The Ontario Securities Commission

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July 26, 2012

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

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

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

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M1T 3V4

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July 26, 2012

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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Vern Krishna	—	VK
Christopher Portner	—	CP
Judith N. Robertson	—	JNR
Charles Wesley Moore (Wes) Scott	—	CWMS

SCHEDULED OSC HEARINGS

August 1, 2012 10:00 a.m.	**Marlon Gary Hibbert, Ashanti Corporate Services Inc., Dominion International Resource Management Inc., Kabash Resource Management, Power to Create Wealth Inc. and Power to Create Wealth Inc. (Panama)** s. 127 J. Lynch/S. Chandra in attendance for Staff Panel: JDC
August 7-13, August 15-16 and August 21, 2012 10:00 a.m.	**Irwin Boock, Stanton Defreitas, Jason Wong, Saudia Allie, Alena Dubinsky, Alex Khodjaiants 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 D. Campbell in attendance for Staff Panel: VK

August 9, 2012 3:00 p.m.	**Maitland Capital Ltd., Allen Grossman, Hanoch Ulfan, Leonard Waddingham, Ron Garner, Gord Valde, Marianne Hyacinthe, Dianna Cassidy, Ron Catone, Steven Lanys, Roger McKenzie, Tom Mezinski, William Rouse and Jason Snow** s. 127 and 127.1 D. Ferris in attendance for Staff Panel: EPK
August 13, 2012 10:00 a.m. August 15, 2012 10:30 a.m. September 18-19, 2012 10:00 a.m.	**Crown Hill Capital Corporation and Wayne Lawrence Pushka** s. 127 A. Perschy/A. Pelletier in attendance for Staff Panel: JEAT/CP/JNR
August 15, 2012 10:00 a.m.	**Morgan Dragon Development Corp., John Cheong (aka Kim Meng Cheong), Herman Tse, Devon Ricketts and Mark Griffiths** s. 127 J. Feasby in attendance for Staff Panel: EPK
August 15 and 16, 2012 10:00 a.m.	**Goldpoint Resources Corporation, Pasqualino Novielli also known as Lee or Lino Novielli, Brian Patrick Moloney also known as Brian Caldwell, and Zaida Pimentel also known as Zaida Novielli** s. 127(1) and 127(5) C. Watson in attendance for Staff Panel: MGC
August 21, 2012 10:30 a.m.	**Energy Syndications Inc., Green Syndications Inc., Syndications Canada Inc., Land Syndications Inc. and Douglas Chaddock** s. 127 C. Johnson in attendance for Staff Panel: TBA
August 28, 2012 2:30 p.m.	**David Charles Phillips and John Russell Wilson** s. 127 Y. Chisholm in attendance for Staff Panel: JDC
September 4-10, September 12-14, September 19-24, and September 26 – October 5, 2012 10:00 a.m.	**Portus Alternative Asset Management Inc., Portus Asset Management Inc., Boaz Manor, Michael Mendelson, Michael Labanowich and John Ogg** s. 127 H Craig in attendance for Staff Panel: TBA
September 4, 2012 11:00 a.m.	**Juniper Fund Management Corporation, Juniper Income Fund, Juniper Equity Growth Fund and Roy Brown (a.k.a. Roy Brown-Rodrigues)** s. 127 and 127.1 D. Ferris in attendance for Staff Panel: VK/MCH
September 5, 2012 10:00 a.m.	**Vincent Ciccone and Cabo Catoche Corp. (a.k.a. Medra Corp. and Medra Corporation)** s. 127 M. Vaillancourt in attendance for Staff Panel: VK

September 5-10, September 12-14 and September 19-21, 2012 10:00 a.m.	**Vincent Ciccone and Medra Corp.** s. 127 M. Vaillancourt in attendance for Staff Panel: VK
September 11, 2012 3:00 p.m.	**olutions Inc., d Hao Quach** s. 127 J. Feasby in attendance for Staff Panel: EPK
September 12, 2012 9:00 a.m.	**Sage Investment Group, C.A.D.E Resources Group Inc., Greenstone Financial Group, Fidelity Financial Group, Antonio Carlos Neto David Oliveira, and Anne Marie Ridley** s. 127 C. Watson in attendance for Staff Panel: EPK
September 21, 2012 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 H. Craig in attendance for Staff Panel: TBA
September 24, September 26 – October 5 and October 10-19, 2012 10:00 a.m.	**New Found Freedom Financial, Ron Deonarine Singh, Wayne Gerard Martinez, Pauline Levy, David Whidden, Paul Swaby and Zompas Consulting** s. 127 A. Heydon in attendance for Staff Panel: JDC
October 10, 2012 10:00 a.m.	**Sino-Forest Corporation, Allen Chan, Albert Ip, Alfred C.T. Hung, George Ho and Simon Yeung** s. 127 H. Craig in attendance for Staff Panel: MGC
October 10, 2012 10:00 a.m	**Sino-Forest Corporation, Allen Chan, Albert Ip, Alfred C.T. Hung, George Ho, Simon Yeung and David Horsley** s. 127 H. Craig in attendance for Staff Panel: MGC
October 11, 2012 9:00 a.m.	**New Solutions Capital Inc., New Solutions Financial Corporation, New Solutions Financial (II) Corporation, New Solutions Financial (III) Corporation, New Solutions Financial (VI) Corporation and Ron Ovenden** s. 127 S. Horgan in attendance for Staff Panel: TBA
October 19, 2012 10:00 a.m.	**Global Energy Group, Ltd., New Gold Limited Partnerships, Christina Harper, Howard Rash, Michael Schaumer, Elliot Feder, Vadim Tsatskin, Oded Pasternak, Alan Silverstein, Herbert Groberman, Allan Walker, Peter Robinson, Vyacheslav Brikman, Nikola Bajovski, Bruce Cohen and Andrew Shiff** s. 127 C. Watson in attendance for Staff Panel: PLK

October 22 and October 24 – November 5, 2012 10:00 a.m.	**MBS Group (Canada) Ltd., Balbir Ahluwalia and Mohinder Ahluwalia** s. 37, 127 and 127.1 C. Rossi in attendance for staff Panel: TBA
October 29-31, 2012 10:00 a.m.	**Shallow Oil & Gas Inc., Eric O'Brien, Abel Da Silva and Abraham Herbert Grossman aka Allen Grossman and Kevin Wash** s. 127 H. Craig/S. Schumacher in attendance for Staff Panel: JDC
October 31 – November 5, November 7-9, December 3, December 5-17 and December 19, 2012 10:00 a.m.	**Rezwealth Financial Services Inc., Pamela Ramoutar, Justin Ramoutar, Tiffin Financial Corporation, Daniel Tiffin, 2150129 Ontario Inc., Sylvan Blackett, 1778445 Ontario Inc. and Willoughby Smith** s. 127(1) and (5) A. Heydon in attendance for Staff Panel: TBA
November 5, 2012 10:00 a.m.	**Heir Home Equity Investment Rewards Inc.; FFI First Fruit Investments Inc.; Wealth Building Mortgages Inc.; Archibald Robertson; Eric Deschamps; Canyon Acquisitions, LLC; Canyon Acquisitions International, LLC; Brent Borland; Wayne D. Robbins; Marco Caruso; Placencia Estates Development, Ltd.; Copal Resort Development Group, LLC; Rendezvous Island, Ltd.; The Placencia Marina, Ltd.; and The Placencia Hotel and Residences Ltd.** s. 127 B. Shulman in attendance for Staff Panel: TBA
November 12-19 and November 21, 2012 10:00 a.m.	**Sandy Winick, Andrea Lee McCarthy, Kolt Curry, Laura Mateyak, Gregory J. Curry, American Heritage Stock Transfer Inc., American Heritage Stock Transfer, Inc., BFM Industries Inc., Liquid Gold International Inc., and Nanotech Industries Inc.** s. 127 J. Feasby in attendance for Staff Panel: TBA
November 21 – December 3 and December 5- 14, 2012 10:00 a.m.	**Bernard Boily** s. 127 and 127.1 M. Vaillancourt/U. Sheikh in attendance for Staff Panel: TBA
December 4, 2012 3:30 p.m.	**Global Consulting and Financial Services, Crown Capital Management Corporation, Canadian Private Audit Service, Executive Asset Management, Michael Chomica, Peter Siklos (Also Known As Peter Kuti), Jan Chomica, and Lorne Banks** s. 127 H. Craig/C. Rossi in attendance for Staff Panel: CP
December 20, 2012 10:00 a.m.	**New Hudson Television Corporation, New Hudson Television L.L.C. & James Dmitry Salganov** s. 127 C. Watson in attendance for Staff Panel: TBA
January 7 – February 5, 2013 10:00 a.m.	**Jowdat Waheed and Bruce Walter** s. 127 J. Lynch in attendance for Staff Panel: TBA

January 21-28 and January 30 – February 1, 2013 10:00 a.m.	**Moncasa Capital Corporation and John Frederick Collins** s. 127 T. Center in attendance for Staff Panel: TBA
January 23-25 and January 30-31, 2013 10:00 a.m.	**Sage Investment Group, C.A.D.E Resources Group Inc., Greenstone Financial Group, Fidelity Financial Group, Antonio Carlos Neto David Oliveira, and Anne Marie Ridley** s. 127 C. Watson in attendance for Staff Panel: TBA
February 4-11 and February 13, 2013 10:00 a.m.	**Alexander Christ Doulis (aka Alexander Christos Doulis, aka Alexandros Christodoulidis) and Liberty Consulting Ltd.** s. 127 J. Feasby in attendance for Staff Panel: TBA
March 18-25, March 27-28, April 1-5 and April 24-25, 2013 10:00 a.m.	**Peter Sbaraglia** s. 127 J. Lynch in attendance for Staff Panel: CP
April 29 –May 6 and May 8-10, 2013 10:00 a.m.	**North American Financial Group Inc., North American Capital Inc., Alexander Flavio Arconti, and Luigino Arconti** s. 127 M. Vaillancourt 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	**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	**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

TBA

Gold-Quest International, Health and Harmoney, Iain Buchanan and Lisa Buchanan

s. 127

H. Craig in attendance for Staff

Panel: TBA

TBA

Brilliante Brasilcan Resources Corp., York Rio Resources Inc., Brian W. Aidelman, Jason Georgiadis, Richard Taylor and Victor York

s. 127

H. Craig in attendance for Staff

Panel: TBA

TBA

Paul Azeff, Korin Bobrow, Mitchell Finkelstein, Howard Jeffrey Miller and Man Kin Cheng (a.k.a. Francis Cheng)

s. 127

T. Center/D. Campbell in attendance for Staff

Panel: TBA

TBA

Uranium308 Resources Inc., Michael Friedman, George Schwartz, Peter Robinson, and Shafi Khan

s. 127

H. Craig/C.Rossi in attendance for Staff

Panel: TBA

TBA

Paul Donald

s. 127

C. Price in attendance for Staff

Panel: TBA

TBA

Axcess Automation LLC, Axcess Fund Management, LLC, Axcess Fund, L.P., Gordon Alan Driver, David Rutledge, 6845941 Canada Inc. carrying on business as Anesis Investments, Steven M. Taylor, Berkshire Management Services Inc. carrying on business as International Communication Strategies, 1303066 Ontario Ltd. Carrying on business as ACG Graphic Communications, Montecassino Management Corporation, Reynold Mainse, World Class Communications Inc. and Ronald Mainse

s. 127

Y. Chisholm 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

2196768 Ontario Ltd carrying on business as Rare Investments, Ramadhar Dookhie, Adil Sunderji and Evgueni Todorov

s. 127

D. Campbell in attendance for Staff

Panel: TBA

TBA

York Rio Resources Inc., Brilliante Brasilcan Resources Corp., Victor York, Robert Runic, George Schwartz, Peter Robinson, Adam Sherman, Ryan Demchuk, Matthew Oliver, Gordon Valde and Scott Bassingdale

