures, as certain complaints can be adequately and appropriately addressed informally.

Verbal Complaints

The Federation and HUB recommended removal of verbal complaints from the Policy, noting that accepting complaints by this method would not be in the client's best interests. The Federation noted that removal of verbal complaints would eliminate the logistical problems arising when trying to assess whether a complaint is "significant" and dealing with the incumbent process questions, e.g. which complaints are to be reported, which are to be investigated, etc. The IFB recommended that complaints be required to be in writing to ensure that all parties have a similar understanding of the true nature of the complaint and noted that verbal statements may be misinterpreted and difficult to adjudicate. The Federation requested clarification with respect to how can the Member investigate all verbal complaints against an advisor if the advisor is only obligated to report verbal complaints as spelled out under section 4.1(b) of the proposed amendments to Policy No. 6.

BMO expressed concern about the vagueness and subjectivity of the definition of "verbal statement of grievance", noting that this term would be ultimately defined by the recipient of the complaint, who may not believe a client's communication to be a "statement of grievance" for the purposes of the Policy, but rather an expression of dissatisfaction with an investment, without any intent that the discussion become part of a formal complaint process. BMO expressed concern that Approved Persons may have difficulty discerning when a verbal communication by a client should be considered a "verbal statement of grievance" and requested clarification as to what would constitute a "statement of grievance" and when it should be escalated. BMO also expressed concern that Approved Persons, out of an abundance of caution and not wishing to violate regulatory standards, will escalate every discussion in which a client expresses dissatisfaction, which would likely significantly increase the volume of complaints that the compliance department must address.

MFDA Response

Verbal complaints were included in the Proposed Amendments as a result of CSA, MFDA and IIROC staff working group discussions. The inclusion of verbal complaints is consistent with the IIROC proposal and the requests of the CSA. The term "verbal statement of grievance", as used in the definition of "complaint", refers to a statement of grievance that is directed towards the conduct of a specific party/parties (i.e. the Member, Approved Person or former Approved Person of the Member) in

respect of concerns with their compliance with their regulatory obligations. The Member Regulation Notice on Policy No. 3 will include guidance on this issue.

Under section 3 of Part I of the Policy, the Member or Approved Person must engage in an adequate and reasonable assessment of all complaints. If the Member's supervisory staff handling the complaint finds, based on their reasonable professional judgment, that the matter can be appropriately concluded informally, they may do so in accordance with section 4 of Part I of the Policy. All complaints, regardless of whether they are made verbally or in writing, in respect of the serious matters noted in section 3 of Part I of the Policy, must be addressed in accordance with the Additional Complaint Handling Requirements prescribed by Part II of the Policy.

Section 3 of Part I of the Policy requires Members to engage in an adequate and reasonable assessment of all complaints, regardless of whether they are made verbally or in writing. In addition, under section 7, Members must handle all complaints fairly and their complaint handling procedures must include standards that allow for a factual investigation and analysis of the matters specific to the complaint (i.e. Members may not have policies or procedures that allow complaints to be dismissed without due consideration of the facts of each case). Escalation of a complaint that has been assessed should be subject to internal training for relevant staff at the Member.

Complaints in Respect of Undeclared OBA and Leveraging

IFIC noted that the Proposed Amendments allow for complaints to be filed when an Approved Person is engaging in an undeclared occupation outside the Member or where a complaint relates to leveraging, while the IIROC proposal excludes such complaints.

MFDA Response

MFDA staff considers it appropriate to address the issues of undeclared outside business activity ("OBA") and unsuitable leveraging in Policy No. 3, as they have proven in the past to be an area of high client risk. These types of activities may not be as prevalent on the IIROC side due to the differing nature of the business and structures of IIROC members.

Members must address complaints in accordance with the formal complaint handling procedures prescribed by the Policy where such complaints are in respect of "unsuitable investments or leveraging". "Leveraging", as used in this context, is intended to be understood as unsuitable leveraging (i.e. a type of unsuitable investment). We note that alleged misconduct, as referred to in the definition of complaint in the IIROC proposal, also includes unsuitable investments, which IIROC generally views as including unsuitable leveraging, although that is not explicitly set out in their proposal.

MFDA staff considers it appropriate to include complaints in respect of undeclared occupations outside the Member. As noted in MFDA Member Regulation Notice MR-0040 "Outside Business Activities", MFDA staff has encountered a number of situations where Approved Persons have engaged in inappropriate OBA, which, in some cases, have resulted in significant client harm. Such activities may give rise to client complaints arising from conflicts of interest between an Approved Person's duties as a salesperson and the OBA, potential client servicing issues and issues arising from the inability of the Member to supervise and manage risk in respect of outside business that it is unaware of.

Alleged Misconduct

ACCP noted that the IIROC proposal is more specific since it refers to an "alleged misconduct" of the Member or employee/agent and further defines "misconduct". ACCP submitted that the necessary context needs to be included in the definition of a complaint as, under the Proposed Amendments, any complaint of any nature, real or fancied, must be treated as complaint.

MFDA Response

The use of the term grievance by the MFDA implies an allegation of wrongdoing on which the grievance is based. Under both the MFDA and IIROC proposals, an initial review of a complaint is required to determine whether there is any basis for the complaint. If, after the initial review (i.e. after a reasonable and adequate assessment, as required under section 3 of Part I of the Policy), the complaint is determined to be unfounded, the Member may respond to the complainant informally, noting that the complaint will be closed.

While the IIROC proposal may be more specific regarding the types of offences that will constitute misconduct, the IIROC proposed guidance note states that Dealer Member Rule 2500, Section VIII will be repealed and replaced as follows:

> *"Each Dealer Member must establish policies and procedures to deal effectively with client complaints. Such policies and procedures must comply with Rule XXXX regarding client complaint handling, and also address complaints that may fall outside the scope of Rule XXXX."*

Definition of "Resolution"

ACCP recommended that the Proposed Amendments define "resolution" and clarify that a complaint that remains inactive for a specific period of time after the Member's last correspondence be considered resolved. ACCP expressed concern that if "resolution" remains undefined and a complainant does not advise that he or she is satisfied, a Member will never be able to confidently state that a complaint has been resolved. In the absence of clear definition, Members will not be able to satisfy their reporting requirements under section 7.1 of Policy No. 6 unless a complainant advises that they are satisfied.

MFDA Response

In most circumstances, a Member may consider that a matter has been resolved if, after the Member has provided a fair and timely response, the complainant does not respond within a reasonable period of time. Additional guidance on this issue will be outlined in the Member Regulation Notice on Policy No. 3 that will be issued following the implementation of the Policy.

Requirement to Assist Client in Documenting Complaints

The Federation, RMFI, PH&N and HUB recommended that, in order to avoid any perceived or real conflict of interest at a later date, the requirement that the Member assist the client in writing out their complaint be deleted. The commenters stated that the Member should not participate directly in the transcribing because: (i) the Member should not be paraphrasing the client's statements in any way; (ii) the Member would have concerns that its involvement might be seen as an attempt to skew the expression of complaint in the Member's favour by their SRO; (iii) in the event of litigation, the Member should be within its legal rights to defend those rights and to not do anything that might put those rights in jeopardy; and (iv) Members must be aware of the impact their actions have on their Errors & Omissions Insurance ("E&O").

The IFB noted that clients may not be comfortable dealing directly with Member staff while documenting the complaint and recommended that alternative, more impartial, solutions be considered to deal with such situations. RMFI and PH&N recommended that, in order to avoid conflict of interest, clients who require assistance in documenting their complaints be referred to the MFDA or other regulatory body for such assistance. RMFI and PH&N expressed the view that this requirement could only be appropriate if its sole purpose is recording the fact that a complaint has been made for a Member's own records.

Sun Life expressed support for Members' duty to communicate to clients the importance of fully documenting their complaints and submitting them in writing, but reiterated concerns made by other commenters, stating that this requirement may result in Members "coaching" clients towards outcomes that would be more favourable to the Member. Sun Life recommended that this requirement be amended to require that Members only communicate to clients the importance of fully documenting their complaints and suggest that they seek third party assistance if they have difficulty documenting their complaint.

BMO commented that it is unclear under which circumstances assistance in documenting a client's complaint would be required and requested clarification and guidance regarding the intent behind this requirement.

IFIC recommended adopting the IIROC approach to this issue, which sets out exceptional cases where such assistance would be required, that is, when the client is handicapped in any way, is a senior with special needs or has a language or literacy issue. IFIC noted that while some clients may require assistance in documenting verbal complaints, such a requirement in normal course could lead to misunderstandings, misinterpretations and conflicts between the Member and the client. IFIC recommended that this requirement not be placed on the Member since a complainant may, under the definition of "complaint", appoint a person acting on his or her behalf and this person could assist the client in documenting their verbal complaints.

MFDA Response

The inclusion of this section in the Proposed Amendments is a result of the CSA, MFDA and IIROC staff working group discussions and is consistent with the requirements in the IIROC complaint handling proposal.

The Proposed Amendments note that "Members should be prepared to assist clients in documenting verbal complaints where it is apparent that such assistance is required". The IIROC proposal notes that "Members should be prepared to assist clients in submitting a complaint, in particular, if the client is handicapped in any way, is a senior with special needs or a language or literacy issue is involved". The IIROC proposal identifies circumstances in which such assistance should be offered in particular, but does not confine the offering of such assistance to these circumstances and shares the regulatory intent and objective of the Proposed Amendments, as evidenced by the phrase "where it is apparent that such assistance is required".

This section is intended to offer assistance to clients in documenting verbal complaints where it is obvious in the reasonable professional judgment of the Member's supervisory staff handling the complaint that such assistance is required. Staff handling the complaint should ask the client, or the individual authorized to act on the client's behalf, if they are in doubt as to whether such assistance is required.

With respect to the concern that this section could result in Members coaching clients towards outcomes that are more favourable to Members, or that clients may not be comfortable in dealing directly with dealer staff on such matters, Members are reminded that, in discharging their obligations under Policy No. 3 and MFDA Rules generally, they have an ongoing duty to act honestly and in good faith.

For greater clarity, we note that, while complying with this section, Members are not expected to write complaint letters for clients.

With respect to comments expressing concerns that the provisions of this section are contrary the terms of Members' E&O insurance policies, we note that this section does not require the Member to act as an advocate for the complainant, but rather to assist in documenting a verbal complaint already made (where it is apparent that such assistance is required). The purpose of this requirement, in addition to offering reasonable assistance to clients, is to ensure that the Member's staff is aware and has an accurate understanding of the complaint to which they must respond. Additional guidance on this issue and on the particulars of how to assist complainants without becoming an advocate will be provided in the Policy No. 3 Member Regulation Notice.

Identifying the Individual Handling the Complaint

PFSL expressed the view that the requirement that Members identify a particular representative charged with handling the complaint and provide his or her name, job title and contact information in the initial response is unnecessarily prescriptive and potentially disadvantageous to complainants. PFSL expressed the opinion that complaint handling is a Member responsibility and clients would be best served if they are provided with the information giving them access to the complaint handling structure, and not just one employee, to reduce the potential for client confusion and eliminate any difficulties in cases of employee absences, limitation on availability or case reassignment.

SIPA expressed concern that the provision stating that complaints must be handled by supervisory or compliance staff unless such staff is unavailable, in which case the individual who is the subject of the complaint may handle the complaint, may lead to a conflict of interest that would substantively impair the fairness of the complaint process. In addition, SIPA requested clarification of the term "unavailable" in this section. SIPA recommended that the proposed wording be amended as it leaves too much to the discretionary judgment of the firm.

MFDA Response

Section 6 (Client Access) of Part I of the Proposed Amendments provides general access to the Member's complaint handling structure and requires Members to provide a specific point of initial contact at head office for complaints or information about the Member's complaint handling process. Under this section, the contact may be a designated person or a general inbox or telephone number that is continuously monitored.

However, when a client has gone beyond seeking information about the Member's complaint handling process and has made a specific complaint against the Member, it is appropriate to identify a specific and suitably qualified individual at the Member who is charged with handling the client's complaint(s). While complaint handling is, as noted by the commenter, a firm responsibility, we note that there must be specific accountability for dealing with complaints and that, as a practical matter, such responsibilities tend not to get adequately addressed where they are not specifically delegated to someone. In situations of employee absences, limitation on availability or case reassignment, the MFDA would expect the Member to handle these issues in accordance with general office management procedures and ensure that, at all times, there is sufficient staff available to handle complaints in a timely manner.