s. 127

H. Craig/C. Watson in attendance for Staff

Panel: TBA

TBA	**Innovative Gifting Inc., Terence Lushington, Z2A Corp., and Christine Hewitt** s. 127 M. Vaillancourt in attendance for Staff Panel: TBA
TBA	**Simply Wealth Financial Group Inc., Naida Allarde, Bernardo Giangrosso, K&S Global Wealth Creative Strategies Inc., Kevin Persaud, Maxine Lobban and Wayne Lobban** s. 127 and 127.1 C. Johnson in attendance for Staff Panel: TBA
TBA	**Firestar Capital Management Corp., Kamposse Financial Corp., Firestar Investment Management Group, Michael Ciavarella and Michael Mitton** s. 127 H. Craig in attendance for Staff Panel: TBA
TBA	**David M. O'Brien** s. 37, 127 and 127.1 B. Shulman in attendance for Staff Panel: TBA
TBA	**Ground Wealth Inc., Armadillo Energy Inc., Paul Schuett, Doug DeBoer, James Linde, Susan Lawson, Michelle Dunk, Adrion Smith, Bianca Soto and Terry Reichert** s. 127 S. Schumacher in attendance for Staff Panel: TBA
TBA	**Eda Marie Agueci, Dennis Wing, Santo Iacono, Josephine Raponi, Kimberley Stephany, Henry Fiorillo, Giuseppe (Joseph) Fiorini, John Serpa, Ian Telfer, Jacob Gornitzki and Pollen Services Limited** s. 127 J, Waechter/U. Sheikh in attendance for Staff Panel: TBA
TBA	**Empire Consulting Inc. and Desmond Chambers** s. 127 D. Ferris in attendance for Staff Panel: TBA
TBA	**American Heritage Stock Transfer Inc., American Heritage Stock Transfer, Inc., BFM Industries Inc., Denver Gardner Inc., Sandy Winick, Andrea Lee McCarthy, Kolt Curry and Laura Mateyak** s. 127 J. Feasby in attendance for Staff Panel: TBA

TBA

**Energy Syndications Inc.
Green Syndications Inc. ,
Syndications Canada Inc.,
Daniel Strumos, Michael Baum
and Douglas William Chaddock**

s. 127

C. Johnson in attendance for Staff

Panel: TBA

TBA

**Bunting & Waddington Inc.,
Arvind Sanmugam, Julie Winget
and Jenifer Brekelmans**

s. 127

S. Schumacher in attendance for Staff

Panel: TBA

TBA

Global Energy Group, Ltd., New Gold Limited Partnerships, Christina Harper, Vadim Tsatskin, Michael Schaumer, Elliot Feder, Oded Pasternak, Alan Silverstein, Herbert Groberman, Allan Walker, Peter Robinson, Vyacheslav Brikman, Nikola Bajovski, Bruce Cohen and Andrew Shiff

s. 37, 127 and 127.1

C. Watson in attendance for Staff

Panel: TBA

TBA

**Colby Cooper Capital Inc.
Colby Cooper Inc., Pac West Minerals Limited John Douglas Lee Mason**

s. 127

B. Shulman in attendance for Staff

Panel: TBA

TBA

Normand Gauthier, Gentree Asset Management Inc., R.E.A.L. Group Fund III (Canada) LP, and CanPro Income Fund I, LP

s. 127

B. Shulman in attendance for Staff

Panel: TBA

TBA

Beryl Henderson

s. 127

S. Schumacher in attendance for Staff

Panel: TBA

TBA

**Ciccone Group, Cabo Catoche Corp. (a.k.a Medra Corp. and Medra Corporation), 990509 Ontario Inc.,
Tadd Financial Inc., Cachet Wealth Management Inc., Vincent Ciccone
(a.k.a. Vince Ciccone), Darryl Brubacher, Andrew J Martin, Steve Haney, Klaudiusz Malinowski
and Ben Giangrosso**

s. 127

M. Vaillancourt in attendance for Staff

Panel: TBA

TBA

**International Strategic Investments, International Strategic Investments
Inc., Somin Holdings Inc., Nazim Gillani and Ryan J. Driscoll.**

s. 127

C. Watson in attendance for Staff

Panel: TBA

TBA **Majestic Supply Co. Inc., Suncastle Developments Corporation, Herbert Adams, Steve Bishop, Mary Kricfalusi, Kevin Loman and CBK Enterprises Inc.**

s. 37, 127 and 127.1

D. Ferris in attendance for Staff

Panel: TBA

TBA **David Charles Phillips**

s. 127

Y. Chisholm in attendance for Staff

Panel: TBA

TBA **Shaun Gerard McErlean and Securus Capital Inc.**

s. 127

M. Britton in attendance for Staff

Panel: TBA

TBA **Nest Acquisitions and Mergers, IMG International Inc., Caroline Myriam Frayssignes, David Pelcowitz, Michael Smith, and Robert Patrick Zuk**

s. 37, 127 and 127.1

C. Price in attendance for Staff

Panel: TBA

ADJOURNED SINE DIE

Global Privacy Management Trust and Robert Cranston

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

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 12-307 – Applications for a Decision that an Issuer is not a Reporting Issuer

CSA/ACVM Canadian Securities Administrators Autorités canadiennes en valeurs mobilières

CSA Staff Notice 12-307
Applications for a Decision that an Issuer is not a Reporting Issuer

(First published September 12, 2003 and revised
February 4, 2005, November 1, 2006, March 7, 2008, and July 26, 2012)

Purpose

This Notice provides information and guidance on coordinated review applications that may be made under National Policy 11-203 *Process for Exemptive Relief Applications in Multiple Jurisdictions* (NP 11-203) for a decision that an issuer is not a reporting issuer (a decision). Among other things, this Notice covers:

- how an issuer can apply for a decision under a simplified procedure if it meets certain conditions,
- how an issuer can apply for a decision if it is not eligible to use the simplified procedure,
- how an issuer can describe the decision it wants in a way that addresses legislative differences between jurisdictions,
- how a foreign issuer with a small securityholder presence in Canada can apply for a decision, and
- the procedure for dissolved issuers.

In this Notice, "securityholder" means, for a security, the beneficial owner of the security.

The Simplified Procedure

The local securities regulatory authority or regulator (the Decision Maker) in each of Alberta, Saskatchewan, Manitoba, Ontario, Québec, New Brunswick, Prince Edward Island, Nova Scotia, Newfoundland and Labrador, Yukon, the Northwest Territories and Nunavut (the Jurisdictions) has adopted a simplified procedure for certain coordinated review applications (NP 11-203 describes the process for a coordinated review application) in which an issuer is seeking a decision that it is not a reporting issuer under the securities legislation of the Jurisdictions (the Legislation).

The simplified procedure is available to a reporting issuer:

- that is not a reporting issuer in British Columbia (including an issuer that has voluntarily surrendered its reporting issuer status under British Columbia Instrument 11-502 *Voluntary Surrender of Reporting Issuer Status*),
- that is seeking a decision that it is not a reporting issuer, from the Decision Maker in each of the Jurisdictions in which it is a reporting issuer,
- whose outstanding securities, including debt securities, are beneficially owned, directly or indirectly, by fewer than 15 securityholders in each of the jurisdictions of Canada and fewer than 51 securityholders in total worldwide,
- whose securities, including debt securities, are not traded in Canada or another country on a marketplace as defined in National Instrument 21-101 *Marketplace Operation* or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported, and
- that is not in default of any of its obligations under the Legislation as a reporting issuer.

A reporting issuer may request a decision under the simplified procedure by submitting, to each of the Jurisdictions in which it is seeking the decision, the fees applicable under the Legislation, a draft decision document and a letter in duplicate prepared by or on behalf of the issuer that:

- states that the issuer is seeking a decision of the Decision Makers that it is not a reporting issuer,
- references the simplified procedure in this Notice, and
- includes representations that the applicant meets each of the criteria set out in the simplified procedure in this Notice.

Schedule 1 includes a sample application letter and form of decision document. In some cases, staff may request additional information from the reporting issuer. The reporting issuer should make its application in paper and electronic format as described in section 5.5 of NP 11-203.

The procedure will simplify the process in certain routine circumstances for a reporting issuer submitting a coordinated review application under NP 11-203 for decision that it is not a reporting issuer.

Applying for relief in British Columbia

The simplified procedure is not available in British Columbia. If a reporting issuer has no more than 50 securityholders (both debt and equity) and its securities are not traded through any exchange or market, it may surrender its status as a reporting issuer in that province by filing with the British Columbia Securities Commission the notice described in British Columbia Instrument 11-502 *Voluntary Surrender of Reporting Issuer Status*. The issuer would then apply for relief in other jurisdictions using the simplified procedure under this Notice.

OTC reporting issuers

The simplified procedure and the modified approach described in this Notice are not available to a reporting issuer that is an OTC reporting issuer under Multilateral Instrument 51-105 *Issuers Quoted in the U.S. Over-the-Counter Markets*.

What to do when the simplified procedure in this Notice and BC Instrument 11-502 is not available

If an issuer cannot meet all of the simplified procedure criteria in this Notice or in BC Instrument 11-502 (if the issuer is a reporting issuer in British Columbia), the issuer should submit an application under the standard procedure for a coordinated review application under NP 11-203 using the form of decision document attached as Annex C to NP 11-203. The reporting issuer should submit its application to each jurisdiction where the issuer is a reporting issuer.

An issuer wanting to avoid the minimum 10-day waiting period under BC Instrument 11-502 (which is a condition precedent to the other jurisdictions making a decision under the simplified procedure) should follow the standard procedure for a coordinated review application.

How to describe the decision the issuer wants

The legislation varies among the jurisdictions in how it authorizes regulators to terminate reporting issuer status. An issuer should include the language in the legislation of its principal regulator in its draft decision document. Where Québec is not the principal regulator and the issuer requires a decision in Québec, the issuer should also include the wording “revoke the issuer’s status as a reporting issuer” in its draft decision document if the language in the legislation of the principal regulator uses the phrase “ceased to be a reporting issuer”. The form of decision document in Schedule 1 to this Notice sets out the applicable language for each principal regulator.

Going-private transactions

Where the issuer is in the process of completing a going-private transaction following which it will want to stop being a reporting issuer, the issuer may apply for relief using the simplified procedure in this Notice prior to completing the transaction. A jurisdiction cannot make a decision until the transaction is complete and the issuer can represent that it has satisfied all the criteria for the simplified procedure.

Successor reporting issuers

In circumstances where an issuer has exchanged its securities with another party (or that party’s securityholders) in connection with a statutory arrangement or procedure, the issuer should consider whether any other party in the transaction will or has become a reporting issuer following the exchange. If so, the issuer should disclose the name of that party in its application to stop being a reporting issuer and provide a brief summary of the statutory arrangement or procedure and the parties involved.

Issuers subject to business corporations legislation in certain jurisdictions

In certain jurisdictions of Canada, the local business corporations legislation:

- contains certain provisions that apply to reporting issuers that were incorporated, continued or amalgamated under the business corporations legislation, and
- provides that if a reporting issuer no longer wants those provisions to apply to it, it must obtain an order from the Decision Maker that it is no longer a public company for the purposes of the business corporations legislation.

Issuers should review their business corporations legislation to determine if they need to make a separate application to the relevant Decision Maker for an order under the business corporations legislation. A decision obtained under the simplified procedure in this Notice or a coordinated review application under NP 11-203 is only for the purposes of securities legislation.

Foreign issuers

Foreign-incorporated issuers often seek decisions that they are not reporting issuers under applicable securities legislation when they have a declining numbers of securityholders in Canada. In general, these issuers do not meet the criteria for the simplified procedure in this Notice because they typically have many beneficial securityholders in jurisdictions in Canada, and their securities are listed on one or more exchanges outside of Canada. However, they wish to cease being reporting issuers in Canada because their securities are not listed on an exchange in Canada and they do not intend to make any further distributions of securities in Canada.

Past approach

In the past, CSA staff have recommended a decision that a foreign issuer is not a reporting issuer where the issuer could demonstrate that Canadian ownership of its securities is *de minimis* compared to the total ownership by non-Canadian securityholders. In past decisions, this has been demonstrated when an issuer had:

- fewer than 300 beneficial securityholders in Canada, and
- a small percentage of total securityholdings beneficially owned by Canadian residents.

Modified approach

We have adopted a modified approach for applications by issuers that report in the U.S. and are listed on a U.S. exchange. If such an issuer meets the following criteria, CSA staff will generally recommend a decision that the issuer is not a reporting issuer:

1. The issuer makes a representation that residents of Canada do not:

   (a) directly or indirectly beneficially own more than 2% of each class or series of outstanding securities (including debt securities) of the issuer worldwide, and

   (b) directly or indirectly comprise more than 2% of the total number of securityholders of the issuer worldwide.

   CSA staff realize that some filers have difficulty making representations on the beneficial ownership of securities by residents of Canada. CSA staff will not generally recommend granting the relief without the issuer satisfying the “2% test”. In addition, staff will not generally recommend granting the relief where a representation is qualified or limited to the knowledge of the issuer, unless the issuer can fully demonstrate that it has made diligent enquiry to support the representation and why it cannot give an unqualified representation.

2. The issuer files continuous disclosure reports under U.S. securities laws and is listed on a U.S. exchange.

3. In the 12 months before applying for the decision, the issuer has not taken any steps that indicate there is a market for its securities in Canada. Steps that would indicate there is a market in Canada include conducting a prospectus offering in Canada, or establishing or maintaining a listing on a Canadian marketplace or exchange.

4. The issuer provides advance notice to Canadian resident securityholders in a news release that it has applied to securities regulatory authorities for a decision that it is not a reporting issuer in Canada and, if that decision is made, the issuer will no longer be a reporting issuer in any jurisdiction of Canada.

5. The issuer undertakes to concurrently deliver to its Canadian securityholders, all disclosure the issuer would be required under U.S. securities law or exchange requirements to deliver to U.S. resident securityholders.

Non-U.S. issuers that are listed on a major foreign exchange and meet the 2% test may also apply using the modified approach, provided that the issuer demonstrates that Canadian securityholders will receive adequate disclosure under the foreign securities law or exchange requirements.

Reporting issuer that has been dissolved or terminated

A reporting issuer does not need to apply for a decision that it is not a reporting issuer if it is:

- a corporation that was dissolved under applicable corporate legislation,
- a limited partnership that was dissolved under applicable limited partnership legislation,
- a trust that was terminated under its declaration of trust, or
- another form of business organization that was dissolved or terminated under its applicable governing legislation or constating or establishing document.

In each case, it will be sufficient if an agent files evidence of the dissolution or termination with the securities regulatory authority in each jurisdiction where the issuer was a reporting issuer.

For a corporation, sufficient evidence includes a copy of the certificate and articles of dissolution.

For a limited partnership, sufficient evidence typically includes:

- a copy of the declaration of dissolution or similar document filed under applicable limited partnership legislation, and
- a written representation from the general partner about the effective date of dissolution under applicable limited partnership legislation.

For a trust, sufficient evidence typically includes:

- a copy of the resolution authorizing the termination of the trust,
- a report on voting results indicating that the resolution was passed,
- a written representation that the trust no longer exists (it is sufficient if this representation is provided by filing counsel or former trustees or officers),
- a copy of the change in corporate structure notice filed under section 4.9 of National Instrument 51-102 *Continuous Disclosure Obligations*, and
- evidence such as a copy of a news release or written submission from filing counsel that the trust has no securities outstanding and none listed on an exchange.

If an issuer has commenced dissolution proceedings but still exists, it will remain a reporting issuer in the absence of a decision that it is not a reporting issuer.

Questions

Please refer your questions to any of the following people:

Leslie Rose
Senior Legal Counsel, Corporate Finance
British Columbia Securities Commission
604-899-6654 or 1-800-373-6393 (toll free in Canada)
lrose@bcsc.bc.ca

Carina Kwan
Legal Counsel, Investment Funds
Ontario Securities Commission
416-593-8052
ckwan@osc.gov.on.ca

Ian Kerr
Senior Legal Counsel
Alberta Securities Commission
403-297-4225
ian.kerr@asc.ca

Ola Ben-Ajayi
Legal Counsel, Securities Division
Saskatchewan Financial Services Commission
306-798-3381
ola.ben-ajayi@gov.sk.ca

Chris Besko
Deputy Director, Legal Counsel
The Manitoba Securities Commission
204-945-2561
chris.besko@gov.mb.ca

Michael Bennett
Senior Legal Counsel, Corporate Finance
Ontario Securities Commission
416-593-8079
mbennett@osc.gov.on.ca

Edvie Élysée
Analyste
Autorité des marchés financiers
514-395-0337 ext. 4416
edvie.elysee@lautorite.qc.ca

Sylvie Lalonde
Directrice de la réglementation
Autorité des marchés financiers
514-395-0337 ext. 4461
sylvie.lalonde@lautorite.qc.ca

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

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

July 26, 2012

Schedule 1

Example of an Application Letter under the Simplified Procedure

[Enter date]

**[List name of the principal regulator
and each non-principal regulator]**

Dear Sirs/Mesdames:

Re: [Enter name of applicant] (the Applicant) - application for a decision under the securities legislation of [list the jurisdictions] (the Jurisdictions) that the Applicant is not a reporting issuer

We are applying to the **[identify principal regulator]** as principal regulator **[on behalf of the Applicant]** for a decision under the securities legislation (the Legislation) of the Jurisdictions that the Applicant is not a reporting issuer.

In this application, “securityholder” means, for a security, the beneficial owner of the security.

Under the simplified procedure in CSA Staff Notice 12-307, the Applicant represents that:

- the outstanding securities of the Applicant, including debt securities, are beneficially owned, directly or indirectly, by fewer than 15 securityholders in each of the jurisdictions of Canada and fewer than 51 securityholders in total worldwide;
- no securities of the Applicant, including debt securities, are traded in Canada or another country on a marketplace as defined in National Instrument 21-101 *Marketplace Operation* or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported;
- the Applicant is applying for a decision that it is not a reporting issuer in all of the jurisdictions of Canada in which it is currently a reporting issuer; and
- the Applicant is not in default of any of its obligations under the Legislation as a reporting issuer.

[Enter name of Applicant]
[Signature of the person who has signing authority]

Example of a Decision Document under the Simplified Procedure

[Enter date]

[Enter name and address of Applicant]

Dear Sirs/Mesdames:

Re: [Enter name of applicant] (the Applicant) – application for a decision under the securities legislation of [list the jurisdictions] (the Jurisdictions) that the Applicant is not a reporting issuer

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

In this decision, "securityholder" means, for a security, the beneficial owner of the security.

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 securityholders in each of the jurisdictions of Canada and fewer than 51 securityholders in total worldwide;

(b) no securities of the Applicant, including debt securities, are traded in Canada or another country on a marketplace as defined in National Instrument 21-101 *Marketplace Operation* or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported;

(c) the Applicant is applying for a decision that it is not a reporting issuer in all of the jurisdictions of 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.

[If the principal regulator is Ontario, insert:]

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

OR

[If the principal regulator is Saskatchewan or New Brunswick, insert:]

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

OR

[If the principal regulator is Alberta or Nova Scotia, insert:]

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 **[if a decision is also sought in Quebec, add:]** and that the Applicant's status as a reporting issuer is revoked.

OR

[If the principal regulator is Manitoba, insert:]

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 makes an order declaring that the Applicant has ceased to be a reporting issuer **[if a decision is also sought in Quebec, add:]** and revoking the Applicant's status as a reporting issuer.

OR

[If principal regulator is Quebec, insert:]

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's status as a reporting issuer is revoked.

_____ **(Name of signatory for the principal regulator)**

_____ **(Title)**

_____ **(Name of principal regulator)**

1.1.3 OSC Staff Notice 12-703 – Applications for a Decision that an Issuer is not a Reporting Issuer

OSC Staff Notice 12-703
Applications for a Decision that an Issuer is not a Reporting Issuer

(Revised July 26, 2012)

Purpose

This Notice provides information and guidance on applications that may be made under subclause 1(10)(a)(ii) of the *Securities Act* (Ontario)(the Act) for an order that an issuer is not a reporting issuer (a decision).

This Notice applies to an issuer that only requires a decision in Ontario. If a decision is required in more than one jurisdiction of Canada, please see the guidance in CSA Staff Notice 12-307 *Applications for a Decision that an Issuer is not a Reporting Issuer*.

Among other things, this Notice covers:

- how an issuer can apply for a decision under a simplified procedure if it meets certain conditions,
- how an issuer can apply for a decision if it is not eligible to use the simplified procedure,
- how a foreign issuer with a small securityholder presence in Canada can apply for a decision, and
- the procedure for dissolved issuers.

In this Notice, "securityholder" means, for a security, the beneficial owner of the security.

The Simplified Procedure

The Ontario Securities Commission (the Commission) has adopted a simplified procedure for certain applications under subclause 1(10)(a)(ii) of the Act in which an issuer is seeking a decision that it is not a reporting issuer. Pursuant to an assignment of certain of the Commission's powers that was made under subsection 6(3) of the Act, a decision under the simplified procedure can be made by the Director under the Act. The Director does not have the power to grant relief to a reporting issuer that does not meet the conditions for the simplified procedure (only the Commission may grant relief to such a reporting issuer).

The simplified procedure is available to a reporting issuer:

- whose outstanding securities, including debt securities, are beneficially owned, directly or indirectly, by fewer than 15 securityholders in Ontario and fewer than 51 securityholders in total worldwide,
- whose securities, including debt securities, are not traded in Canada or another country on a marketplace as defined in National Instrument 21-101 *Marketplace Operation* or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported,
- that is not in default of any of its obligations as a reporting issuer, and
- that will not be a reporting issuer in any jurisdiction of Canada immediately following the director making a decision that the issuer is not a reporting issuer.

A reporting issuer may request a decision under the simplified procedure by submitting, a draft decision document and a letter in duplicate prepared by or on behalf of the issuer that:

- states that the issuer is seeking a decision of the Director that it is not a reporting issuer,
- references the simplified procedure in this Notice, and

- includes representations that the applicant meets each of the criteria set out in the simplified procedure in this Notice.

Schedule 1 includes a sample application letter and form of decision document. In some cases, staff may request additional information from the reporting issuer. The reporting issuer should make its application in paper and electronic format to:

Ontario Securities Commission
20 Queen Street West
Suite 1903, Box 55
Toronto, ON
M5H 3S8

Attention: Applications Administrator

The issuer should provide an electronic copy of the application letter and form of decision document by email to: applications@osc.gov.on.ca. The application should be accompanied by the signed verification statement referred to in section D(e) of OSC Policy 2.1 *Applications to the Ontario Securities Commission*. If confidentiality is requested, the application should comply with section C.2 of OSC Policy 2.1.

What to do when the simplified procedure in this Notice is not available

If an issuer cannot meet all of the simplified procedure criteria in this Notice, the issuer should submit an application under the standard procedure for an application under OSC Policy 2.1 using a more detailed application letter and form of decision document.

Going-private transactions

Where the issuer is in the process of completing a going-private transaction following which it will want to stop being a reporting issuer, the issuer may apply for relief using the simplified procedure in this Notice prior to completing the transaction. The Director cannot make a decision until the transaction is complete and the issuer can represent that it has satisfied all the criteria for the simplified procedure.

Successor reporting issuers

In circumstances where an issuer has exchanged its securities with another party (or that party's securityholders) in connection with a statutory arrangement or procedure, the issuer should consider whether any other party in the transaction will or has become a reporting issuer following the exchange. If so, the issuer should disclose the name of that party in its application to stop being a reporting issuer and provide a brief summary of the statutory arrangement or procedure and the parties involved.