Item 1 of section 9 (General Complaint Handling Requirements) of Part I of the Policy requires all complaints and supervisory obligations to be handled by qualified sales supervisors/compliance staff. Individuals handling complaints, such as compliance officers who also carry a book of business, are prohibited from handling complaints against themselves. We have amended the wording of the section to remove the term "unavailable" and clarify that the only case when an individual who is the subject of a complaint may handle the complaint against himself or herself is when the Member has no other supervisory staff who are qualified to handle the complaint. This wording is intended to address complaint handling in the small portion of firms in the MFDA membership that are small operations, e.g., where the complaint is made against the only person operating and employed by the Member or where the complaint is made against one of two employees who are spouses. MFDA staff is aware that a heightened risk of conflict of interest exists in such circumstances and complaints arising in respect of such Members are flagged, monitored and, where appropriate, subject to closer review to ensure that such Members handle complaints honestly, in good faith and in accordance with the requirements of the Policy.

Complaints from Non-Clients and Complaints Unrelated to the Business of the Member

ACCP noted that the Proposed Amendments specifically include non-clients where the IIROC proposal specifically excludes non-clients and recommended that complaints made by non-clients be excluded from the requirements under Policy No. 3.

RMFI and PH&N expressed concern with the proposed scope of responsibility of Members to conduct detailed investigations into complaints from non-clients in respect of their own affairs and into complaints that are unrelated to the business of the Member. RMFI and PH&N recommended that a Member's duty to investigate such complaints be limited to an assessment of the potential impact of such complaints on the Member's clients and its business and not trigger additional requirements under the complaint handling process. RMFI and PH&N also recommended that Member's reporting requirements and supervisory functions be kept separate from the complaint handling process.

MFDA Response

Complaints from non-clients in respect of their own affairs must be addressed in accordance with the Additional Complaint Handling Requirements prescribed by Part II of the Policy where such complaints are in any way related to the following matters: a breach of client confidentiality, theft, fraud, misappropriation of funds or securities, forgery, misrepresentation, unauthorized trading, engaging in securities related business outside of the Member, engaging in an undeclared occupation outside the Member, personal financial dealings with a client, money laundering, market manipulation or insider trading.

Complaints against a Member or Approved Person in respect of any of the above noted matters are serious and, accordingly, it is appropriate to require all such complaints, whether expressed verbally, in writing, by clients or non-clients in respect of their own affairs, be addressed in accordance with the formal complaint handling procedures specified by the Policy. Additional guidance on this issue will be provided in the Policy No. 3 Member Regulation Notice.

Complaints with respect to Money Laundering and Breach of Confidentiality

IFIC recommended that complaints relating to breach of confidentiality, as prescribed in Part II of the Proposed Amendments, be deleted since Members are already required to deal with the Office of the Privacy Commissioner of Canada for matters relating to privacy. Similarly, IFIC recommended that complaints relating to money laundering be removed from the Proposed Amendments on the basis that suspicious and certain other transactions are reported to the Financial Transactions and Reports Analysis Centre of Canada under federal regulations.

MFDA Response

Conduct involving a breach of confidentiality or money laundering, where established, is a serious breach of a Member or Approved Person's duty to their client and contrary to the general business conduct rules under MFDA Rule 2 and, more specifically, Rule 2.1.3 (Confidential Information). While such matters may be subject to independent regulatory oversight, the MFDA retains general jurisdiction, under Rule 2, to adequately investigate and appropriately discipline Members and Approved Persons who are found to have engaged in such conduct.

Supervisory Investigations

RMFI and PH&N expressed the view that the requirements for supervisory investigations by Members under Part III the Proposed Amendments are misplaced and confusing. RMFI and PH&N noted that although complaints are an important source of information regarding possible breaches, supervisory investigations are part of the supervisory function of the Member rather than part of the complaint handling process. RMFI and PH&N expressed the view that this section warrants separate, stand-alone, principles-based regulatory guidance in the area of supervision and noted that this would be consistent with IIROC's approach of limiting its proposal to client complaint handling. RMFI and PH&N recommended that Members be required to establish supervisory procedures tailored to address the risks associated with the specific business activities of the Member, with clearly established regulatory principles and policy objectives.

The IFB recommended limiting the requirement to conduct a detailed investigation in relation to information from any source, written or verbal, identified or anonymous, to raise the possibility that such conduct occurred under Part III of the Policy. The IFB expressed the view that this requirement may make Approved Persons accountable for hearsay and information lacking substance or merit, while the perpetrator can remain unidentified and unaccountable. The IFB noted that an advisor's relationship with his or her client is based on trust and if that trust is destroyed through allegations that have no merit or are later disproved, it can result in significant personal reputational and economic harm to the Approved Person, with no recourse for them.

The IFB recommended that there be no consideration of information received from an "anonymous" source, nor should a "detailed investigation" be required in all such situations. The IFB suggested that investigations be limited to conduct that occurred at the Member or prior Member, not simply "inside or outside the Member" as, otherwise, Approved Persons would be open to complaints not related to their mutual fund license and outside MFDA jurisdiction.

MFDA Response

The detailed investigation is required under Part III of the Policy with respect to allegations of: a breach of client confidentiality, theft, fraud, misappropriation of funds or securities, forgery, misrepresentation, unauthorized trading, engaging in securities related business outside the Member, engaging in an undeclared occupation outside the Member, personal financial dealings with a client, money laundering, market manipulation or insider trading.

As these are serious matters, it is necessary and appropriate for any allegations in respect of them to be thoroughly investigated. Policy No. 3 requires Members to thoroughly investigate all such allegations on their merits before coming to any determination as to the Approved Person's involvement. The apparently unsubstantiated nature of an allegation is a factor to be considered and investigated by the Member when evaluating the merits of such allegations. MFDA staff expects Members to handle the investigation of all such matters with appropriate discretion.

With respect to the comment that the words "inside or outside the Member" leave Approved Persons open to complaints not related to their mutual fund license and are outside MFDA jurisdiction, we note that the Member has an obligation to investigate all such complaints. Where such complaints are found to have merit and do not relate to securities-related business (e.g. allegations of fraud in connection with the sale of an insurance product) they may, nonetheless, be subject to the general jurisdiction of the MFDA under its business conduct rules (Rule 2) in addition to the specific jurisdiction of another regulator. In addition, we note that By-law No. 1 empowers a Hearing Panel to impose sanctions against Approved Persons or Members for failing to comply with or carry out the provisions of any federal or provincial statute relating to the business of the Member or of any regulation or policy made pursuant thereto.

Prompt Handling of Client Complaints

SSI and ACCP suggested that, except in cases involving the most serious misconduct, the MFDA wait at least three months after a complaint is reported on METS before requesting information in order to efficiently focus Member resources on handling the complaint, thus improving the complainant experience and allowing to provide complete information to the MFDA after a complaint is handled. ACCP commented that such delay would result in better investigations that would be factual, organized and complete upon receipt by the MFDA and would be more efficient for MFDA staff in their determination whether the Member conducted a fair investigation. ACCP noted that the Ombudsman for Banking Services and Investments ("OBSI") operates under this proposed framework and it has yielded positive results for complainants. ACCP and IFIC expressed the view that Members will not be able to meet the new three month timeframe for a substantive response if the MFDA's role in the process remains status quo as, currently, in order to meet the regulatory response, Members must divert resources away from the investigation of the complaint. As an alternative, IFIC recommended that all complaints received by the MFDA be first referred back to the Member for resolution before a complaint file is opened at the MFDA.

SIPA expressed the view that the reduction of time period for providing a substantive response from six to three months will be beneficial for investors but noted that the formulation of the timeframe for response in the IIROC proposal is more rigorous, whereas the Proposed Amendments leave too much to the discretionary judgment of the firm. SIPA expressed concern that delay in responding to complaints can be used unfairly as a stalling tactic, which is especially problematic given the reduction in the limitation period to two years. SIPA recommended adopting the IIROC approach, where the client has the right to proceed to OBSI whether or not the firm has provided a substantive response within 90 days.

MFDA Response

The MFDA will request information from Members in respect of complaints received through METS or subject to the Additional Complaint Handling requirements set out in Part II of the Policy. This requirement is intended to permit MFDA staff to engage in an independent and parallel consideration of Member conduct in the handling of the complaint. The MFDA has a duty to engage in an independent consideration of complaints to investigate underlying regulatory issues that may have given rise to the complaint and that may continue to exist after the complaint is resolved.

The purpose of an independent and parallel consideration of complaints is to ensure that any issues identified by the MFDA, which may not have been identified or adequately investigated by the Member, are appropriately addressed in a timely manner (i.e. within the timeframes specified by Policy No. 3). This would not be possible, if, as suggested by the commenters, the MFDA were to delay its involvement in the complaint handling process until after the three month interval has expired and a substantive response is due to the complainant. With respect to the comment that Members will have to divert resources away from the investigation of a complaint to respond to MFDA inquiries, we note that the MFDA requests the same information that the Member needs for its own investigation of the complaint.

The time period for providing a substantive response to the complainant remains generally as the time period expected of a reasonable Member acting diligently in the circumstances. The time period by which Members must do this "in most cases" has been reduced from six months to three months and this amendment reflects the current practice of most Members in the majority of their complaints. In addition, this timeframe was adopted to harmonize with requirements in the IIROC proposal.

With respect to the comment that the formulation of the timeframe for providing a substantive response leaves too much to the judgment of the firm, we disagree and note that the primary obligation is for a Member to provide its substantive response within the time period expected of a Member acting reasonably in the circumstances. Unnecessary delays in responding to complaints (e.g. those that are used as stalling tactics) would not be reasonable in the circumstances.

Where there are necessary delays (for example, those arising from the complexity of the issues under consideration or the complainant's failure to cooperate during the complaint resolution process) that will result in a Member being unable to provide a complainant with a substantive response within three months, the Member must advise the complainant accordingly, provide an explanation for the delay and provide the Member's best estimate of the time required for the completion of the substantive response.

Given the: (i) obligation to act reasonably in the circumstances; (ii) three-month deadline for provision of the substantive response in most cases; and (iii) requirement to explain a delay and provide a revised timeline where three months are exceeded, MFDA staff is of the view that Member discretion is sufficiently restrained.

In addition, we note that the IIROC proposal also provides for circumstances where an IIROC member may not be able to provide a substantive response to a client within 90 days:

> *"***Complaint substantive response letter:** *The client must be advised if he/she is not to receive a final response within the ninety (90) days time frame accompanied by reasons for the delay and the new estimated time of completion".*

The MFDA will be including information in our CCIF regarding OBSI and the referral of complaints to them after 90 days, as is set out in the IIROC proposal.

Example of Complaint Not Necessitating Additional Complaint Handling Requirements

The Federation requested an example of a complaint that did not warrant additional complaint handling requirements.

MFDA Response

Guidance on this issue, including examples, will be provided in the Member Regulation Notice to be issued on Policy No. 3.

Ombudservice

RMFI and PH&N expressed concern about the repeal of section 24.A.5 of the MFDA's By-law No. 1 and its replacement with the corresponding requirements in the Proposed Amendments and, specifically, requiring OBSI to be the ombudservice in which Members must participate.

RMFI and PH&N expressed the view that this specification will serve to entrench a designation by the MFDA of OBSI as its only approved ombudservice. The commenters agreed with the MFDA concerns expressed in its letter to OBSI, dated January 28, 2008, regarding the proposed amendments to the OBSI Terms of Reference having the effect of expanding the scope of its powers beyond that of dispute resolution service. RMFI and PH&N recommended that, until such time as the concerns with respect to OBSI's governance and service levels have been properly addressed, the Proposed Amendments not entrench one specific ombudservice for Members, noting that this is particularly important as market competition and the ability to choose an alternative service provider is the only accountability mechanism with respect to OBSI.