Issuers subject to the *Business Corporations Act* (Ontario)

The *Business Corporations Act* (Ontario)(the OBCA):

- contains certain provisions that apply to reporting issuers that were incorporated, continued or amalgamated under the OBCA (the OBCA refers to these reporting issuers as "offering corporations"), and

- provides, in subsection 1(6), that if an offering corporation no longer wants those provisions to apply to it, it must obtain an order from the Commission deeming it to have ceased to be offering its securities to the public.

If an offering corporation requires an order under subsection 1(6) of the OBCA, it must make a separate application to the Commission. A decision obtained under the simplified procedure in this Notice or other application under subclause 1(10)(a)(ii) of the Act is only for the purposes of securities legislation.

Foreign issuers

Foreign-incorporated issuers often seek decisions that they are not reporting issuers under applicable securities legislation when they have a declining numbers of securityholders in Canada. In general, these issuers do not meet the criteria for the simplified procedure in this Notice because they typically have many beneficial securityholders in jurisdictions in Canada, and their securities are listed on one or more exchanges outside of Canada. For guidance on how such a foreign issuer can obtain a decision that the issuer is not a reporting issuer, please see the guidance under the heading "Foreign issuers" in CSA Staff Notice 12-307.

Reporting issuer that has been dissolved or terminated

A reporting issuer does not need to apply for a decision that it is not a reporting issuer if it is:

- a corporation that was dissolved under applicable corporate legislation,
- a limited partnership that was dissolved under applicable limited partnership legislation,
- a trust that was terminated under its declaration of trust, or
- another form of business organization that was dissolved or terminated under its applicable governing legislation or constating or establishing document.

In each case, it will be sufficient if an agent files evidence of the dissolution or termination with the Commission.

For a corporation, sufficient evidence includes a copy of the certificate and articles of dissolution.

For a limited partnership, sufficient evidence typically includes:

- a copy of the declaration of dissolution or similar document filed under applicable limited partnership legislation, and
- a written representation from the general partner about the effective date of dissolution under applicable limited partnership legislation.

For a trust, sufficient evidence typically includes:

- a copy of the resolution authorizing the termination of the trust,
- a report on voting results indicating that the resolution was passed,
- a written representation that the trust no longer exists (it is sufficient if this representation is provided by filing counsel or former trustees or officers),
- a copy of the change in corporate structure notice filed under section 4.9 of National Instrument 51-102 *Continuous Disclosure Obligations*, and
- evidence such as a copy of a news release or written submission from filing counsel that the trust has no securities outstanding and none listed on an exchange.

If an issuer has commenced dissolution proceedings but still exists, it will remain a reporting issuer in the absence of a decision that it is not a reporting issuer.

Questions

Please refer your questions to any of the following people:

Michael Bennett
Senior Legal Counsel, Corporate Finance
Ontario Securities Commission
416-593-8079
mbennett@osc.gov.on.ca

Carina Kwan
Legal Counsel, Investment Funds
Ontario Securities Commission
416-593-8052
ckwan@osc.gov.on.ca

July 26, 2012

Schedule 1

Example of an Application Letter under the Simplified Procedure

[Enter date]

Ontario Securities Commission
20 Queen Street West
Suite 1903, Box 55
Toronto, ON
M5H 3S8

Attention: Applications Administrator

Dear Sirs/Mesdames:

Re: [Enter name of applicant] (the Applicant) – application for an order under subclause 1(10)(a)(ii) of the *Securities Act* (Ontario)(the Act) that the Applicant is not a reporting issuer

We are applying to the Ontario Securities Commission **[on behalf of the Applicant]** for an order under subclause 1(10)(a)(ii) of the Act that the Applicant is not a reporting issuer.

In this application, "securityholder" means, for a security, the beneficial owner of the security.

Under the simplified procedure in OSC Staff Notice 12-703, the Applicant represents that:

- the outstanding securities of the Applicant, including debt securities, are beneficially owned, directly or indirectly, by fewer than 15 securityholders in Ontario and fewer than 51 securityholders in total worldwide;
- no securities of the Applicant, including debt securities, are traded in Canada or another country on a marketplace as defined in National Instrument 21-101 *Marketplace Operation* or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported;
- the Applicant is not in default of any of its obligations under the Act as a reporting issuer; and
- the Applicant will not be a reporting issuer in any jurisdiction in Canada immediately following the Director granting the relief requested.

[Enter name of Applicant]
[Signature of the person who has signing authority]

Example of a Decision Document under the Simplified Procedure

[Enter date]

[Enter name and address of Applicant]

Dear Sirs/Mesdames:

Re: [Enter name of applicant] (the Applicant) – application for an order under subclause 1(10)(a)(ii) of the *Securities Act* (Ontario)(the Act) that the Applicant is not a reporting issuer

The Applicant has applied to the Ontario Securities Commission for an order under subclause 1(10)(a)(ii) of the Act that the Applicant is not a reporting issuer.

In this order, "securityholder" means, for a security, the beneficial owner of the security.

The Applicant has represented to the Commission that:

(a) the outstanding securities of the Applicant, including debt securities, are beneficially owned, directly or indirectly, by fewer than 15 securityholders in Ontario and fewer than 51 securityholders in total worldwide;

(b) no securities of the Applicant, including debt securities, are traded in Canada or another country on a marketplace as defined in National Instrument 21-101 *Marketplace Operation* or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported;

(c) the Applicant is not in default of any of its obligations under the Legislation as a reporting issuer; and

(d) the Applicant will not be a reporting issuer in any jurisdiction of Canada immediately following the Director granting the relief requested.

The Director is satisfied that it would not be prejudicial to the public interest to grant the requested relief and orders that the Applicant is not a reporting issuer.

_____
[Name of signatory]
[Title]
Ontario Securities Commission

1.1.4 Notice of Correction – DirectCash Payments Inc.

An incorrect date was published for this decision, published on July 19. 2012 at (2012), 35 OSCB 6675.

The date read "June 11, 2012", and should have read "July 11, 2012".

1.2 Notices of Hearing

1.2.1 New Found Freedom Financial 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
NEW FOUND FREEDOM FINANCIAL,
RON DEONARINE SINGH, WAYNE GERARD MARTINEZ,
PAULINE LEVY, DAVID WHIDDEN, PAUL SWABY AND ZOMPAS CONSULTING

NOTICE OF HEARING
Sections 127 and 127.1

TAKE NOTICE THAT the Ontario Securities Commission (the "Commission") will hold a hearing pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") at the offices of the Commission located at 20 Queen Street West, 17th Floor, commencing on July 26, 2012 at 3:00 p.m., or as soon thereafter as the hearing can be held;

AND TAKE NOTICE THAT the purpose of the hearing is for the Commission to consider whether it is in the public interest to approve the settlement agreement dated July 23, 2012 between Staff of the Commission and Paul Swaby and Zompas Consulting;

BY REASON OF the allegations set out in the Statement of Allegations dated November 1, 2011 and such additional allegations as counsel may advise and the Commission may permit;

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

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

DATED at Toronto this 24th day of July, 2012.

"Daisy Aranha"
Per: John Stevenson
Secretary to the Commission

1.3 News Releases

1.3.1 Canadian Securities Regulators Announce Results of Continuous Disclosure Reviews for Fiscal 2012

FOR IMMEDIATE RELEASE
July 19, 2012

CANADIAN SECURITIES REGULATORS ANNOUNCE RESULTS OF CONTINUOUS DISCLOSURE REVIEWS FOR FISCAL 2012

The Canadian Securities Administrators (CSA) today published Staff Notice 51-337 *Continuous Disclosure Review Program Activities for the fiscal year ended March 31, 2012*, which summarizes the results of the CSA's continuous disclosure (CD) review program.

The Notice includes detailed examples of common deficiencies the CSA identified during its review of financial statements, Management's Discussion and Analysis (MD&A) and other regulatory disclosures, and provides reporting issuers with practical guidance and suggestions for improving their disclosure.

"Continuous disclosure is paramount to an efficient Canadian capital market, and ensuring information is timely, reliable and relevant is fundamental for maintaining investor confidence," said Bill Rice, Chair of the CSA and Chair and CEO of the Alberta Securities Commission.

CSA members completed 1,248 CD reviews in fiscal 2012, compared to 1,351 in fiscal 2011. The number of full reviews (453) conducted in fiscal 2012 increased by four per cent from the previous year, while the number of issue-oriented reviews (795) decreased by 13 per cent. The decrease was the result of the CSA concentrating its resources on conducting full reviews and focusing on International Financial Reporting Standards (IFRS) issue-oriented reviews that were more complex and comprehensive than those completed in fiscal 2011.

The results of this year's reviews are as follows:

- Two per cent of issuers were cease-traded, placed on a default list or referred to Enforcement;
- Nine per cent of the reviews resulted in reporting issuers being alerted to specific areas where disclosure enhancements should be considered, as part of the CSA's effort to educate issuers;
- 17 per cent of the reviews resulted in reporting issuers being required to amend or re-file certain CD documents;
- 28 per cent of the reviews resulted in "prospective changes", requiring reporting issuers to make enhancements to their disclosure in future filings; and
- 44 per cent of issuers were not required to make any changes or additional filings.

Excluding investment funds and issuers that have been cease-traded, there are approximately 4,200 active reporting issuers in Canada. These issuers are subject to regular full and issue-oriented reviews as part of the ongoing CSA CD review program.

CSA Staff Notice 51-337 is available on various CSA members' websites.

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:

Sylvain Théberge
Autorité des marchés financiers
514-940-2176

Mark Dickey
Alberta Securities Commission
403-297-4481

Richard Gilhooley
British Columbia Securities Commission
604-899-6713

Carolyn Shaw-Rimmington
Ontario Securities Commission
416-593-2361

Ainsley Cunningham
Manitoba Securities Commission
204-945-4733

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

Tanya Wiltshire
Nova Scotia Securities Commission
902-424-8586

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

Helena Hrubesova
Yukon Securities Office
867-667-5466

Louis Arki
Nunavut Securities Office
867-975-6587

Donn MacDougall
Northwest Territories
Securities Office
867-920-8984

1.3.2 OSC Panel Releases Decision Regarding Shaun Gerard McErlean and Securus Capital Inc. Related to Breaches of the Ontario Securities Act

FOR IMMEDIATE RELEASE
July 23, 2012

OSC PANEL RELEASES DECISION REGARDING SHAUN GERARD MCERLEAN AND SECURUS CAPITAL INC. RELATED TO BREACHES OF THE ONTARIO SECURITIES ACT

TORONTO – In a decision released on July 19, 2012, an Ontario Securities Commission (OSC) panel found that Shaun Gerard McErlean (McErlean) and Securus Capital Inc. (Securus) breached the Ontario Securities Act in connection with raising approximately $14 million from eight offshore investors.

In its decision, the Panel found that McErlean and Securus breached the Securities Act by committing a fraud upon investors, trading securities without being registered, trading securities without filing a prospectus with the Commission and advising respecting securities without being registered.

The Panel held that Mr. McErlean represented to all investors that their money would be segregated in a separate account and would be used as collateral for investments in guaranteed, high-return trading. None of the money from the investors was used for that purpose. None of the money was kept separate and apart from the Securus bank account as was represented to investors.

The Panel found that steps were taken by Mr. McErlean, through the use of screen shots and false bank account numbers, to deceive investors into thinking their funds were separate and secure. All the investors funds were used by Mr. McErlean to pay personal expenses, to repay previous investors and to invest in private companies in which he or his family members had a financial interest. Ultimately the Panel found that Mr. McErlean's dishonest acts caused investors' funds to be placed at risk or lost entirely.

The Panel ordered the parties to appear before the panel on August 13, 2012 to set a date for a hearing with respect to sanctions and costs.

The mandate of the OSC is to provide protection to investors from unfair, improper or fraudulent practices and to foster fair and efficient capital markets and confidence in capital markets. Cease trade orders prohibit individuals or companies from trading in securities. Investors are urged to check the registration of any person or company offering an investment opportunity and to review the OSC investor materials available at www.osc.gov.on.ca.

For Media Inquiries:
media_inquiries@osc.gov.on.ca

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

Dylan Rae
Media Relations Specialist
416-595-8934

Follow us on Twitter: OSC_News

For Investor Inquiries:

OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

1.4 Notices from the Office of the Secretary

1.4.1 Marlon Gary Hibbert et al.

FOR IMMEDIATE RELEASE
July 19, 2012

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

AND

IN THE MATTER OF
MARLON GARY HIBBERT, ASHANTI CORPORATE SERVICES INC., DOMINION INTERNATIONAL RESOURCE MANAGEMENT INC., KABASH RESOURCE MANAGEMENT, POWER TO CREATE WEALTH INC. AND POWER TO CREATE WEALTH INC. (PANAMA)

TORONTO – The Commission issued an Order in the above named matter.

A copy of the Order dated July 18, 2012 is available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

For media inquiries:
media_inquiries@osc.gov.on.ca

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

Dylan Rae
Media Relations Specialist
416-595-8934

For investor inquiries:

OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

1.4.2 Energy Syndications Inc. et al.

FOR IMMEDIATE RELEASE
July 19, 2012

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

AND

IN THE MATTER OF
ENERGY SYNDICATIONS INC., GREEN SYNDICATIONS INC., SYNDICATIONS CANADA INC., DANIEL STRUMOS, MICHAEL BAUM AND DOUGLAS WILLIAM CHADDOCK

TORONTO – The Commission issued an Order in the above named matter which provides that this matter is adjourned to a confidential pre-hearing conference to be held on August 21, 2012 at 10:00 a.m.

The pre-hearing conference will be *in camera*.

A copy of the Order dated July 18, 2012 is available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

For media inquiries:
media_inquiries@osc.gov.on.ca

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

Dylan Rae
Media Relations Specialist
416-595-8934

For investor inquiries:

OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

1.4.3 Energy Syndications Inc. et al.

FOR IMMEDIATE RELEASE
July 19, 2012

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

AND

IN THE MATTER OF
ENERGY SYNDICATIONS INC.,
GREEN SYNDICATIONS INC.,
SYNDICATIONS CANADA INC.,
LAND SYNDICATIONS INC. AND
DOUGLAS CHADDOCK

TORONTO – The Commission issued an Order in the above named matter which provides that:

1. The Temporary Order is extended until August 22, 2012 or until further order of the Commission;

2. The extension of the Temporary Order does not prohibit Green from engaging in the sale of goods provided that any sales agreement does not constitute an investment contract, as defined by Ontario securities law; and

3. The extension of the Temporary Order shall not affect the right of any respondent to apply to the Commission under section 144 of the Act to revoke or vary this order upon five days written notice to Staff of the Commission;

The hearing of this matter is adjourned to August 21, 2012 at 10:30 a.m. or on such other date or time as provided by the Secretary's Office and agreed to by the parties.

A copy of the Order dated July 18, 2012 is available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

For media inquiries:
media_inquiries@osc.gov.on.ca

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

Dylan Rae
Media Relations Specialist
416-595-8934

For investor inquiries:

OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

1.4.4 Shaun Gerard McErlean and Securus Capital Inc.

FOR IMMEDIATE RELEASE
July 23, 2012

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

AND

IN THE MATTER OF
SHAUN GERARD MCERLEAN AND
SECURUS CAPITAL INC.

TORONTO – Following the hearing on the merits in the above noted matter, the Commission released its Reasons and Decision.

The Commission issued an Order which provides that Staff and Shaun Gerard McErlean attend before the Commission on August 13, 2012 at 2:00 p.m. for the purpose of scheduling a hearing with respect to sanctions and costs, which shall take place within 60 days of the Order.

A copy of the Reasons and Decision dated July 19, 2012 and the Order dated July 19, 2012 are available at **www.osc.gov.on.ca**.

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1.4.5 Peter Sbaraglia

FOR IMMEDIATE RELEASE
July 23, 2012

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

AND

IN THE MATTER OF
PETER SBARAGLIA

TORONTO – The Commission issued an Order in the above named matter which provides that (1) the hearing on the merits scheduled to commence on October 22, 2012 will commence on March 18, 2013, on a peremptory basis with respect to Sbaraglia, and shall continue until April 5, 2013, inclusive, with the exception of March 26 and 29, 2013, and further continue on April 24 and 25, 2013; and (2) a pre-hearing conference will be held on November 7, 2012, at 9:00 a.m.

The pre-hearing conference will be held *in camera*.

A copy of the Order dated July 19, 2012 is available at **www.osc.gov.on.ca**.

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SECRETARY

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Media Relations Specialist
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For investor inquiries:

OSC Contact Centre
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1-877-785-1555 (Toll Free)

1.4.6 New Found Freedom Financial et al.

FOR IMMEDIATE RELEASE
July 24, 2012

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

AND

IN THE MATTER OF
NEW FOUND FREEDOM FINANCIAL,
RON DEONARINE SINGH,
WAYNE GERARD MARTINEZ,
PAULINE LEVY, DAVID WHIDDEN, PAUL SWABY
AND ZOMPAS CONSULTING

AND

IN THE MATTER OF
A SETTLEMENT AGREEMENT BETWEEN STAFF OF
THE ONTARIO SECURITIES COMMISSION AND
PAUL SWABY AND ZOMPAS CONSULTING

TORONTO – The Office of the Secretary issued a Notice of Hearing for a hearing to consider whether it is in the public interest to approve a settlement agreement entered into by Staff of the Commission and Paul Swaby and Zompas Consulting. The hearing will be held on July 26, 2012 at 3:00 p.m. on the 17th floor of the Commission's offices located at 20 Queen Street West, Toronto.

A copy of the Notice of Hearing dated July 24, 2012 is available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

For media inquiries:
media_inquiries@osc.gov.on.ca

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

Dylan Rae
Media Relations Specialist
416-595-8934

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OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 Caldwell Investment Management Ltd. et al.

Headnote

Under paragraph 4.1(1)(b) of National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations a registered firm must not permit an individual to act as a dealing, advising or associate advising representative of the registered firm if the individual is registered as a dealing, advising or associate advising representative of another registered firm – James Telfser will be subject to supervision by, and the applicable compliance requirements of, CSL and CIM – policies in place to handle potential conflicts of interest – clients advised of relationship between affiliated firms – Filers exempted from prohibition.

Applicable Legislative Provisions

National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, ss. 4.1, 15.1.

July 16, 2012

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

AND

IN THE MATTER OF
CALDWELL INVESTMENT MANAGEMENT LTD. (CIM)
AND
CALDWELL SECURITIES LTD. (CSL)
AND
JAMES TELFSER
(the Filers)

DECISION

Background

The regulator in the Jurisdiction (the **Decision Maker**) has received an application from the Filers for a decision under the securities legislation of the regulator (the **Legislation**) for relief from the requirement under paragraph 4.1(1)(b) of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**) to permit James Telfser to be registered as both an associate advising representative of CIM and as a dealing representative of CSL (the **Dual Registration**) (the **Requested Relief**).

Interpretation

Terms defined in National Instrument 14-101 *Definitions* and Multilateral Instrument 11-102 *Passport System* have the same meaning in this decision unless otherwise defined.

Representations

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

1. CSL is registered under NI 31-103 in Ontario, British Columbia, Alberta, Saskatchewan, Manitoba, Nova Scotia, New Brunswick, Newfoundland and Prince Edward Island as an investment dealer, is a member of Investment Industry Regulatory Organization of Canada (**IIROC**) and has its head office in Ontario.

2. CIM is registered under NI 31-103 in Ontario, British Columbia, Alberta, and Saskatchewan as an adviser in the category of portfolio manager and has its head office in Ontario. CSL and CIM are both wholly owned subsidiaries of Caldwell Financial Ltd.

3. CSL and CIM are not in default of any requirements of securities legislation in any jurisdiction of Canada.

4. James Telfser is currently registered as an associate advising representative in Ontario with CIM and has been performing research analyst and portfolio management duties at CIM.

5. CIM's main business is the provision of discretionary portfolio management services to high net worth retail and institutional clients. CSL's main business is the provision of investment advice to retail clients and stock brokerage services to both institutional and retail clients.

6. There are currently individuals who are dually registered as advising, associate advising and/or dealing representatives of both CIM and CSL, each of whom obtained dual registration before paragraph 4.1(1)(b) of NI 31-103 came into force. CSL and CIM have represented that these employees have been able to serve clients of both firms satisfactorily and that there is no reason to believe that Mr. Telfser cannot perform to the same standard as these other dually registered employees of the firms.

7. CIM and CSL are both wholly-owned subsidiaries of Caldwell Financial Ltd. and, accordingly, the

Dual Registration will not give rise to the conflicts of interest present in a similar arrangement involving unrelated, arm's length firms. The interests of CIM and CSL are aligned and therefore the potential for conflicts of interest is remote.

8. There are a number of potential clients of CSL that have expressed strong interest in specifically engaging Mr. Telfser's services through CSL. Furthermore, CIM offers a variety of model portfolios to its clients. Mr. Telfser is involved in the management of some of these model portfolios and the proposed dual registration would allow Mr. Telfser to make these model portfolios available to the clients of CSL.

8. The Filers have in place policies and procedures to address conflicts of interest that may arise as a result of the Dual Registration, and believe that they will be able to appropriately deal with these conflicts.

9. The Dual Registration will be disclosed to clients of CIM and CAIC.

10. In the absence of the Requested Relief, James Telfser would be prohibited under paragraph 4.1(1)(b) of NI 31-103 from acting as a dealing representative of CSL while also registered as an associate advising representative of CIM, even though CSL is an affiliate of CIM.

Decision

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

The decision of the Decision Maker under the Legislation is that the Requested Relief is granted.

"Marrianne Bridge"
Deputy Director,
Compliance and Registrant Regulation
Ontario Securities Commission

2.1.2 Value Partners Investments Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief granted from the Securities Act to permit dealers to send or deliver the Fund Facts instead of the simplified prospectus to satisfy current prospectus delivery requirements subject to conditions – the right of withdrawal and right of rescission under securities legislation apply to the sending and delivery of the Fund Facts – sunset clause on relief – terms and conditions consistent with CSA Staff Notice 81-321 Early Use of the Fund Facts to Satisfy Prospectus Delivery Requirements.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S. 5, as am., ss. 71, 147.

September 16, 2011

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
MANITOBA AND ONTARIO

AND

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

AND

IN THE MATTER OF
VALUE PARTNERS INVESTMENTS INC.
(the Filer)

AND

IN THE MATTER OF
THE REPRESENTATIVE DEALER
(as defined below)

DECISION

Background

The securities regulatory authority or regulator in each of Manitoba and Ontario (**Decision Maker**) has received an application from the Filer for a decision under the securities legislation of Manitoba and Ontario (**Legislation**) for exemptive relief to permit a Dealer (as defined below), including the Representative Dealer (as defined below), to send or deliver the most recently filed fund facts document (**Fund Facts**) to satisfy the requirement contained in the Legislation that obligates a Dealer to send or deliver, within a specified time period and in a specified manner, the prospectus, and any amendment to the prospectus (**Delivery Requirement**), in respect of an order or subscription to purchase securities of a Fund (as defined below) (the **Exemption Sought**).