IFIC expressed the view that the requirement that Members notify the complainant in the substantive response that s/he has the right to consider presenting the complaint to the OBSI is inappropriate and unclear as to whether the OBSI option can be pursued before exhausting internal complaint handling mechanisms. IFIC recommended that complainants be required to exhaust the internal process before pursuing OBSI services as Members are best equipped to resolve their complaints and allowing complainants to circumvent the internal process takes away a Member's ability to efficiently and effectively resolve a complaint.

MFDA Response

Section 24.A.5 of MFDA By-law No. 1 (Member to Provide Written Material to Clients) was repealed to avoid duplication with Policy No. 3 that now includes this requirement.

Section 24.A.1 of By-law No. 1 refers generally to the requirement for Members to participate in an ombudservice approved by the MFDA Board of Directors. This reference has been kept general so as to avoid having to make by-law amendments in the event that the approved ombudservice changes from time to time.

For the purpose of compliance with section 24.A.1 of MFDA By-law No. 1, OBSI is the ombudservice that has been approved by the MFDA Board of Directors and that Members are required to participate in as a condition of MFDA membership. The reference to OBSI in Policy No. 3 clarifies this existing requirement and does not create a new one.

As noted on the OBSI website, a complainant must first try to resolve their complaint with the Member and may pursue resolution of their complaint with OBSI if they are not satisfied with how the Member proposes to resolve the complaint (i.e. as set out in the Member's substantive response).

Complaint Acknowledgement Letter

SIPA recommended adopting the more restrictive IIROC formulation of the requirement to acknowledge the complaint within five business days as it is preferable from an investor protection standpoint. SIPA also recommended that the Policy include the requirement that the acknowledgement letter contain reference to the 90-day timeline for providing a substantive response to the complaint, as does the IIROC proposal.

MFDA Response

Policy No. 3, as proposed, provides that an initial response letter must be sent to the complainant within a reasonable time and generally within five business days of receipt of the complaint. If a complaint can be concluded in less than five business days, then an initial response letter is not necessary. MFDA staff notes that the Policy has been amended to allow for certain complaints to be resolved informally (i.e. without having to be addressed in accordance with the formal complaint handling procedures prescribed in Part II of the Policy). However, pursuant to new section 3 of Part I, there is a duty to engage in an adequate and reasonable assessment of all complaints, including those subject to informal resolution. The Policy provides that an initial response letter must be provided within a reasonable time and generally within five business days, so as to allow a Member time to engage in an adequate review and assessment of all complaints for the purposes of determining whether they can be resolved informally. While the initial response letter will not reference the 90-day timeline for providing a substantive response to the client, the CCIF will reference this timeline, and will be included with the initial response letter to the complainant.

Details of Substantive Response

Kenmar and SIPA recommended providing guidance with respect to the contents of the substantive response letter, which, at a minimum, should provide the final decision, a statement of facts, the rationale, the rules and standards used to come to the decision, the documents used in the analysis, the methodology used for calculating restitution, if offered, and clear articulation that if the offer is rejected it can be appealed to OBSI. SIPA noted that the OBSI information is essential for the client to make a properly informed decision whether to accept the offer. SIPA recommended that it also be specified that the use of the firm's internal ombudsman is optional prior to bringing forward a complaint to OBSI.

MFDA Response

We note that the substantive response letter requires the Member to provide an outline of the complaint and this would include the relevant facts. The substantive response also requires the Member to provide its substantive decision and reasons and this would include an explanation of factors relied upon in arriving at the decision and an explanation of how the amount of compensation offered, if any, was arrived at.

Recourse to an internal ombudservice need not be engaged in prior to referring the matter to OBSI and is noted as an option in the Policy.

The substantive response letter requires Members to include a reminder to complainants that they have a right to consider presenting their complaint to OBSI that will consider complaints brought to it within six months of the substantive response letter. This reference informs complainants as to the option of taking their matter to OBSI and provides the time limit within which such an option must be exercised and, in the view of MFDA staff, is sufficiently clear.

Repeated Reminders of Limitation Periods and the Potential for Litigation

RMFI, PH&N and BMO expressed the view that compounding the notion that litigation is a viable option, by requiring the Member to notify clients of the litigation option and limitation periods in both the initial and substantive response, is unnecessary, does not serve a complainant's interest well and may be prejudicial to Members. BMO expressed the view that these requirements strenuously underscore the possibility that an unsatisfied client may launch a civil action. RMFI, PH&N and BMO recommended encouraging more efficient and expedient dispute resolution alternatives rather than litigation. RMFI and PH&N recommended that the substantive response include only a reminder that complaint escalation options are outlined in the CCIF, should the client be dissatisfied with the Member's final response. BMO commented that the indications given in the CCIF

regarding civil litigation are sufficient and the inclusion of the same information in the initial and substantive responses is redundant.

The Federation and HUB agreed with the inclusion of information in the CCIF that was previously contained in the initial response; however, they disagreed with the requirement that the substantive response include a notice to the complainant that they have the right to consider litigation/civil action. The commenters recommended that the substantive response focus only on the facts, assessment of information and resolution to the complaint and noted that inclusion of an indicator to litigation would only serve to undermine the process. Nevertheless, the commenters agreed that, in the closing of the response letter where the Member outlines next steps in the complaint process, the Member should refer the complainant back to the CCIF.

MFDA Response

Reminders regarding limitation periods and the potential for litigation are required to be provided with the initial response letter as clients should be aware, at the initial stages of the complaint handling process, of what their rights and options are in respect of time limits and options for taking legal action. A significant period of time may have elapsed since the delivery of the CCIF at account opening and the client may not have the copy provided at account opening or recall its contents in sufficient detail to assist them in making timely and informed decisions with respect to their options.

These reminders are also required to be included with the substantive response letter as a significant period of time (three months or longer) may have elapsed since the initial response letter and, as noted, clients may not have the previously provided copy of the CCIF or recall its contents in sufficient detail to assist them in making timely and informed decisions.

The inclusion of these reminders in the initial response letter and the substantive response letter is a result of CSA/MFDA/IIROC working group discussions and is consistent with requirements in the IIROC's complaint handling proposal.

Limitation Periods

SSI, IGM, Sun Life and IFIC recommended removing the requirement to provide information respecting applicable limitation periods to clients in the CCIF as the simple statement of the duration of limitation periods in various jurisdictions is of no service to a potential litigant and may be misleading. SSI, IFIC and IGM expressed the view that limitation periods are a complex area of law and general information on this issue will not help a complainant understand which limitation period applies and when it starts. Sun Life noted that an MFDA Member cannot provide legal advice to clients if they inquire as to the meaning of the statement regarding the limitation periods, and a referral to a lawyer, necessary in this situation, would delay and impair the complaint resolution process. Sun Life expressed the view that inclusion of limitation period information in the initial response unnecessarily increases the risk of litigation and questioned the relevance of providing this information in an initial response.

SSI, IGM and IFIC recommended that the Policy only require Members to advise complainants in the CCIF of the possibility of legal action, existence of limitation periods and option of consulting a lawyer to know their rights. IFIC recommended notifying a client that retaining OBSI may not postpone or suspend the time remaining in the limitation period. Sun Life recommended including the limitation period information in the amended CCIF rather than in the initial response and noted that, for some clients, the time limit will have already passed.

MFDA Response

With respect to comments noting that determining limitation periods on a jurisdiction by jurisdiction basis may be difficult and misleading to clients, we note that the Policy does not contemplate requiring the provision of such details. Both the initial response letter and the CCIF include a requirement for a statement advising clients as to the fact that each province and territory has a time limit for taking legal action, but does not require details of them on a jurisdiction by jurisdiction basis. The required disclosure is intended to provide the client with basic information so that they can seek additional details from a legal professional regarding the limitation periods that may be applicable in their particular circumstances.

Provision of CCIF

Quadrus expressed the view that the proposed requirement to provide the CCIF at three separate times (account opening, acknowledgement of the complaint and at the end of investigation in the substantive response) is excessive and recommended that, instead, the CCIF be provided at account opening and at the conclusion of the Member's complaint process, when the client has the right to escalate the matter. Sun Life recommended removing the requirement to include a copy of the CCIF as part of Member's substantive response. Quadrus expressed the view that the client would be best served by following the Member's process, as it could resolve the complaint and recommended that instructions on actions to take if the client is not satisfied with the outcome of the investigation only be provided when that investigation is complete.

Kenmar recommended that the CCIF be clear and written in plain language with clear warnings about limitation periods and the limits of a complaint to the MFDA as regards restitution.

MFDA Response

The provision of the CCIF at the time of account opening, with the initial response letter and with the substantive response letter is consistent with the IIROC proposal.

The CCIF describes complaint escalation options, including complaining to OBSI and the MFDA and also includes information in respect of time limits for taking legal action. This document must be provided to the client at account opening as it is appropriate and important that the client be given such information, and have the opportunity to ask questions in respect of it at the time they establish their relationship with the Member.

The CCIF is required to be provided with the initial response letter as clients should be aware, at the initial stages of the complaint handling process, of their rights and options in respect of complaint escalation and time limits for taking legal action. A significant period of time may have elapsed since the delivery of the CCIF at account opening and the client may not have the copy provided at account opening or recall its contents in sufficient detail to assist them in making timely and informed decisions with respect to their options.

The CCIF is also required to be sent with the substantive response letter as, once again, a significant period of time (three months or longer) may have elapsed since its delivery with the initial response letter and, as noted, clients may not have the previously provided copy of the CCIF or recall its contents in sufficient detail to assist them in making timely and informed decisions.

With respect to Kenmar's recommendation that the CCIF be clear and written in plain language with clear warnings about limitation periods and the limits of a complaint to the MFDA as regards restitution, we will be revising our CCIF to meet the new requirements of Policy No. 3 and will ensure it continues to meet these general standards.

Litigation

SSI, IGM and ACCP recommended removing the requirement that Members participate in the litigation process, once commenced, in a timely manner, in accordance with the applicable rules of procedure and refrain from acting in an unfair way. SSI and IGM commented that the conduct of the parties in litigation should be under the control and jurisdiction of the relevant court and not subject to MFDA regulation as relief from the court is available in case a Member is acting unfairly or not in accordance with the applicable rules of procedure.

ACCP expressed concern that this requirement will lead to complainant's/plaintiff's lawyers complaining to the MFDA about Members acting unfairly rather than seeking a remedy from the court and questioned how the MFDA will determine what is unfair absent access to the court records. ACCP noted that, essentially, the MFDA would be in a position to tell Members not to follow the advice of counsel where it deems that a Member is acting unfairly. RMFI, PH&N and ACCP recommended that the MFDA follow the IIROC approach of excluding matters subject to litigation from the proposed framework.

MFDA Response

Complaints that are the subject of litigation have been referenced in Policy No. 3 for the purpose of reiterating the Member's existing obligation to participate in the litigation process in a timely manner in accordance with the rules of procedure of the applicable jurisdiction and to refrain from acting in a way that is clearly unfair.

The requirement for Members to refrain from acting in a way that is clearly unfair where litigation has been initiated is not intended to prejudice any rights that a Member may have in the event that litigation is commenced in respect of a client complaint. Rather, this requirement is intended to prohibit conduct on the part of the Member that is clearly punitive or that has no reasonable purpose other than to frustrate or delay the litigation process or the resolution of the complaint.

Settlement Agreements

Quadrus expressed the view that the prohibition on imposing confidentiality restrictions on clients or a requirement to withdraw an MFDA or securities commission complaint is inappropriate as many complaints are resolved on a "no liability" basis for practical reasons. Quadrus expressed the opinion that the confidentiality provision allows Members to engage in a practical solution without fear that its action in resolving the dispute will be publicly raised as an implication of its acceptance of liability. Quadrus noted that removing the confidentiality wording from settlement forms will likely have an unintended consequence of lowering Members' willingness to enter into settlements short of litigation.

ACCP noted that the wording of section 10 of the Policy would prohibit the inclusion of confidentiality restrictions in all cases, as the word "or" used in the provision is disjunctive. ACCP recommended that, if the intention is to ensure that a complainant is not prohibited from advising a securities regulator of their complaint or required to withdraw a complaint, the section be amended to read: "may impose either confidentiality restrictions, a requirement to withdraw a complaint or both, with respect to ...."