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

(a) The Manitoba Securities Commission is the principal regulator for this application;

(b) the Filer has provided notice that subsection 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in British Columbia, Alberta, Saskatchewan, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and Labrador (together with Ontario and Manitoba, the **Jurisdictions**); and

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

Interpretation

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

Rights of Withdrawal means the right, given to a purchaser under the Legislation, to withdraw from a purchase order for a security of a mutual fund if the dealer from which the purchaser purchases the security receives written notice evidencing the intention of the purchaser not to be bound by the purchase order within two days of receipt of the latest prospectus sent or delivered in compliance with the Delivery Requirement.

Rights of Rescission means the right of action, under the Legislation, for rescission or damages against a dealer, for failure of the dealer to send or deliver the prospectus to a purchaser of a security to whom a prospectus was required to be sent or delivered, but was not sent or delivered in compliance with the Delivery Requirement.

Representations

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

1. The Filer applied for registration as an investment fund manager in Manitoba by letter dated September 28, 2010.

2. The head office of the Filer is located in Manitoba.

3. Each of the existing mutual funds managed by the Filer to which the Exemption Sought relates is offered for sale on a continuous basis in the Jurisdictions (each, a **Current Fund**). Any future mutual funds managed by the Filer to which the Exemption Sought will relate (each, a **Future Fund**) will be offered for sale on a continuous basis in one or more of the provinces and territories of Canada. Each Current Fund and each Future Fund are hereinafter referred to individually as a **Fund** and collectively as the **Funds**.

4. Each Fund is, or will be, offered for sale pursuant to a simplified prospectus governed by National Instrument 81-101 *Mutual Fund Prospectus Disclosure* (**NI 81-101**) (each, a **Prospectus**).

5. Each Fund is, or will be, a reporting issuer in one or more of the provinces or territories of Canada.

6. Securities of the Current Funds may be purchased through BMO Nesbitt Burns Inc. (the **Representative Dealer**).

7. Securities of the Funds are, or will be, distributed through dealers which may or may not be affiliated with the Filer (individually, each dealer that distributes securities of a Fund or the Representative Dealer is a **Dealer** and collectively, the **Dealers**).

8. Each Dealer is, or will be, registered as a dealer in one or more of the provinces or territories of Canada. Most of the Dealers are, or will be, members of either the Investment Industry Regulatory Organization of Canada or the Mutual Fund Dealers Association of Canada and, in Québec, members of the Chambre de la sécurité financière, or their successors.

9. The Filer and the Funds are not in default of securities legislation in any of the Jurisdictions.

10. Pursuant to the Legislation, each Dealer has an obligation to send or deliver the Prospectus to a purchaser of a security of a Fund within two days of their purchase of the security.

11. Pursuant to the Canadian Securities Administrators' (the **CSA**) point of sale disclosure project for mutual funds (the **Project**), the CSA has determined that it is desirable to create a summary disclosure document called the Fund Facts.

12. CSA Staff Notice 81-319 Status Report on the Implementation of Point of Sale Disclosure for Mutual Funds, outlines the CSA's decision to implement the point of sale disclosure framework in stages.

13. Stage 1 of the Project became effective on January 1, 2011 by amending NI 81-101 and related instruments mandating a mutual fund to prepare and file a Fund Facts on the System for Electronic Document Analysis and Retrieval (**SEDAR**) for each relevant class or series of the mutual fund, and having the Fund Facts posted to the mutual fund's or its manager's website and delivered to any person upon request, at no cost.

14. Stage 2 of the Project proposes to allow delivery of the Fund Facts to satisfy the current requirement under the Legislation to send or deliver a prospectus within two days of purchasing a mutual fund.

15. The Filer has determined that it would be desirable to apply for relief consistent with the proposed requirements in Stage 2 of the Project prior to the implementation of the Stage 2 amendments and, accordingly, requires an exemption to satisfy the Delivery Requirement, as contemplated by CSA Staff Notice 81-321 *Early Use of Fund Facts to Satisfy Prospectus Delivery Requirements*.

16. Investors will be able to request a copy of the Prospectus, at no cost, by contacting the Filer or applicable Dealer and will continue to be able to access the Prospectus on the SEDAR website and on the website of the Filer or the Fund (as applicable).

Decision

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

The decision of the Decision Makers under the Legislation is that the Exemption Sought is granted provided that:

1. Prior to providing the Fund Facts to a Dealer to send or deliver in lieu of the Prospectus, the Filer:

    (a) files a Fund Facts for the applicable class or series of securities of the Fund in accordance with the requirements of NI 81-101 and in the format prescribed by Form 81-101F3 *Contents of Fund Facts Document*;

    (b) discloses in the Fund Facts for a specific class or series

        (i) if management fees, administration fees and/or other fees are payable directly by investors to the Filer in respect of holding securities of that class or series of the mutual fund, the existence of such fees and, in any Fund Facts filed after the date of this decision and no later than the next renewal of the Prospectus for such class or series, the maximum management fees, administration fees and/or other fees that may be charged by the Filer to the investor; and

        (ii) any requirement for an investor to participate in a fee-based arrangement with their dealer in order to be eligible to purchase the particular class or series of the mutual fund; and

    (c) renews or amends the Prospectus that offers such class or series of the Fund to specify under Item 3 of Part A of Form 81-101F1 *Contents of Simplified Prospectus* that the Fund Facts is incorporated by reference into the Prospectus.

2. A Fund Facts that is being sent or delivered will not be attached to, or bound with another Fund Facts unless each Fund Facts:

    (a) relates to securities of a Fund that have been purchased by the investor; and

    (b) is being sent or delivered pursuant to this decision.

3. The Filer, and any Dealer relying on the ability to send or deliver Fund Facts in lieu of the Prospectus for Funds managed by the Filer, grants to an investor purchasing the securities of a Fund a right equivalent to the Rights of Withdrawal upon the sending or delivery of the Fund Facts. The Rights of Withdrawal and the Rights of Rescission will no longer apply if the Fund Facts is sent or delivered to an investor in accordance with the time period and in the manner specified for the Prospectus under the Delivery Requirement.

4. Prior to a Dealer relying on the ability to send or deliver Fund Facts in lieu of the Prospectus for Funds managed by the Filer, the Filer or an agent of the Filer provides to the Dealer:

    (a) a copy of this decision;

    (b) a disclosure statement informing the Dealer of the implications of this decision; and

    (c) an acknowledgment of the matters referred to in paragraph 5 below (the **Acknowledgment**), to be signed and returned by the Dealer to the Filer or its agent.

5. Prior to a Dealer relying on the ability to send or deliver Fund Facts in lieu of the Prospectus for Funds managed by the Filer, the Dealer returns the Acknowledgement to the Filer or an agent of the Filer:

    (a) acknowledging receipt of a copy of this decision;

(b) agreeing to send or deliver the Fund Facts to an investor in lieu of the Prospectus;

(c) confirming that the Dealer will provide a right equivalent to the Rights of Withdrawal attaching to the sending or delivery of the Fund Facts;

(d) acknowledging that, in the event a Fund Facts is not sent or delivered in accordance with this decision, a Prospectus must be sent or delivered and the Rights of Rescission will continue to apply to the failure to send or deliver the Prospectus;

(e) undertaking that the Dealer will only attach or bind one Fund Facts with another Fund Facts if both are being sent or delivered at the same time to an investor pursuant to this decision; and

(f) confirming that the Dealer has in place written policies and procedures to ensure that there is compliance with the conditions of the decision.

6. Investors in the Funds managed by the Filer receive notice in a document other than the Fund Facts, at or before the time they receive the Fund Facts, indicating that they will have equivalent rights and protections otherwise applicable under securities law in their jurisdiction for the sending or delivery of the Fund Facts, which includes wording substantially similar to the following:

> The Fund Facts for the securities you purchase is being sent or delivered to you instead of the simplified prospectus. You will continue to have the equivalent rights and protections otherwise applicable under securities law as if you were sent or delivered the simplified prospectus. Depending on your province or territory, you may have the right to:
>
> - withdraw from an agreement to buy securities of mutual funds within two business days after you receive a fund facts document, or
>
> - cancel your purchase within 48 hours after you receive confirmation of the purchase.
>
> For more information, see the securities law of your province or territory or ask a lawyer.

7. The Filer will cause the Funds managed by it to honour any request made by an investor to exercise a right equivalent to the Rights of Withdrawal in respect of an agreement to purchase securities of a Fund managed by the Filer that a Dealer fails to honour, provided such request is made in respect of a validly exercised right.

8. The Filer or its agent keeps records of the Dealers that have returned to the Filer or its agent signed copies of the Acknowledgement and, on a confidential basis, the Filer or its agent provides the principal regulator for its Funds on a quarterly basis beginning 60 days after the date upon which the Exemption Sought is first relied upon by the Filer and the Funds it manages, and upon request, at the discretion of the Filer, either (i) a current list of all such Dealers, or (ii) an update to the list of such Dealers or confirmation that there has been no change to such list.

9. The Exemption Sought terminates the earlier of (a) 6 months from any notice by the CSA that the Exemption Sought may no longer be relied upon; and (b) the coming into force of any legislation or rule relating to the sending or delivery of the Fund Facts to satisfy the Delivery Requirement.

"Chris Besko"
Deputy Director – Legal
The Manitoba Securities Commission

2.1.3 I.G. Investment Management, Ltd.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief granted from the Securities Act to permit dealers to send or deliver the Fund Facts instead of the simplified prospectus to satisfy current prospectus delivery requirements subject to conditions – the right of withdrawal and right of rescission under securities legislation apply to the sending and delivery of the Fund Facts – sunset clause on relief – terms and conditions consistent with CSA Staff Notice 81-321 Early Use of the Fund Facts to Satisfy Prospectus Delivery Requirements.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 71, 147.

September 16, 2011

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
MANITOBA AND ONTARIO

AND

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

AND

IN THE MATTER OF
I.G. INVESTMENT MANAGEMENT, LTD.
(the Filer)

AND

IN THE MATTER OF
THE REPRESENTATIVE DEALERS
(as defined below)

DECISION

Background

The securities regulatory authority or regulator in each of Manitoba and Ontario (**Decision Maker**) has received an application from the Filer for a decision under the securities legislation of Manitoba and Ontario (**Legislation**) for exemptive relief to permit a Dealer (as defined below), including the Representative Dealers (as defined below), to send or deliver the most recently filed fund facts document (**Fund Facts**) to satisfy the requirement contained in the Legislation that obligates a Dealer to send or deliver, within a specified time period and in a specified manner, the prospectus, and any amendment to the prospectus (**Delivery Requirement**), in respect of an order or subscription to purchase securities of a Fund (as defined below) (the **Exemption Sought**).

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

(a) The Manitoba Securities Commission is the principal regulator for this application;

(b) the Filer has provided notice that subsection 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in British Columbia, Alberta, Saskatchewan, Québec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, the Northwest Territories, Nunavut and Yukon (together with Ontario and Manitoba, the **Jurisdictions**); and

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

Interpretation

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

Right of Withdrawal means the right, given to a purchaser under the Legislation, to withdraw from a purchase order for a security of a mutual fund if the dealer from which the purchaser purchases the security receives written notice evidencing the intention of the purchaser not to be bound by the purchase order within two days of receipt of the latest prospectus sent or delivered in compliance with the Delivery Requirement. In Québec, this right is called a right to rescind. Collectively, these rights are referred to as the Rights of Withdrawal.

Right of Rescission means the right of action, under the Legislation, for rescission or damages against a dealer, for failure of the dealer to send or deliver the prospectus to a purchaser of a security to whom a prospectus was required to be sent or delivered, but was not sent or delivered in compliance with the Delivery Requirement. In Québec, such a purchaser may apply to have the transaction rescinded or the price revised, at the purchaser's option, without prejudice to the purchaser's claim for damages. Collectively, these rights are referred to as the Rights of Rescission.