Kenmar recommended that confidentiality restrictions, if any, in a settlement agreement not restrict a client from initiating a complaint or continuing any pending complaint or participating in any regulator or law enforcement proceedings.

RMFI and PH&N expressed the view that proposed wording of the requirements regarding settlement agreements is unclear and recommended adopting the proposed IIROC wording as it clarifies the limitations of the confidentiality restriction.

MFDA Response

The wording regarding confidentiality restrictions in settlement agreements is substantially similar to the existing wording of the current version of Policy No. 3. It has always been, and will continue to be, inappropriate to impose confidentiality requirements on complainants with respect to regulatory requirements.

Information Sharing

IFIC, SSI and Quadrus expressed the view that the requirement that Members share information necessary to address a complaint is not appropriate as it may require disclosure of personal client or representative information and thus lead to breach of client confidentiality or representative privacy, resulting in breaching privacy, employment or defamation laws. SSI recommended that the MFDA manage the sharing of information between Members by requesting relevant information from Members directly and managing it internally within the MFDA in order to avoid legal uncertainties and risk for Members. Quadrus requested that this section be amended to work within the provincial and federal privacy legislation.

RMFI and PH&N recommended that the Proposed Amendments reflect the MFDA guidance on Member cooperation and information sharing provided in response to the first publication for comment. More specifically, RMFI and PH&N suggested that the words "subject to specific prior client consent." be added to point #6 at the end of section 9 of Part I of the Policy.

IFIC cited Quebec's *Act Respecting the Protection of Personal Information in the Private Sector*, which limits the disclosure of personal information in the course of commercial activities, as an example of the appropriate approach to this subject and noted that the CSA narrowed a similar requirement in an information sharing rule, most recently in the Instrument, following concerns about the impact of privacy legislation. As an alternative, IFIC recommended that the MFDA manage the sharing of information between Members to avoid legal uncertainties for Members.

MFDA Response

The MFDA would not expect Members to breach provincial or federal privacy legislation in order to meet the information sharing requirement.

Members also have a pre-existing obligation to comply with the requirements of provincial and federal privacy legislation. The information sharing contemplated by this section is not intended to derogate from or be in conflict with any limits on disclosure imposed by privacy law. Where Members are in doubt with respect to their obligations pursuant to privacy legislation, they should seek specific client consent prior to sharing client personal information with another Member. In all likelihood, clients will generally be amenable to providing consent for the disclosure of their personal information to another Member when they understand that such disclosure is for the purpose of facilitating the resolution of a complaint that they have raised. We anticipate information sharing arising most frequently with respect to situations where one client has had accounts at two different Members. These situations will not raise any privacy concerns.

Errors and Omissions Insurance

The Federation and HUB noted that the wording of several E & O insurance policies used in the industry requires that an advisor notify/register a complaint with their insurer at the time it arises and then have no further contact with the client. The Federation expressed the view that any regulation requiring the advisor to act otherwise would jeopardize a complainant's ability to satisfy restitution under the policy and would therefore be contrary to the public interest. The Federation and HUB noted that such insurance protocols are imposed and enforced on policyholders who should not be mandated in any way by regulators as it might render the insurance coverage null and void. In addition, when an advisor names its dealer on their policy, the handling of a verbal complaint may void the dealer's vicarious liability coverage.

MFDA Response

Proposed Policy No. 3 does not require individual Approved Persons to contact the complainant once they have reported the complaint to their Member and insurer. The Member has a duty to resolve the complaint as per the regulatory requirements. While Members can balance all insurance related requirements with the applicable regulatory requirements, ultimately the presence of an insurance policy cannot absolve a Member of their regulatory duties.

Consolidated Log/Record Keeping

PFSL recommended a greater degree of flexibility and a more principles-based approach regarding the method of records retention. PFSL noted that including the term "consolidated log of complaints" unnecessarily prescribes the manner of record keeping and, by using this term, the MFDA is prescribing Member administrative and operational decisions in the absence of any public policy benefit. RMFI and PH&N expressed concern regarding the maintenance of a central record of complaints that includes follow-up documentation, in either a "national" or "regional" head office and noted that the obligation to keep duplicate files at a central location would present a significant administrative burden for large financial institutions. PFSL, RMFI and PH&N expressed the view that the requirement to create and maintain a consolidated log is unnecessary as long as the principle that all relevant records be kept and remain accessible and reproducible in a timely manner upon the MFDA's request can be satisfied.

MFDA Response

A consolidated log of complaints (i.e. a single record that notes, in summary form, all complaints received) is intended, in addition to record keeping, to allow for tracking and trend analysis of complaints. Complaints or misunderstandings that occur frequently, even in respect of small and easily resolved matters, can, on a cumulative basis, indicate a serious problem. It would be more difficult to engage in such tracking and trend analysis of complaints in the absence of a consolidated log, as prescribed by the Policy. The consolidated log may be maintained electronically, as the log does not need to contain the paper documentation contained in the complaint files.

With respect to the RMFI and PH&N comment regarding the maintenance of a central record of complaints that includes follow-up documentation, in either a "national" or "regional" head office, we will be updating the Policy to allow for all follow-up documentation to be kept at the branch office level, so long as it remains accessible and can be produced in a timely manner upon the MFDA's request.

Point 5 in section 9 of Part I of the Policy will be updated to read:

> *"5. Follow-up documentation for all complaints must be kept in a central location along with the consolidated log of complaints. Alternatively, where a Member has various regional head offices or branches, the Member may keep follow-up documentation at any one regional head office or branch, so long as information about the handling of the complaint is in the Member head office log and the follow-up documentation can be produced in a timely manner."*

Period of Record Retention

PFSL expressed concern that designating the end of the Member-client relationship as the starting point to maintain complaint-related records may create difficulties for Members. The exact moment at which this relationship ends is not necessarily precise as it can continue or be restarted even when a client does not hold any funds or securities with a firm at a given time.

PFSL expressed the view that maintaining complaint records for seven years following receipt of the complaint as proposed by CP 31-103 is more appropriate for complaints, while maintaining documentation following the end of the relationship may be best suited for other types of relationship records.

PFSL recommended that the MFDA follow the IIROC approach and establish the starting point for record keeping at the receipt or resolution of a complaint rather than the end of the relationship.

MFDA Response

When initially drafting this section of the proposed Policy, the MFDA's intention was to meet the same regulatory objectives as NI 31-103 and the IIROC proposal. In the interest of minimizing differences and meeting the same regulatory objectives, we have updated this section, which now reads, "Documentation associated with a Member's activity under this Policy shall be maintained for a minimum of 7 years from the creation of the record and made available to the MFDA upon request." A prudent Member may wish to maintain these documents for a longer time period where facilities exist.

13.1.6 Notice of Commission Approval – IIROC Amendments to Dealer Member Rules 19, 37 and 2500 Relating to Client Complaint Handling

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA (IIROC)

AMENDMENTS TO IIROC DEALER MEMBER RULES 19, 37 AND 2500 RELATING TO CLIENT COMPLAINT HANDLING

NOTICE OF COMMISSION APPROVAL

The Ontario Securities Commission approved the enactment of a new IIROC Dealer Member Rule and amendments to Dealer Member Rules 19, 37, and 2500. In addition, the British Columbia Securities Commission did not object to, and the Alberta Securities Commission, the Autorité des marchés financiers, the Saskatchewan Financial Services Commission, the Financial Services Regulation Division of the Department of Government Services of Newfoundland and Labrador, the Nova Scotia Securities Commission and the New Brunswick Securities Commission approved the proposed amendments. The objective of the proposed amendments is to establish minimum requirements for the client complaint handling process. The proposal also harmonizes IIROC's complaint handling requirements with those of the Mutual Fund Dealers Association of Canada and the Canadian Securities Administrators3.

The proposed amendments were published for comment on February 13, 2009, at (2009) 32 OSCB 1572. IIROC summarized the comments it received on the proposed amendments and provided responses. A summary of the comments and IIROC's responses, a blacklined copy of the proposed amendments showing the changes to the version published in February 2009 and a clean version are included in Chapter 13 of this Bulletin.

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA

AMENDMENTS TO COMPLAINT HANDLING REQUIREMENTS - CLIENT COMPLAINT HANDLING RULE AND GUIDANCE NOTE AND AMENDMENTS TO DEALER MEMBER RULES 19, 37 AND 2500

PROPOSED AMENDMENTS

1. A new Dealer Member Rule and Guidance Note[1] on the complaint handling process are enacted as follows:

"RULE XXXX

Client Complaint Handling

1. Introduction

This rule establishes minimum requirements for the client complaint handling process including timely complaint resolution, record retention, and internal discipline. Clients who are considered to be institutional clients pursuant to Rule 2700 are not subject to this rule. There are additional requirements set out in Rule 3100 that are also applicable to the processes of handling client complaints.

2. General

A "complaint" subject to this rule must be submitted by a client or a person authorized to act on behalf of a client and includes:

- A recorded expression of dissatisfaction with a Dealer Member or employee or agent alleging misconduct; and
- A verbal expression of dissatisfaction with a Dealer Member or employee or agent alleging misconduct where a preliminary investigation indicates that the allegation may have merit.

Alleged misconduct includes, but is not limited to, allegations of breach of confidentiality, theft, fraud, misappropriation or misuse of funds or securities, forgery, unsuitable investments, misrepresentation, unauthorized trading relating to the client's account(s), other inappropriate financial dealings with clients and engaging in securities related activities outside of the Dealer Member.

Complaints are to be handled by sales supervisors or compliance staff (or the equivalent) and a copy must be filed with the compliance department / function (or the equivalent) of the Dealer Member.

A matter which is the subject of a civil claim or arbitration is not considered a "complaint" for the purposes of this rule.

3. Designated complaints officer

The Dealer Member must appoint an individual to act as the designated complaints officer. The individual must have the requisite experience and authority to oversee the complaint handling process and to act as a liaison with the Corporation.

4. Complaint procedures / standards

Establish written procedures for dealing with complaints

Dealer Members must have written policies and procedures to ensure that complaints are dealt with effectively, fairly and expeditiously. Such policies and procedures must address the following:

- the fair and thorough investigation of the complaint;
- the process by which an assessment is made regarding the merit of the complaint;

[1] IIROC is in the midst of a project to rewrite its Rule Book. Should these proposals be made effective prior to the implementation of the new Rule Book format, the rule and the guidance note will be implemented on an interim basis using the existing rule numbering approach.

- where the complaint is determined to have merit, the process to be followed in determining what offer should be made to the client; and

- the remedial actions which may be appropriate to be taken within the firm.

Policies and procedures must not allow for complaints to be dismissed without due consideration of the facts of each case. There must be a balanced approach to dealing with complaints that objectively considers the interests of the complainant, the Dealer Member, the registered representative, employee or agent of the Dealer Member, and/or any other relevant parties. Each Dealer Member must ensure that registered representatives and their supervisors are made aware of all complaints filed by their clients.

Each Dealer Member must put procedures in place so that its senior management is made aware of complaints of serious alleged misconduct and of all legal actions.

Dealer Members must have policies and procedures in place to monitor the general nature of complaints. When a Dealer Member reasonably determines that the number and / or severity of complaints is significant, or when a Dealer Member detects frequent and repetitive complaints made with respect to the same matter which may on a cumulative basis indicate a serious problem, then internal procedures and practices must be reviewed, with recommendations to be submitted to the appropriate management level to remedy any such systemic or recurring matters.

Client access to complaint process

At time of account opening, Dealer Members must provide new clients with:

- a written summary of the Dealer Member's complaint handling procedures, which is clear and can be easily understood by clients; and

- a copy of a Corporation approved complaint handling process brochure.

On an ongoing basis, Dealer Members must make available to their clients (either on their website or by other means) a written summary of the Dealer Member's complaint handling procedures, so that clients can stay informed on how to submit a complaint.

Complaint acknowledgement letter

The Dealer Member must send an acknowledgement letter to the complainant within five (5) business days of receipt of a complaint.

The acknowledgement letter must include the following:

(a) The name, job title, and full contact information of the individual at the Dealer Member handling the complaint;

(b) A statement indicating that the client should contact the individual at the Dealer Member handling the complaint if he / she would like to inquire about the status of the complaint;

(c) An explanation of the Dealer Member's internal complaint handling process, including but not limited to the role of the designated complaints officer;

(d) A reference to an attached copy of a Corporation approved complaint handling process brochure and a reference to the statutes of limitations contained in the document;

(e) The ninety (90) calendar days timeline to provide a substantive response to complaints; and

(f) A request for any information reasonably required to investigate the complaint.

Complaint substantive response letter

The Dealer Member must send a substantive response letter to the complainant. The substantive response letter must be accompanied by a copy of a Corporation approved complaint handling process brochure.

Dealer Members must respond to client complaints as soon as possible and no later than ninety (90) calendar days from the date of receipt by the firm. The ninety (90) days timeline must include all internal processes (with the exception of any internal ombudsman processes offered by an affiliate of the firm) of the Dealer Member that are made available to the client. The client must be advised if he / she is not to receive a final response within the ninety (90) days time frame, including the reasons for the delay and the new estimated time of completion.

The Dealer Member is required to advise the Corporation if it is unable to meet the ninety (90) days timeline and must provide reasons for the delay.

The substantive response must be presented in a manner that is fair, clear and not misleading to the client, and must include the following information:

(a) A summary of the complaint;

(b) The results of the Dealer Member's investigation;

(c) The Dealer Member's final decision on the complaint, including an explanation; and

(d) A statement describing to the client the options available if the client is not satisfied with the Dealer Member's response, including:

  (i) arbitration;

  (ii) if a request is made within 180 days from the date of the Dealer Member's final response, the ombudsperson service (i.e. the Ombudsman for Banking Services and Investments);

  (iii) submitting a regulatory complaint to the Corporation for an assessment of whether disciplinary action is warranted;

  (iv) litigation / civil action; and

  (v) other applicable options.

In addition, where an internal ombudsman process is offered by an affiliate of the Dealer Member, the Dealer Member must disclose in the substantive response letter:

(a) that the use of the internal ombudsman process is voluntary; and

(b) the estimated length of time the process is expected to take based on historical data.

Duty to assist in client complaint resolution

Approved Persons must co-operate with Dealer Members where they were employed or acted as agent when moving to a different firm after events or activities resulted in a client complaint.

Dealer Members must co-operate with each other if events relating to a complaint took place at more than one Dealer Member or the Approved Person is an employee or agent of another Dealer Member.

5. Settlement agreements

A release entered into between a Dealer Member and a client may not impose confidentiality or similar restrictions aimed at preventing a client from initiating a complaint to the securities regulatory authorities, self regulatory organizations or other enforcement authorities, or continuing with any pending complaint in progress, or participating in any further proceedings by such authorities.

6. Complaint record retention

The complaint file must be maintained for seven (7) years and retrievable within a reasonable period of time.

Each Dealer Member must keep an up-to-date record in a central, readily accessible place of all recorded submissions and follow-up documentation received by it relating to the conduct, business, and affairs of the Dealer Member, or an employee or agent of the Dealer Member for a period of two (2) years from the date of receipt of the complaint.

The following information must be retained for each complaint:

(a) The complainant's name;

(b) The date of the complaint;

(c) The nature of the complaint;

(d) The name of the individual who is the subject of the complaint;

(e) The security or services which are the subject of the complaint;

(f) The materials reviewed in the investigation;

(g) The name, title, and date individuals were interviewed for the investigation; and

(h) The date and conclusions of the decision rendered in connection with the complaint.

7. Internal Discipline

Each Dealer Member must establish procedures to ensure that breaches of the Rules of the Corporation as well as applicable securities legislation are subjected to appropriate internal disciplinary measures.

GUIDANCE NOTE XXXX

Client Complaint Handling

COMPLAINTS GENERALLY

The fair and timely handling of client complaints is vital to the overall integrity of the investment industry. Dealer Members should regard the handling of all client complaints as an essential element of the proper servicing of client accounts generally. Addressing client complaints fairly and on a timely basis demonstrates to clients that their issues are dealt with seriously and enhances investor confidence in the industry. An effective framework for dealing with client complaints is in keeping with appropriate standards of professionalism for the industry.

As a result, it is important that Dealer Members establish policies and procedures to deal effectively with client complaints. Such policies and procedures must address the general requirements of Rule 2500, Section VIII, and the specific requirements of Rule XXXX regarding client complaint handling. Rule 2500, Section VIII, requires Dealer Members to provide a written response to all complaints made in writing. Further, where a written complaint does not relate to a matter within the scope of Rule XXXX, Rule 2500, Section VIII also requires that the Dealer Member resolve and respond to the complaint within a reasonable time frame.

COMPLAINTS SUBJECT TO THE REQUIREMENTS OF RULE XXXX

GENERAL

Alleged misconduct

The types of allegations enumerated in the Rule are not an exhaustive list of all matters that may constitute alleged misconduct; other matters may constitute alleged misconduct. Alleged misconduct includes such other matters that relate to client accounts or client dealings with Dealer Members which are of a serious nature and warrant being dealt with through the formal complaint handling process.

Recorded expression of dissatisfaction

A recorded expression of dissatisfaction includes any written submission, electronic communication, or verbal recording.

Verbal expression of dissatisfaction

As set out in the Rule, verbal expressions of dissatisfaction alleging misconduct where a preliminary investigation indicates that the allegation may have merit are to be treated as a complaint subject to the Rule. Implicit in this requirement is the need for Dealer Members to expeditiously undertake a preliminary investigation in order to assess the merits of a verbal expression of dissatisfaction. It is expected that such a preliminary investigation will entail a summary assessment of the merits of a client complaint, and that it will not involve the type of investigation undertaken once a complaint is being dealt with under the formal complaint handling process.

Where a preliminary investigation of a verbal expression of dissatisfaction has been performed and the Dealer Member determines:

1. That there is evidence to indicate that the client complaint may have merit, the complaint should be treated in the same manner as a recorded expression of dissatisfaction. In accordance with its normal investigative process, the Dealer Member may request that the client document the complaint in a recorded form, however a substantive response must be sent within the required timeframe whether or not a client has provided a documented complaint in response to such a request.

2. That the nature of the client complaint is unclear or there is no evidence to indicate that the client complaint has merit, the Dealer Member shall request that the client document and submit the complaint in a recorded form. Where the client:

    (a) Documents and submits the complaint in recorded form, the complaint should be treated in the same manner as if it had originally been submitted as a recorded expression of dissatisfaction; or

(b) Fails to document and submit the complaint in recorded form, the Dealer Member may exercise their professional judgment and terminate their investigation of the complaint.

Decision to not investigate a complaint or to terminate an investigation of a complaint

A sales supervisor / compliance staff or the equivalent may exercise their professional judgment in deciding whether a complaint requires an investigation. In assessing whether a complaint should be investigated, Dealers Members must consider whether the client would have a reasonable expectation that the complaint should be handled through the process outlined in the Rule. The decision and reason not to commence an investigation of a complaint must be fully documented and maintained in accordance with the complaint record retention requirements.

Complaints made by individuals who are not clients of the Dealer Member are not subject to the Rule, other than complaints submitted by a person authorized to act on behalf of a client. Written client authorizations, as well as formal legal documents, such as powers of attorney or court appointments, are acceptable forms of documentation for establishing a person's authority to act of behalf of a client.

DESIGNATED COMPLAINTS OFFICER

The designated complaints officer is not a registered individual position. The purpose of the position is to ensure that the Dealer Member has someone with the requisite knowledge, experience and authority in place to manage the proper handling of complaints.

Dealer Members may choose to name the Ultimate Designated Person or Chief Compliance Officer or an individual acting in a supervisory capacity over the complaints process for the position of designated complaints officer.

Dealer Members are encouraged to make available to the designated complaints officer and their staff specific training relating to dispute resolution.

COMPLAINT PROCEDURES / STANDARDS

Client access

The information provided to clients on an ongoing basis would include the first point of contact in submitting a complaint and the contact information for the designated complaints officer. The information provided may include the stipulation that the designated complaints officer should generally only be contacted when a complaint had been submitted and the client wishes to express concerns with the handling of the complaint. All client complaints must be handled by qualified sales supervisors/compliance staff or the equivalent. Under no circumstances should individuals who are the subject of a complaint handle complaints made against them.

Complaint substantive response letter - timelines

The ninety (90) calendar days timeline to provide a substantive response to clients must include all internal processes (with the exception of any internal ombudsman processes offered by an affiliate of the firm) of the Dealer Member that are made available to the client that involve but are not limited to the supervisory function / branch management, the compliance function, and legal review.

Complaint substantive response letter - OBSI information

Member firms must inform clients that OBSI will consider a client complaint at the earlier of:

(i) the date the complaint substantive response is provided to the client; or

(ii) ninety (90) days after the receipt of the complaint.

This can be done, depending upon the status of the complaint, either as part of the substantive response letter or as part of any letter informing the client that the complaint will not be resolved within ninety (90) days.

Duty to assist clients in documenting complaints

Dealer Members should be prepared to assist clients in submitting a complaint, in particular if the client is handicapped in any way, is a senior with special needs or a language or a literacy issue is involved.

COMPLAINT RECORD RETENTION

Records in a central, readily accessible place must be retrievable within two (2) business days and documents kept for an extended period of time must be retrievable within five (5) business days unless there are reasonable, extenuating circumstances.

2. Dealer Member Rule 19 is amended by repealing section 19.4 as follows:

"Each Dealer Member shall keep an up-to-date record in a central place of all written complaints received by it relating to the conduct, business and affairs of the Dealer Member, any registered representative, investment representative, branch manager, assistant or co-branch manager, sales manager, partner, director or officer, or any person employed by the Dealer Member, for a period of 24 months from the date of receipt of the complaint."

3. Dealer Member Rule 37 is amended by repealing section 37.3 as follows:

"Each Dealer Member shall provide to new clients, and to clients who submit written complaints to the Dealer Member, a copy of the written material approved by the Corporation which describes the arbitration programme or organization approved by the Board of Directors pursuant to Rule 37.1 and the ombudsperson service approved by the Board of Directors pursuant to Rule 37.2."

4. Dealer Member Rule 2500, Section VIII is repealed and replaced as follows:

"Each Dealer Member must establish policies and procedures to deal effectively with client complaints. Such policies and procedures must comply with Rule XXXX regarding client complaint handling, and also address complaints that may fall outside the scope of Rule XXXX. All complaints made in writing must be provided with a written response from Dealer Members."

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA

AMENDMENTS TO COMPLAINT HANDLING REQUIREMENTS - CLIENT COMPLAINT HANDLING RULE AND GUIDANCE NOTE AND AMENDMENTS TO DEALER MEMBER RULES 19, 37 AND 2500
(Amendments to version published for comment on February 13, 2009)

PROPOSED AMENDMENTS

1. A new Dealer Member Rule and Guidance Note[1] on the complaint handling process are enacted as follows:

"RULE XXXX

Client Complaint Handling

1. Introduction

This rule establishes minimum requirements for the client complaint handling process including timely complaint resolution, record retention, and internal discipline. Clients who are considered to be institutional clients pursuant to Rule 2700 are not subject to this rule. There are additional requirements set out in Rule 3100 that are also applicable to the processes of handling client complaints.

2. General

A "complaint" subject to this rule must be submitted by a client or a person authorized to act on behalf of a client and ~~is deemed to include~~includes**:**

- A recorded expression of dissatisfaction with a Dealer Member or employee or agent alleging misconduct; and
- A verbal expression of dissatisfaction with a Dealer Member or employee or agent alleging misconduct ~~that would reasonably necessitate an investigation based on the circumstances of the complainant, or the nature or severity of the alleged misconduct~~where a preliminary investigation indicates that the allegation may have merit**.**

Alleged misconduct includes, but is not limited to, allegations of breach of confidentiality, theft, fraud, misappropriation or misuse of funds or securities, forgery, unsuitable investments, misrepresentation, unauthorized trading relating to the client's account(s), other inappropriate financial dealings with clients and engaging in securities related activities outside of the Dealer Member.

Complaints are to be handled by sales supervisors or compliance staff (or the equivalent) and a copy must be filed with the compliance department / function (or the equivalent) of the Dealer Member.