Representations

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

1. The Filer is registered as an investment fund manager in one or more of the Jurisdictions.

2. The head office of the Filer is located in Manitoba.

3. Each of the existing mutual funds managed by the Filer to which the Exemption Sought relates is offered for sale on a continuous basis in the Jurisdictions (each, a **Current Fund**). Any future mutual funds managed by the Filer to which the Exemption Sought will relate (each, a **Future Fund**) will be offered for sale on a continuous basis in one or more Jurisdictions. Each Current Fund and each Future Fund are hereinafter referred to individually as a **Fund** and collectively as the **Funds**.

4. Each Fund is, or will be, offered for sale pursuant to a simplified prospectus governed by National Instrument 81-101 *Mutual Fund Prospectus Disclosure* (**NI 81-101**) (each, a **Prospectus**).

5. Each Fund is, or will be, a reporting issuer in one or more of the Jurisdictions.

6. Securities of the Current Funds are distributed only through Investors Group Financial Services Inc. and/or Investors Group Securities Inc. (the **Representative Dealers**).

7. Securities of the Future Funds will be distributed through dealers which may or may not be affiliated with the Filer (individually, each dealer that distributes securities of a Future Fund managed by the Filer or each Representative Dealer, is a **Dealer** and collectively, the **Dealers**).

8. Each Dealer is, or will be, registered as a dealer in one or more of the Jurisdictions. Most of the Dealers are, or will be, members of either the Investment Industry Regulatory Organization of Canada or the Mutual Fund Dealers Association of Canada and, in Québec, members of the Chambre de la sécurité financière, or their successors.

9. The Filer and the Funds are not in default of securities legislation in any of the Jurisdictions.

10. Pursuant to the Legislation, each Dealer has an obligation to send or deliver the Prospectus to a purchaser of a security of a Fund within two days of their purchase of the security.

11. Pursuant to the Canadian Securities Administrators' (the **CSA**) point of sale disclosure project for mutual funds (the **Project**), the CSA has determined that it is desirable to create a summary disclosure document called the Fund Facts.

12. CSA Staff Notice 81-319 *Status Report on the Implementation of Point of Sale Disclosure for Mutual Funds*, outlines the CSA's decision to implement the point of sale disclosure framework in stages.

13. Stage 1 of the Project became effective on January 1, 2011 by amending NI 81-101 and related instruments mandating a mutual fund to prepare and file a Fund Facts on the System for Electronic Document Analysis and Retrieval (**SEDAR**) for each relevant class or series of the mutual fund, and having the Fund Facts posted to the mutual fund's or its manager's website and delivered to any person upon request, at no cost.

14. Stage 2 of the Project proposes to allow delivery of the Fund Facts to satisfy the current requirement under the Legislation to send or deliver a prospectus within two days of purchasing a mutual fund.

15. The Filer has determined that it would be desirable to apply for relief consistent with the proposed requirements in Stage 2 of the Project prior to the implementation of the Stage 2 amendments and, accordingly, requires an exemption to satisfy the Delivery Requirement, as contemplated by CSA Staff Notice 81-321 *Early Use of Fund Facts to Satisfy Prospectus Delivery Requirements*.

16. Investors will be able to request a copy of the Prospectus, at no cost, by contacting the Filer or applicable Dealer and will continue to be able to access the Prospectus on the SEDAR website and on the website of the Filer or the Fund (as applicable).

Decision

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

The decision of the Decision Makers under the Legislation is that the Exemption Sought is granted provided that:

1. Prior to providing the Fund Facts to a Dealer to send or deliver in lieu of the Prospectus, the Filer:

    (a) files a Fund Facts for the applicable class or series of securities of the Fund in accordance with the requirements of NI 81-101 and in the format prescribed by Form 81-101F3 *Contents of Fund Facts Document*;

    (b) discloses in the Fund Facts for a specific class or series

        (i) if management fees, administration fees and/or other fees are payable directly by investors to the Filer in respect of holding securities of that class or series of the mutual fund, the existence of such fees and, in any Fund Facts filed after the date of this decision and no later than the next renewal of the Prospectus for such class or series, the maximum management fees, administration fees and/or other fees that may be charged by the Filer to the investor; and

        (ii) any requirement for an investor to participate in a fee-based arrangement with their dealer in order to be eligible to purchase the particular class or series of the mutual fund; and

    (c) renews or amends the Prospectus that offers such class or series of the Fund to specify under Item 3 of Part A of Form 81-101F1 *Contents of Simplified Prospectus* that the Fund Facts is incorporated by reference into the Prospectus.

2. A Fund Facts that is being sent or delivered will not be attached to, or bound with another Fund Facts unless each Fund Facts:

    (a) relates to securities of a Fund that have been purchased by the investor; and

    (b) is being sent or delivered pursuant to this decision.

3. The Filer, and any Dealer relying on the ability to send or deliver Fund Facts in lieu of the Prospectus for Funds managed by the Filer, grants to an investor purchasing the securities of a Fund a right equivalent to the Rights of Withdrawal upon the sending or delivery of the Fund Facts. The Rights of Withdrawal and the Rights of Rescission will no longer apply if the Fund Facts is sent or delivered to an investor in accordance with the time period and in the manner specified for the Prospectus under the Delivery Requirement.

4. Prior to a Dealer relying on the ability to send or deliver Fund Facts in lieu of the Prospectus for Funds managed by the Filer, the Filer or an agent of the Filer provides to the Dealer:

    (a) a copy of this decision;

    (b) a disclosure statement informing the Dealer of the implications of this decision; and

    (c) an acknowledgment of the matters referred to in paragraph 5 below (the **Acknowledgment**), to be signed and returned by the Dealer to the Filer or its agent.

5. Prior to a Dealer relying on the ability to send or deliver Fund Facts in lieu of the Prospectus for Funds managed by the Filer, the Dealer returns the Acknowledgement to the Filer or an agent of the Filer:

   (a) acknowledging receipt of a copy of this decision;

   (b) agreeing to send or deliver the Fund Facts to an investor in lieu of the Prospectus;

   (c) confirming that the Dealer will provide a right equivalent to the Rights of Withdrawal attaching to the sending or delivery of the Fund Facts;

   (d) acknowledging that, in the event a Fund Facts is not sent or delivered in accordance with this decision, a Prospectus must be sent or delivered and the Rights of Rescission will continue to apply to the failure to send or deliver the Prospectus;

   (e) undertaking that the Dealer will only attach or bind one Fund Facts with another Fund Facts if both are being sent or delivered at the same time to an investor pursuant to this decision; and

   (f) confirming that the Dealer has in place written policies and procedures to ensure that there is compliance with the conditions of the decision.

6. Investors in the Funds managed by the Filer receive notice in a document other than the Fund Facts, at or before the time they receive the Fund Facts, indicating that they will have equivalent rights and protections otherwise applicable under securities law in their jurisdiction for the sending or delivery of the Fund Facts, which includes wording substantially similar to the following:

   > The Fund Facts for the securities you purchase is being sent or delivered to you instead of the simplified prospectus. You will continue to have the equivalent rights and protections otherwise applicable under securities law as if you were sent or delivered the simplified prospectus. Depending on your province or territory, you may have the right to:
   >
   > - withdraw from an agreement to buy securities of mutual funds within two business days after you receive a fund facts document, or
   > - cancel your purchase within 48 hours after you receive confirmation of the purchase.
   >
   > For more information, see the securities law of your province or territory or ask a lawyer.

7. The Filer will cause the Funds managed by it to honour any request made by an investor to exercise a right equivalent to the Rights of Withdrawal in respect of an agreement to purchase securities of a Fund managed by the Filer that a Dealer fails to honour, provided such request is made in respect of a validly exercised right.

8. The Filer or its agent keeps records of the Dealers that have returned to the Filer or its agent signed copies of the Acknowledgement and, on a confidential basis, the Filer or its agent provides the principal regulator for its Funds on a quarterly basis beginning 60 days after the date upon which the Exemption Sought is first relied upon by the Filer and the Funds it manages, and upon request, at the discretion of the Filer, either (i) a current list of all such Dealers, or (ii) an update to the list of such Dealers or confirmation that there has been no change to such list.

9. The Exemption Sought terminates the earlier of (a) 6 months from any notice by the CSA that the Exemption Sought may no longer be relied upon; and (b) the coming into force of any legislation or rule relating to the sending or delivery of the Fund Facts to satisfy the Delivery Requirement.

"Chris Besko"
Deputy Director – Legal
The Manitoba Securities Commission

2.1.4 Maple Group Acquisition Corporation

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Maple Group Acquisition Corporation (the **Filer**) applied for relief in connection with a take-over bid made by the Filer and proposed subsequent plan of arrangement to cause the Filer to acquire all the issued and outstanding common shares of TMX Group Inc. (**TMX Group**).

In particular, the Filer applied for relief from applicable legislative requirements to include:

- certain historical interim financial statements of Alpha Trading Systems Limited Partnership and Alpha Trading Systems Inc. (collectively, the **Alpha Group**),
- certain interim *pro forma* financial statements of the Filer giving effect to certain acquisitions involving TMX Group, Alpha Group and The Canadian Depository for Securities Limited (**CDS**), and
- certain management's discussion and analysis in relation to historical financial statements of Alpha Group and CDS,

in an offer circular and notice relating to the take-over bid and a circular relating to the subsequent plan of arrangement.

The requested relief was granted since, among other things, the offer circular and notice relating to the take-over bid and the circular relating to the subsequent plan of arrangement will contain or incorporate by reference significant financial information and qualitative information about Alpha Group and CDS. Furthermore, the Filer made representations on:

- the overall materiality of the transactions involving Alpha Group and CDS in comparison to the transaction involving TMX Group, and
- the information required for investors to make informed decisions regarding the take-over and subsequent plan of arrangement.

Applicable Legislative Provisions

Form 41-101F1 Information Required in a Prospectus, Items 8, 32 and 35.
National Instrument 51-102 Continuous Disclosure Obligations, s. 9.1.
Form 51-102F5 Information Circular, Item 14.2.
Form 62-504F1 Take-over Bid Circular, Item 19.

July 17, 2012

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
MAPLE GROUP ACQUISITION CORPORATION
(the Filer)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) in connection with a take-over bid (the **Offer**) made by the Filer and

proposed subsequent plan of arrangement (the **Subsequent Arrangement** and, together with the Offer, the **Filer Acquisition**) to cause the Filer to acquire all the issued and outstanding common shares (**TMX Shares**) of TMX Group Inc. (**TMX Group**) for approximately $3.8 billion providing that:

(i) the Filer is exempt from the requirement under Item 19 of Form 62-504F1 *Take-over Bid Circular* (**Form 62-504F1**) to include:

(a) interim financial statements for Alpha Trading Systems Limited Partnership and Alpha Trading Systems Inc. (collectively, **Alpha Group**) for the period ended March 31, 2012 (or, if the Subsequent Arrangement Circular (as defined below) is dated on or after August 15, 2012, June 30, 2012) (the **Alpha Group Historical Interim Financial Statements**);

(b) the Combined Interim Pro Forma Financial Statements (as defined below); and

(c) management's discussion and analysis (**MD&A)** in relation to the CDS Historical Financial Statements (as defined below) and the Alpha Group Historical Financial Statements (as defined below),

in the Offer Circular (as defined below) and the Notice (as defined below) (collectively, the **Bid Document Relief**); and

(ii) TMX Group, following the Filer's acquisition of not less than 70% and up to 80% of the TMX Shares, is exempt from the requirement under Item 14.2 of Form 51-102F5 *Information Circular* (**Form 51-102F5**) to include:

(a) the Alpha Group Historical Interim Financial Statements;

(b) the Combined Interim Pro Forma Financial Statements; and

(c) MD&A in relation to the CDS Historical Financial Statements and the Alpha Group Historical Financial Statements,

in the Subsequent Arrangement Circular (as defined below) (collectively, the **Subsequent Arrangement Circular Relief**, and, together with the Bid Document Relief, the **Requested 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 (the **Principal Regulator**); and

(b) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in each of British Columbia, Alberta, Saskatchewan, Manitoba, Québec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, Yukon, Northwest Territories and Nunavut (collectively, with Ontario, the **Jurisdictions**).