A matter which is the subject of ~~litigation~~a civil claim or arbitration is not considered a "complaint" for the purposes of this ~~Rule~~rule**.**

3. Designated complaints officer

The Dealer Member must appoint an individual to act as the designated complaints officer. The individual must have the requisite experience and authority to oversee the complaint handling process and to act as a liaison with the Corporation.

4. Complaint procedures / standards

Establish written procedures for dealing with complaints

Dealer Members must have written policies and procedures to ensure that complaints are dealt with effectively, fairly and expeditiously. Such policies and procedures must address the following:

- the fair and thorough investigation of the complaint;

[1] IIROC is in the midst of a project to rewrite its Rule Book. Should these proposals be made effective prior to the implementation of the new Rule Book format, the rule and the guidance note will be implemented on an interim basis using the existing rule numbering approach.

- the process by which an assessment is made regarding the merit of the complaint;
- where the complaint is determined to have merit, the process to be followed in determining what offer should be made to the client; and
- the remedial actions which may be appropriate to be taken within the firm.

Policies and procedures must not allow for complaints to be dismissed without due consideration of the facts of each case. There must be a balanced approach to dealing with complaints that objectively considers the interests of the complainant, the Dealer Member, the registered representative, employee or agent of the Dealer Member, and/or any other relevant parties. Each Dealer Member must ensure that registered representatives and their supervisors are made aware of all complaints filed by their clients.

Each Dealer Member must put procedures in place so that its senior management is made aware of complaints of serious alleged misconduct and of all legal actions.

Dealer Members must have policies and procedures in place to monitor the general nature of complaints. When a Dealer Member reasonably determines that the number and / or severity of complaints is significant, or when a Dealer Member detects frequent and repetitive complaints made with respect to the same matter which may on a cumulative basis indicate a serious problem, then internal procedures and practices must be reviewed, with recommendations to be submitted to the appropriate management level. to remedy any such systemic or recurring matters.

Client access to complaint process

At time of account opening, Dealer Members must provide new clients with:

- a written summary of the Dealer Member's complaint handling procedures, which is clear and can be easily understood by clients; and
- a copy of a Corporation approved complaint handling process brochure.

On an ongoing basis, Dealer Members must make available to their clients (either on their website or by other means) a written summary of the Dealer Member's complaint handling procedures, so that clients can stay informed on how to submit a complaint.

Complaint acknowledgement letter

The Dealer Member must send an acknowledgement letter to the complainant within five (5) business days of receipt of a complaint.

The acknowledgement letter must include the following:

(a) The name, job title, and full contact information of the individual at the Dealer Member handling the complaint;

(b) A statement indicating that the client should contact the individual at the Dealer Member handling the complaint if he / she would like to inquire about the status of the complaint;

(c) An explanation of the Dealer Member's internal complaint handling process, including but not limited to the role of the designated complaints officer;

(d) A reference to an attached copy of a Corporation approved complaint handling process brochure and a reference to the statutes of limitations contained in the document;

(e) The ninety (90) calendar days timeline to provide a substantive response to complaints; and

(f) A request for any information reasonably required to investigate the complaint.

Complaint substantive response letter

The Dealer Member must send a substantive response letter to the complainant. The substantive response letter must be accompanied by a copy of a Corporation approved complaint handling process brochure.

Dealer Members must respond to client complaints as soon as possible and no later than ninety (90) calendar days from the date of receipt by the firm. The ninety (90) days timeline must include all internal processes (with the exception of any internal ombudsman processes offered by an affiliate of the firm) of the Dealer Member that are made available to the client. The client must be advised if he / she is not to receive a final response within the ninety (90) days time frame ~~accompanied by,~~ including the reasons for the delay and the new estimated time of completion.

The Dealer Member is required to advise the Corporation if it is unable to meet the ninety (90) days timeline and must provide reasons for the delay.

The substantive response must be presented in a manner that is fair, clear and not misleading to the client, and must include the following information:

(a) A summary of the complaint;

(b) The results of the Dealer Member's investigation;

(c) The Dealer Member's final decision on the complaint, including an explanation; and

(d) A statement describing to the client the options available if the client is not satisfied with the Dealer Member's response, including:

  (i) arbitration;

  (ii) if a request is made within 180 days from the date of the Dealer Member's final response, the ombudsperson service (i.e. the Ombudsman for Banking Services and Investments);

  (iii) submitting a regulatory complaint to the Corporation for an assessment of whether disciplinary action is warranted;

  (iv) litigation / civil action; and

  (v) other applicable options.

In addition, where an internal ombudsman process is offered by an affiliate of the Dealer Member, the Dealer Member must disclose in the substantive response letter:

(a) that the use of the internal ombudsman process is ~~not mandatory~~voluntary**;** and

(b) the estimated length of time the process is expected to take based on historical data.

Duty to assist in client complaint resolution

Approved Persons must co-operate with Dealer Members where they were employed or acted as agent when moving to a different firm after events or activities resulted in a client complaint.

Dealer Members must co-operate with each other if events relating to a complaint took place at more than one Dealer Member or the Approved Person is an employee or agent of another Dealer Member.

5. Settlement agreements

A release entered into between a Dealer Member and a client may not impose confidentiality or similar restrictions aimed at preventing a client from initiating a complaint to the securities regulatory authorities, self regulatory organizations or other enforcement authorities, or continuing with any pending complaint in progress, or participating in any further proceedings by such authorities.

6. Complaint record retention

The complaint file must be maintained for seven (7) years and retrievable within a reasonable period of time.

Each Dealer Member must keep an up-to-date record in a central, readily accessible place of all recorded submissions and follow-up documentation received by it relating to the conduct, business, and affairs of the Dealer Member, or an employee or agent of the Dealer Member for a period of two (2) years from the date of receipt of the complaint.

The following information must be retained for each complaint:

(a) The complainant's name;

(b) The date of the complaint;

(c) The nature of the complaint;

(d) The name of the individual who is the subject of the complaint;

(e) The security or services which are the subject of the complaint;

(f) The materials reviewed in the investigation;

(g) The name, title, and date individuals were interviewed for the investigation; and

(h) The date and conclusions of the decision rendered in connection with the complaint.

7. Internal Discipline

Each Dealer Member must establish procedures to ensure that breaches of the Rules of the Corporation as well as applicable securities legislation are subjected to appropriate internal disciplinary measures.

GUIDANCE NOTE XXXX

Client Complaint Handling

COMPLAINTS GENERALLY

The fair and timely handling of client complaints is vital to the overall integrity of the investment industry. Dealer Members should regard the handling of all client complaints as an essential element of the proper servicing of client accounts generally. Addressing client complaints fairly and on a timely basis demonstrates to clients that their issues are dealt with seriously and enhances investor confidence in the industry. An effective framework for dealing with client complaints is in keeping with appropriate standards of professionalism for the industry.

As a result, it is important that Dealer Members establish policies and procedures to deal effectively with client complaints. Such policies and procedures must address the general requirements of Rule 2500, Section VIII, and the specific requirements of Rule XXXX regarding client complaint handling. Rule 2500, Section VIII, requires Dealer Members to provide a written response to all complaints made in writing. Further, where a written complaint does not relate to a matter within the scope of Rule XXXX, Rule 2500, Section VIII also requires that the Dealer Member resolve and respond to the complaint within a reasonable time frame.

COMPLAINTS SUBJECT TO THE REQUIREMENTS OF RULE XXXX

GENERAL

Alleged misconduct

The types of allegations enumerated in the Rule are not an exhaustive list of all matters that may constitute alleged misconduct; other matters may constitute alleged misconduct. Alleged misconduct includes such other matters that relate to client accounts or client dealings with Dealer Members which are of a serious nature and warrant being dealt with through the formal complaint handling process.

Recorded expression of dissatisfaction

A recorded expression of dissatisfaction includes any written submission, electronic communication, or verbal recording.

Verbal expression of dissatisfaction

As set out in the Rule, verbal expressions of dissatisfaction alleging misconduct where a preliminary investigation indicates that the allegation may have merit are to be treated as a complaint subject to the Rule. ~~Where the client has provided a clear~~Implicit in this requirement is the need for Dealer Members to expeditiously undertake a preliminary investigation in order to assess the merits of a verbal expression of dissatisfaction~~ alleging misconduct, the complaint should be treated in the same manner as if it were a recorded expression of dissatisfaction, provided that prior to the issuance of a substantive response letter, the Dealer Member may require that the client document the complaint in a recorded form. If a verbal expression of dissatisfaction is unclear, a sales supervisor / compliance staff or the equivalent is expected to exercise professional judgment in deciding if the verbal expression of dissatisfaction relates to alleged misconduct that requires an investigation~~. It is expected that such a preliminary investigation will entail a summary assessment of the merits of a client complaint, and that it will not involve the type of investigation undertaken once a complaint is being dealt with under the formal complaint handling process**.**

Where a preliminary investigation of a verbal expression of dissatisfaction has been performed and the Dealer Member determines:

1. That there is evidence to indicate that the client complaint may have merit, the complaint should be treated in the same manner as a recorded expression of dissatisfaction~~, provided that prior to the issuance of a substantive response letter~~**.** In accordance with its normal investigative process**,** the Dealer Member may ~~require~~request that the client document the complaint in a recorded form**.** however a substantive response must be sent within the required timeframe whether or not a client has provided a documented complaint in response to such a request**.**

2. That the nature of the client complaint is unclear or there is no evidence to indicate that the client complaint has merit, the Dealer Member shall request that the client document and submit the complaint in a recorded form. Where the client:

   (a) Documents and submits the complaint in recorded form, the complaint should be treated in the same manner as if it had originally been submitted as a recorded expression of dissatisfaction; or

   (b) Fails to document and submit the complaint in recorded form, the Dealer Member may exercise their professional judgment and terminate their investigation of the complaint.

Decision to not investigate a complaint or to terminate an investigation of a complaint

A sales supervisor / compliance staff or the equivalent may exercise their professional judgment in deciding whether a complaint requires an investigation. In assessing whether a complaint should be investigated, Dealers Members must consider whether the client would have a reasonable expectation that the complaint should be handled through the process outlined in the Rule. ~~Complaints made by individuals who are not clients of the Dealer Member are not subject to the Rule.~~ The decision and reason not to commence an investigation of a complaint must be fully documented and maintained in accordance with the complaint record retention requirements.

Complaints made by individuals who are not clients of the Dealer Member are not subject to the Rule, other than complaints submitted by a person authorized to act on behalf of a client. Written client authorizations, as well as formal legal documents, such as powers of attorney or court appointments, are acceptable forms of documentation for establishing a person's authority to act of behalf of a client.

DESIGNATED COMPLAINTS OFFICER

The designated complaints officer is not a registered individual position. The purpose of the position is to ensure that the Dealer Member has someone with the requisite knowledge, experience and authority in place to manage the proper handling of complaints.

Dealer Members may choose to name the Ultimate Designated Person or Chief Compliance Officer or an individual acting in a supervisory capacity over the complaints process for the position of designated complaints officer.

Dealer Members are encouraged to make available to the designated complaints officer and their staff specific training relating to dispute resolution.

COMPLAINT PROCEDURES / STANDARDS

Client access

The information provided to clients on an ongoing basis would include the first point of contact in submitting a complaint and the contact information for the designated complaints officer. The information provided may include the stipulation that the designated complaints officer should generally only be contacted when a complaint had been submitted and the client wishes to express concerns with the handling of the complaint. All client complaints must be handled by qualified sales supervisors/compliance staff or the equivalent. Under no circumstances should individuals who are the subject of a complaint handle complaints made against them.

Complaint substantive response letter - timelines

The ninety (90) calendar days timeline to provide a substantive response to clients must include all internal processes (with the exception of any internal ombudsman processes offered by an affiliate of the firm) of the Dealer Member that are made available to the client that involve but are not limited to the supervisory function / branch management, the compliance function, and legal review.

Complaint substantive response letter - OBSI information

Member firms must inform clients that OBSI will consider a client complaint at the earlier of:

(i) the date the complaint substantive response is provided to the client; or

(ii) ninety (90) days after the receipt of the complaint.

This can be done, depending upon the status of the complaint, either as part of the substantive response letter or as part of any letter informing the client that the complaint will not be resolved within ninety (90) days.

Duty to assist clients in documenting complaints

Dealer Members should be prepared to assist clients in submitting a complaint, in particular if the client is handicapped in any way, is a senior with special needs or a language or a literacy issue is involved.

COMPLAINT RECORD RETENTION

Records in a central, readily accessible place must be retrievable within two (2) business days and documents kept for an extended period of time must be retrievable within five (5) business days unless there are reasonable, extenuating circumstances.

2. Dealer Member Rule 19 is amended by repealing section 19.4 as follows:

"Each Dealer Member shall keep an up-to-date record in a central place of all written complaints received by it relating to the conduct, business and affairs of the Dealer Member, any registered representative, investment representative, branch manager, assistant or co-branch manager, sales manager, partner, director or officer, or any person employed by the Dealer Member, for a period of 24 months from the date of receipt of the complaint."

3. Dealer Member Rule 37 is amended by repealing section 37.3 as follows:

"Each Dealer Member shall provide to new clients, and to clients who submit written complaints to the Dealer Member, a copy of the written material approved by the Corporation which describes the arbitration programme or organization approved by the Board of Directors pursuant to Rule 37.1 and the ombudsperson service approved by the Board of Directors pursuant to Rule 37.2."

4. Dealer Member Rule 2500, Section VIII is repealed and replaced as follows:

"Each Dealer Member must establish policies and procedures to deal effectively with client complaints. Such policies and procedures must comply with Rule XXXX regarding client complaint handling, and also address complaints that may fall outside the scope of Rule XXXX. All complaints made in writing must be provided with a written response from Dealer Members."

August 20, 2009

Re: IIROC response to comments on Client Complaint Handling Rule and Guidance Note and amendments to IIROC Dealer Member Rules 19, 37 and 2500

This summary responds to the comment letters received on the proposed complaint handling requirements and the proposed amendments to IIROC Dealer Member Rules 19, 37 and 2500 (previously IDA By-law Nos. 19 and 37 and Policy No. 2) that were published for comment on February 13, 2009. The comments specific to the proposed Rule and Guidance Note have been summarized to correspond with the various sections of the Rule, followed by IIROC staff response.

GENERAL

Definition of a complaint

We have received the following comments which relate to the definition of a complaint:

- Three comment letters suggest that the definition of what is included as a complaint is very broad and ambiguous. One of the comment letters indicates that the Rules Notice discussing the proposed amendments implies that three conditions must exist at once, but there is no such stipulation in the Rule. The comment letters suggest that the Rule should narrow and clarify what is included as a complaint.

- Two comment letters indicate that the inclusion of the phrase "includes, but is not limited to" in the section defining "alleged misconduct" could potentially extend the scope of a complaint to alleged misconduct not related to the client accounts or client dealings with firms. One of the comment letters suggested if there is any other misconduct which is contemplated it should be clearly itemized.

- One comment letter points out that the English and French versions differ: The French version states that "A complaint…may include…", while the English version states "A complaint…is deemed to include…"

- One comment letter states that the wording relating to the exemption for matters which are the "subject of litigation" is ambiguous in the French version of the proposal.

IIROC staff response

The scope of the definition of a complaint was addressed in IIROC's response to comment letters dated January 28, 2009. As we mentioned then, the definition in the proposed Rule is intended to specifically target retail client complaints alleging mishandling of their account or accounts. It would be undesirable to define complaints in an overly narrow way, as this may lead to some justified complaints being left out of the scope of the Rule. As we have indicated in the past, as well as in our Rules Notice of February 13, 2009 requesting comments, a complaint subject to this Rule:

- must be submitted by a client or a person authorized to act on behalf of a client;

- may be either a recorded expression of dissatisfaction or a verbal expression of dissatisfaction; and

- must allege misconduct in the handling of their account or accounts.

A complaint must be submitted by a client or person authorized to act on behalf of a client and it must relate to alleged misconduct in the handling of the client's account. We believe that the scope of complaints potentially captured by the Rule is clear and unambiguous. The above-noted parameters should preclude complaints other than those intended as the target of the Rule from being subject to the Rule. Furthermore, all the matters included in the definition of alleged misconduct relate to issues in the handling of client accounts or client affairs. In order to further clarify the definition, however, we have added a section which elaborates on the scope of alleged misconduct to the Guidance Note. Essentially, the guidance indicates that other matters not enumerated in the definition of alleged misconduct which may be captured by the phrase "includes, but is not limited to" should be matters that relate to client accounts or client dealings with firms which are of a serious nature and warrant being dealt with through the formal complaint handling process.

In terms of the three conditions of application of the Rule mentioned in the preceding paragraph being at odds with the Rule itself, we would affirm that the relevant conditions mentioned are present in the Rule. The relevant provisions of the proposed Rule state as follows:

> A "complaint" subject to this rule *must be submitted by a client or a person authorized to act on behalf of a client* and includes:

- *A recorded expression of dissatisfaction* with a Dealer Member or employee or agent *alleging misconduct*; and

- *A verbal expression of dissatisfaction* with a Dealer Member or employee or agent *alleging misconduct* where a preliminary investigation indicates that the allegation may have merit.

Alleged misconduct includes, but is not limited to, allegations of breach of confidentiality, theft, fraud, misappropriation or misuse of funds or securities, forgery, unsuitable investments, misrepresentation, unauthorized trading relating to the client's account(s), other inappropriate financial dealings with clients and engaging in securities related activities outside of the Dealer Member. *(emphasis added)*

As indicated by the emphasized text, the proposed Rule encompasses the three conditions of its applicability.

We have made the necessary wording changes to address the comments expressed with respect to the differences between the English and French language versions of the proposed Rule.

Nature of complaint received

We have received the following comments which relate to a verbal expression of dissatisfaction being included in the definition of a complaint:

- Three comment letters submit that only written complaints should be covered by the Rule in order to ensure clarity in complaint handling.

- Two comment letters note that the Guidance Note appears to indicate that Dealer Members may require that a complaint be documented, but the Rule does not require this; the Rule and guidance should be made consistent.

- One comment letter stated that a concern with permitting verbal complaints is the potential inability of Dealer Members to determine when the 90-day timeframe begins because verbal complaints are subject to various elements that are not conducive to working within a specific timeframe.

IIROC staff response

We previously addressed the issue of including verbal complaints in the proposed Rule in our response to comments dated January 28, 2009. To address the potential concerns associated with verbal complaints, we stated in the Guidance Note that Dealer Members may request that verbal complaints that may have merit be documented in a recorded form prior to the issuance of a substantive response letter. This guidance confirms that the current practice of some Dealer Members to request that verbal complaints be put into writing is viewed as acceptable. However, such a request does not mean that a Dealer Member may delay sending a substantive response letter if a client does not document his or her complaint. As we noted in our previous response, the 90-day timeline to issue a substantive response commences from the time a complaint is made, whether verbally or in writing. To the extent that Dealer Members wish to make use of a documented complaint for purposes of their investigation of the matter complained of, then Dealer Members should make every effort to request that a verbal complaint be documented in a recorded form as early as possible in the complaint handling process. Provision by a client of a complaint documented in recorded form cannot be made a pre-condition to the Dealer Member issuing a substantive response in a timely manner.

We have revised the Guidance Note to clarify that a substantive response must be sent within the timeframe required whether or not a client has provided a documented complaint in response to such a request from a Dealer Member. As a request by a Dealer Member that a client document in recorded form a verbal complaint is not a requirement, we do not believe it is appropriate to amend the Rule in this regard. We have clarified the Guidance Note to indicate that a Dealer Member may "request" that a client document a verbal complaint in a recorded form, rather than "require" a client to do so.

With respect to the concern regarding the ability of Dealer Members to determine when the 90-day timeframe begins in the case of a verbal complaint, the timeframe begins from the day the complaint is first made, whether or not all the elements of the complaint are known at that moment.

Person authorized to act on behalf of the client

We have received the following comments regarding the submission of a complaint by a person authorized to act on behalf of a client:

- One comment letter indicated that it is unclear that people legally authorized by a client are permitted to submit a complaint because the guidance states that non-client complaints are not subject to the Rule.

- One comment letter suggested that the scope of authority should be clarified in the guidance to enumerate the various forms of legal authority under which a person may make a complaint on behalf of a client.

- One comment letter mentioned that only clients and those legally authorized to act on a client's behalf should be permitted to file complaints in order to ensure client privacy.

IIROC staff response

Non-client complaints are not subject to the Rule. Complaints submitted by a person authorized to act on behalf of the client are subject to the Rule, because they are complaints of a client. The Guidance Note has been amended to clarify this distinction.

In keeping with industry practice, a written authorization on the part of the client will be valid to make a complaint on behalf of a client. To require a specific form of formal legal authorization would be unnecessarily restrictive for clients. We have added language to the Guidance Note indicating that both written client authorizations, as well as formal legal documents, such as powers of attorney or court appointments, are acceptable forms of documentation for establishing a person's authority to act of behalf of a Dealer Member's client.

Client privacy is not an issue, as the intent of the proposed Rule has always been that a complaint should only be dealt with if brought forward by the client or a person legally authorized to act on behalf of a client.

DESIGNATED COMPLAINTS OFFICER (DCO)

In connection with the newly created position of Designated Complaints Officer (DCO), we have received one comment letter indicating that it is not clear whether a dealer can have more than one DCO, and whether the DCO is expected to communicate with clients directly.

IIROC staff response

The DCO is the person with ultimate supervisory authority over the complaints process at a Dealer Member. It is expected that there will be only one DCO at each Dealer Member. It is not expected that communication regarding individual complaints would necessarily be handled by a DCO, but this would certainly be a possibility, particularly for smaller Dealer Members.

COMPLAINT PROCEDURES/STANDARDS

Client access to the complaint handling process

We have received the following comments in relation to the complaint handling information to be provided:

- Two comment letters suggest that a brochure describing the complaint process should only have to be sent once in response to a complaint, not twice.

IIROC staff response

The issue of describing the complaint process to clients and the requirement for a complaint process brochure to be sent at each step of the complaint ensures that clients are fully informed of their options. We addressed this issue in our previous response to comments, and IIROC's position remains the same. Ensuring that clients are fully aware of their complaint handling options is an important part of the proposed Rule and we see no disadvantage to informing clients on more than one occasion.

Complaint acknowledgement letter

We have received the following comments regarding the complaint acknowledgement letter:

- One comment letter states that the full contact info of the person at the Dealer Member handling the complaint should not have to be provided.

- One comment letter suggested that the five-day timeframe to acknowledge a complaint should be extended when special circumstances exist that would warrant so, or alternatively, the time period for acknowledgement should be extended to at least 10 days.

- One comment states that it is not clear that the contact information to be included with the acknowledgement letter is to be for the DCO, or for the person handling the complaint.

IIROC staff response

By providing the contact information of the person handling the complaint at the Dealer Member to the client, duplication of efforts on the part of the Dealer Member and frustration on the part of the client can be avoided. In this manner, a client knows a specific contact person to whom they may direct any additional information or inquire with about the status of their complaint. The advantages of providing a single contact point for a client outweigh any disadvantages in providing this contact information to a client.

In IIROC's response to the first round of comment letters, it was noted that special circumstances may occasionally result in an extension of time to acknowledge a complaint. However, it is expected that these circumstances would be rare, and we continue to view a five-day period to acknowledge that a complaint has been received as reasonable.

The proposed Rule states that the acknowledgement letter must include "the name, job title, and full contact information of the individual at the firm handling the complaint". Therefore, the information provided should be for the person actually handling the complaint, whether or not that person is the DCO.

Complaint substantive response letter

Various issues were raised with respect to the substantive response letter:

(i) 90-day timeframe for response

- One comment indicates that it is unclear why a 90-day timeframe for responding to complaints is prescribed, when the majority of Dealer Members are able to respond within 180 days, and by comparison OBSI has a 180-day standard in which to respond to complaints.

- One comment letter suggests that that the Rule should be clarified to include a provision that clients should be informed of the right to proceed to OBSI if a final response is not received within 90 days.

IIROC staff response

As stated in our previous response, we continue to view the 90-day timeline as reasonable in light of existing completion rates. Where the nature of a particular complaint may make it difficult to respond within the required timeframe, this will be taken into account where the explanation provided in the notification filed with IIROC is reasonable.

The Guidance Note makes it clear that clients must be informed that OBSI will consider a client complaint if a final response is not received within 90 days.

(ii) Content of substantive response

- One comment letter suggests that the requirement to include the options available if the client is not satisfied with the Dealer Member's response should be deleted from the substantive response requirements because the options available are already listed in the IIROC-approved complaint handling brochure.

- One comment letter indicates that the requirement for Dealer Members to provide an explanation with their final decision is inadequate, because an inadequate or flawed explanation could be given.

- One comment letter states that the requirement for Dealer Members to provide a summary of the complaint, results of the investigation, and a final decision is inadequate to achieve the proposal's objectives. The comment letter suggests that the requirements relating to the substantive response are inadequate to ensure the fair handling of complaints.

IIROC staff response

The proposed Rule requires Dealer Members to have written policies and procedures to ensure that complaints are dealt with effectively, fairly and expeditiously. While it may be true that an inadequate or flawed explanation could be given in a final decision letter, it would be impossible for any Rule to effectively preclude this possibility. The resolution of client complaints will inevitably involve a subjective assessment. Furthermore, as the complaint handling process is an internal process of the Dealer Member, Dealer Members may not always be impartial in investigating complaints in which they are involved. The proposal seeks to ensure the fair handling of complaints where the parties may have opposing interests. The proposal seeks to set a process and framework within which Dealer Members must respond to complaints. If a client is dissatisfied with a Dealer Member's response, or does not want to pursue the internal complaint process at all, other avenues such as litigation, arbitration, or filing a regulatory complaint are open to them.

Nonetheless, we have revised the proposed Rule by adding language that calls for Dealer Members to have policies and procedures addressing the investigation of complaints, the process by which assessments of complaints are made, the process for determining what offer should be made to a client where a complaint is determined to have merit, and the remedial actions which may be appropriate to be taken within the firm. The proposed Rule has also been revised to underscore that the substantive response to the client must be presented in a manner that is fair, clear and not misleading.

(iii) Internal ombudsman process

- Two comment letters suggest that the wording of the notification may trivialize internal ombudsman processes; the wording should be changed to indicate that the ombudsman process is "voluntary" instead of "not mandatory".

- One comment letter suggests that the Rule require that clients use an internal ombudsman or an internal dispute resolution process before using OBSI services.

- It should be made clear that it is not mandatory to use an internal ombudsman before using OBSI services.

IIROC staff response

We have changed the wording in the proposed Rule to read that the use of an internal ombudsman process is "voluntary", instead of "not mandatory".

We believe it should be up to clients to decide if they want to use an internal ombudsman. Furthermore, it is beyond IIROC's jurisdiction to require that clients utilize an internal ombudsman prior to pursuing OBSI or other avenues.

The proposed Rule requires Dealer Members to outline options available if a client is not satisfied with a Dealer Member's response, including the fact that the ombudsman's service is available if a request is made within 180 days of the Dealer Member's final response, and that the use of an internal ombudsman is voluntary. Dealer Members are required to provide this information in a manner that is fair, clear and not misleading. We therefore believe that it is clear from the proposed Rule that it is not mandatory to use an internal ombudsman before pursuing a complaint with OBSI. The possible paths to resolving a client complaint will also be outlined in the brochures that are provided to clients at account opening and during the complaint handling process.

(iv) Conflict of interest

- One comment letter suggests that Dealer Members should not have a duty to assist clients with complaints, as this places them in a conflicted position.

IIROC staff response

It is not expected that Dealer Members will assist clients in formulating the substance of their complaints. However, it is expected that Dealer Members will assist clients in informing them of the complaint handling process. Informing clients of how to pursue a process does not place Dealer Members in a conflict.

Duty to co-operate in client complaint resolution

We have received the following comments in relation to the duty amongst Dealer Members to co-operate in client complaint resolution:

- One comment letter suggests that IIROC should coordinate information sharing between Dealer Members related to complaints.

- Two comment letters indicate that requiring Dealer Members to cooperate and share information regarding complaints may be a breach of confidentiality or client privacy. One of the two comment letters also added that such co-operation may also breach employment laws.

IIROC staff response

As matters relating to client complaints may take place at more than one firm due to movement within the industry by Approved Persons, the proposed Rule calls for co-operation amongst Dealer Members in the handling of client complaints. While IIROC may assist in brokering cooperation between Dealer Members to facilitate effective complaint handling, it would be inappropriate for firms to rely entirely upon IIROC for this purpose.

All Dealer Members will be expected to cooperate when required to. As we indicated in our previous response, where another Dealer Member fails to co-operate in a specific Dealer Member's complaint investigation, this should be noted in any ComSet filing if such refusal has complicated a full and fair response to the client.

Settlement agreements

We have received one comment letter suggesting that the words "other enforcement authorities" should be removed from the wording restricting the confidentiality of settlement agreements because the French version which reads "autorités chargées de l'application de la loi" is too broad and vague, and could encompass entities other than securities regulators.

IIROC staff response

The proposed Rule does not change current practice and was intended as a restatement of generally accepted industry practices. We believe that the wording in the English and French versions convey the appropriate meaning and accurately reflect the intent of the Rule. The restriction on confidentiality of settlements does not relate solely to securities regulators; it would be inappropriate for the restriction not to cover other enforcement authorities which may be relevant. For example, a client complaint involving a fraud should not be precluded from being pursued as a criminal matter by the terms of a settlement agreement.

Complaint record retention

We have received the following comments regarding the retrieval, retention and centralization of records:

- One comment letter indicates that a "reasonable period of time" should be the standard for record retrieval, rather than specific time frames as set out in the guidance.
- One comment states that it is unclear whether branches have to maintain records if a head office maintains records centrally.
- One comment letter suggests that the proposal should not require records to be centrally stored and located, so long as documents can be retrieved within a reasonable period of time.

IIROC staff response

The time frames set out in the guidance for record retrieval are guidelines only; the "reasonable" standard in the proposed Rule will allow for longer periods if justified by the circumstances.

The proposal states that records must be kept in a "central, readily accessible place". There is no requirement that branches maintain records separately.

Requiring that records be centrally located will help Dealer Members properly maintain their records in an organized manner and ensure that they are readily accessible.

OTHER MATTERS

Rule Generally

We have received the following comments regarding the proposed Rule generally:

- One comment letter suggests that some items in the Guidance Note that appear to set standards should be included in the Rule itself.
- One comment letter states that the proposed amendments relate only to complaint handling rules and administrative processes, suggesting that the focus should be on preventative rather than corrective and administrative measures. The comment letter proposes that efforts and resources be focused on compliance with rules, enforcement and transparency and disclosure matters.
- One comment letter maintains that the Rule should include clear enforcement provisions to deal with unfair handling of complaints.
- One comment letter indicates that the Rule does not do enough to address the issue that clients may rely inappropriately on decisions of Dealer Members.

IIROC staff response

The Guidance Note is intended to provide additional clarity to Dealer Members, without being overly prescriptive.

All Dealer Members are monitored for compliance with IIROC Rules, and breaches of Rules are corrected, or penalized through enforcement as warranted. Since all Dealer Member Rules are enforced by IIROC, specific enforcement provisions for this specific Rule are unnecessary.

The proposed Rule will require that clients who file a complaint with a Dealer Member be provided with information on various options regarding their complaint. This information should help to ensure that clients do not place undue reliance on the decision of a Dealer Member regarding their complaint.

Consultation Process

We have received the following comments regarding the consultation process generally:

- One comment letter indicates that it appears that IIROC did not widely canvas market participants before amendments were made to the proposal; there should be a more comprehensive consultation process to confirm that the proposed amendments are necessary and will assist with the complaint process.

- Two comment letters expressed disappointment that issues raised in a previous submission resulted in few changes in the current proposed amendments.

- One comment letter suggests that consideration of the proposed amendments should include consultation with SIPA.

- One comment letter states that a 30-day comment period for proposals that concern the public interest is inadequate.

IIROC staff response

All interested parties have an equal opportunity to comment on proposed IIROC Rules upon publication of proposals for public comment, and IIROC staff take into account all comments received. Consultations with interested parties have been undertaken as part of IIROC's rulemaking process.

In light of the significance of and interest in this proposal, we acknowledge that 30 days may have been too brief a comment period. IIROC has since revised our practice so that comment periods generally consist of 60 to 90 days.

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Chapter 25

Other Information

25.1 Approvals

25.1.1 Spartan Fund Management Inc. (formerly Alpha Funds Management Inc.) – s. 213(3)(b) of the LTCA

Headnote

Clause 213(3)(b) of the Loan and Trust Corporations Act – application by manager, with no prior track record acting as trustee, for approval to act as trustee of pooled funds and future pooled funds to be established and managed by the applicant and offered pursuant to a prospectus exemption.

Statutes Cited

Loan and Trust Corporations Act, R.S.O. 1990, c. L.25, as am., s. 213(3)(b).

December 11, 2009

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

Attention: Darin Renton

Dear Sirs/Medames:

Re: Spartan Fund Management Inc. (formerly Alpha Funds Management Inc.) (the "Applicant")

Application pursuant to clause 213(3)(b) of the Loan and Trust Corporations Act (Ontario) for approval to act as trustee

Application No. 2009/0613

Further to your application dated October 15, 2009 (the "Application") filed on behalf of the Applicant, and based on the facts set out in the Application and the representation by the Applicant that the assets of Alpha Macro Strategies Fund and such other funds as the Applicant may establish from time to time, will be held in the custody of a trust company incorporated and licensed or registered under the laws of Canada or a jurisdiction, or a bank listed in Schedule I, II or III of the Bank Act (Canada), or an affiliate of such bank or trust company, the Ontario Securities Commission (the "Commission") makes the following order.

Pursuant to the authority conferred on the Commission in clause 213(3)(b) of the *Loan and Trust Corporations Act* (Ontario), the Commission approves the proposal that the Applicant act as trustee of Alpha Macro Strategies Fund and such other funds which may be established and managed by the Applicant from time to time, the securities of which will be offered pursuant to a prospectus exemption.

Yours truly,

"Carol S. Perry"

"C. Wesley M. Scott"

25.1.2 Highwater Capital Management Corp. – s. 213(3)(b) of the LTCA

Headnote

Clause 213(3)(b) of the Loan and Trust Corporations Act – application by manager, with no prior track record acting as trustee, for approval to act as trustee of pooled funds and future pooled funds to be managed by the applicant and offered pursuant to a prospectus exemption.

Statutes Cited:

Loan and Trust Corporations Act, R.S.O. 1990, c. L.25, as am., s. 213(3)(b).

December 11, 2009

Borden Ladner Gervais LLP
Scotia Plaza,
40 King Street West
Toronto, ON M5H 3Y4

Attention: Sarah K. Gardiner

Dear Sirs/Medames:

Re: Highwater Capital Management Corp. (the "Applicant")

Application pursuant to clause 213(3)(b) of the Loan and Trust Corporations Act (Ontario) for approval to act as trustee

Application No. 2009/0700

Further to your application dated November 5, 2009 (the "Application") filed on behalf of the Applicant, and based on the facts set out in the Application and the representation by the Applicant that the assets of Highwater Diversified Trust Fund and any other future mutual fund trusts that the Applicant may manage from time to time, will be held in the custody of a trust company incorporated and licensed or registered under the laws of Canada or a jurisdiction, or a bank listed in Schedule I, II or III of the Bank Act (Canada), or an affiliate of such bank or trust company, the Ontario Securities Commission (the "Commission") makes the following order.

Pursuant to the authority conferred on the Commission in clause 213(3)(b) of the *Loan and Trust Corporations Act* (Ontario), the Commission approves the proposal that the Applicant act as trustee of Highwater Diversified Trust Fund and any other future mutual fund trusts which may be managed by the Applicant from time to time, the securities of which will be offered pursuant to a prospectus exemption.

Yours truly,

"Carol S. Perry"

"C. Wesley M. Scott

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