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

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

The Filer

1. The Filer is a corporation existing under the *Business Corporations Act* (Ontario) (the **OBCA**). The Filer's registered office is located at 1 First Canadian Place, 100 King Street West, Suite 4400, Toronto, Ontario. The Filer has not carried on any material business other than in connection with the Offer and related transactions and is not in default under the securities legislation of any jurisdiction.

2. The shareholders of the Filer are comprised of Alberta Investment Management Corporation, Caisse de dépôt et placement du Québec, Canada Pension Plan Investment Board, CIBC World Markets Inc., Desjardins Financial Corporation, Dundee Capital Markets Inc., Fonds de solidarité des travailleurs du Québec (F.T.Q.), GMP Capital Inc., The Manufacturers Life Insurance Company, National Bank Financial & Co. Inc., Ontario Teachers' Pension Plan

Board, Scotia Capital Inc. and TD Securities Inc. (collectively, the **Investors**)[1]. The respective holdings of each Investor, together with their respective equity commitment amounts, are set out in the Offer Circular (as defined below).

3. The authorized share capital of the Filer consists of an unlimited number of common shares (the **Filer Shares**) and an unlimited number of preferred shares. As at June 22, 2012, there were 835,702 Filer Shares outstanding and no preferred shares outstanding.

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

TMX Group

5. TMX Group is a corporation existing under the OBCA. TMX Group is headquartered in Toronto with offices in Montréal, Calgary and Vancouver. TMX Group's registered office is located at The Exchange Tower, 130 King Street West, Toronto, Ontario.

6. TMX Group is a leading, integrated, multi-asset exchange group that owns and operates equities, energy and fixed income cash and derivatives markets, and clearinghouses in Canada and the United States. TMX Group owns and operates:

   (a) two national stock exchanges, Toronto Stock Exchange (**TSX**), serving the senior equity market and TSX Venture Exchange, serving the public venture equity market;

   (b) Montréal Exchange Inc., Canada's national derivatives exchange;

   (c) Natural Gas Exchange Inc., an exchange providing a platform for the trading and clearing of natural gas, electricity, and crude oil contracts in North America;

   (d) Shorcan Brokers Limited, an inter-dealer broker;

   (e) The Equicom Group Inc., providing investor relations and related corporate communications services; and

   (f) Razor Risk Technologies, providing risk management technology and consulting solutions to financial institutions.

7. The authorized share capital of TMX Group consists of an unlimited number of TMX Shares and an unlimited number of preferred shares. As at June 22, 2012, there were 74,695,248 TMX Shares outstanding and no preferred shares were outstanding.

8. TMX Group is a reporting issuer in each of the provinces and territories of Canada. The TMX Shares are listed and posted for trading on the TSX.

The Offer

9. The Offer is part of the Filer Acquisition, an integrated two-step acquisition transaction designed to result in 100% of the existing TMX Shares being acquired from existing holders of TMX Shares (**TMX Shareholders**). The first step of the Filer Acquisition is the Offer, pursuant to which the Filer is seeking to acquire not less than 70% and up to 80% of the TMX Shares for $50.00 in cash per TMX Share. Immediately following the successful completion of the Offer, the Investors, through the Filer, will own between 70% and 80% of the outstanding TMX Shares and TMX Shareholders will own between 20% and 30% of the outstanding TMX Shares.

10. The second step of the Filer Acquisition is an arrangement to be implemented by TMX Group following the completion of the Offer pursuant to applicable Canadian corporate laws (the **Subsequent Arrangement**). This will be accomplished by way of a court-approved plan of arrangement providing for a share exchange transaction pursuant to which TMX Shareholders (other than the Filer) whose TMX Shares were not acquired by the Filer under the Offer will receive Filer Shares in exchange for their TMX Shares on a one-for-one basis. Following completion of the Subsequent Arrangement, the Investors will own between 58.3% and 72.2% of the outstanding Filer Shares and former TMX Shareholders will own between 27.8% and 41.7% of the outstanding Filer Shares.

11. The Filer commenced the Offer on June 13, 2011 by mailing a take-over bid circular (as amended and varied, the **Original Circular**) and related offer documents to TMX Shareholders and concurrently filed such documents on SEDAR. The Offer and the Original Circular have subsequently been amended by notices of change, extension and/or

[1] As at the date of this decision, GMP Capital Inc. (GMP) was a shareholder of the Filer. However, as has been announced prior to the date of this decision, GMP is in the process of disposing of its shares of the Filer such that it will no longer be a shareholder of the Filer.

variation dated June 24, 2011, August 8, 2011, September 29, 2011, October 31, 2011, January 31, 2012, February 24, 2012, March 30, 2012, May 3, 2012 and May 31, 2012 (as so amended, the **Offer Circular**). The Offer is currently due to expire on July 31, 2012.

12. The Filer has agreed to use its best efforts to complete the Subsequent Arrangement within 35 days following the completion of the Offer. In accordance with applicable corporate and securities laws, TMX Group (in consultation with the Filer) will prepare a management information circular in respect of the Subsequent Arrangement (the **Subsequent Arrangement Circular**) and deliver the Subsequent Arrangement Circular to TMX Shareholders in accordance with applicable Canadian securities laws. It is anticipated that the Subsequent Arrangement Circular will be filed and mailed to TMX Shareholders following the expiry of the 10-day deposit extension period under the Offer.

CDS and Alpha Group Acquisitions

13. On April 30, 2012, the Filer entered into agreements with certain beneficial holders of common shares (the **CDS Supporting Shareholders**) of The Canadian Depository for Securities Limited (**CDS**) representing approximately 71% of the voting rights attached to the outstanding common shares of CDS (including TMX Group's approximate 18% indirect interest), pursuant to which such holders have agreed to vote in favour of a proposed amalgamation of CDS with a wholly-owned subsidiary of the Filer (**Filer Subco**), which upon completion would result in the Filer owning all of the outstanding common shares of CDS for aggregate consideration of $167.5 million. On June 7, 2012, the Filer, Filer Subco and CDS entered into a definitive amalgamation agreement with respect to such amalgamation. The votes attached to the common shares of CDS held by the CDS Supporting Shareholders are sufficient to obtain the required two-third shareholder approval for the proposed amalgamation. Copies of the definitive agreements entered into with respect to the acquisition of CDS by the Filer have been filed on SEDAR at *www.sedar.com* under TMX Group's profile.

14. Financial and other information regarding CDS is available on its website at *www.cds.ca*.

15. On April 30, 2012, the Filer entered into definitive agreements for the acquisition by the Filer of all of the ownership interests in Alpha Group. The securityholders of Alpha Group that are parties to such agreements represent approximately 83% of the outstanding equity interests in Alpha Group. The Filer intends to acquire the remaining equity interests in Alpha Group pursuant to the terms of the shareholder agreement of Alpha Trading Systems Inc. The aggregate consideration offered by the Filer for the acquisition of Alpha Group is $175 million, subject to the potential exercise of rights by Alpha Group securityholders that are not Investors (or affiliates thereof) to receive an arbitrated fair value for their equity interests in Alpha Group. Such Alpha Group securityholders represent approximately 25.6% of the outstanding equity interests in Alpha Group. Copies of the definitive agreements entered into with respect to the acquisition of Alpha Group by the Filer have been filed on SEDAR at *www.sedar.com* under TMX Group's profile.

16. The Filer intends to complete the proposed acquisitions of CDS and Alpha Group concurrently with or as soon as practicable following completion of the Offer, subject to the satisfaction of customary terms and conditions, including the receipt of all necessary regulatory approvals, and, in the case of the acquisition of CDS, the approval of the proposed amalgamation by the shareholders of CDS.

Applicable Requirements

17. Item 19(1) of Form 62-504F1 provides that if a take-over bid provides that the consideration for the securities of the offeree issuer is to be, in whole or in part, securities of the offeror or other issuer, financial statements and other information required in a prospectus of the issuer whose securities are being offered in exchange for the securities of the offeree issuer are required to be included in the applicable take-over bid circular.

18. The Offer only provides for cash consideration and the requirements of Item 19 of Form 62-504F1 accordingly do not apply to the Offer. However, as the Offer is the first step of the integrated Filer Acquisition, with Filer Shares to be issued pursuant to the second-step Subsequent Arrangement, the Filer, as noted in paragraph 29 below, has included financial statement disclosure for the Filer in the Offer Circular, and intends to update such financial disclosure in the Notice.

19. Under section 9.1 of National Instrument 51-102 *Continuous Disclosure Obligations*, the Subsequent Arrangement Circular will be required to be sent to TMX Shareholders in connection with the solicitation of proxies to vote in respect of the Subsequent Arrangement at a meeting of TMX Shareholders to be held for the purpose of considering a resolution approving the Subsequent Arrangement.

20. Form 51-102F5 sets out the form requirements applicable to the Subsequent Arrangement Circular.

21. Item 14.2 of Form 51-102F5 provides that in respect of, *inter alia*, restructuring transactions[2] under which securities are to be changed, exchanged, issued or distributed, management information circulars must include disclosure for each entity, other than the company in respect of which the applicable management information circular has been prepared, whose securities are being changed, exchanged, issued or distributed, if:

    (a) the matter is a restructuring transaction; and

    (b) the securityholders of the company in respect of which the management information circular has been prepared will have an interest in that entity after the restructuring transaction has been completed.

    The disclosure in this regard must be the disclosure (including financial statements) prescribed under securities legislation and described in the form of prospectus that the applicable entity would be eligible to use immediately prior to the sending and filing of the information circular in respect of the restructuring transaction, for a distribution of securities in the jurisdiction.

22. As noted above, in connection with the Subsequent Arrangement, Filer Shares will be distributed to TMX Shareholders (other than the Filer) and such TMX Shareholders will have an interest in the Filer after the Subsequent Arrangement has been completed.

23. Immediately prior to the sending and filing of the Offer Circular, Notice and Subsequent Arrangement Circular, the Filer will only be eligible to use a long-form prospectus prepared in accordance with Form 41-101F1 *Information Required in a Prospectus* (**Form 41-101F1**).

24. In accordance with Item 32 of Form 41-101F1, the Filer is required to include the financial statements of a business or businesses acquired by the Filer within three years before the date of the Offer Circular or Subsequent Arrangement Circular or proposed to be acquired, if a reasonable investor reading the Offer Circular or Subsequent Arrangement Circular would regard the primary business of the Filer to be the business or businesses acquired, or proposed to be acquired, by the Filer. Such financial statements, if applicable, are required to include interim financial statements of the relevant business or businesses, together with *pro forma* financial statements of the Filer, giving effect to the acquisition of such business or businesses. It is possible that an investor reading the Offer Circular or Subsequent Arrangement Circular could potentially regard the primary business of the Filer to include Alpha Group and CDS once the acquisition thereof is completed.

25. In addition, pursuant to Item 35 of Form 41-101F1, the Filer is required to include certain financial statements in respect of each of CDS and Alpha Group, if (depending on the timing of completion of such transactions in relation to the date of filing and mailing of the Subsequent Arrangement Circular) such transactions constituted recently completed "significant acquisitions" (as per Item 35.5 of Form 41-101F1) or proposed acquisitions of a business that has progressed to a state where a reasonable person would believe that the likelihood of the Filer completing the acquisition is high, and that, if completed by the Filer, would be a "significant" acquisition (as per Item 35.6 of Form 41-101F1).

26. Lastly, pursuant to Item 8 of Form 41-101F1, MD&A would be required to be included in respect of the annual and interim financial statements of the Filer, CDS and Alpha Group included in the Notice and Subsequent Arrangement Circular.

Reasons Supporting Grant of Requested Relief

27. The Offer Circular, the Notice and the Subsequent Arrangement Circular (including the CDS Historical Financial Statements, the Alpha Group Historical Annual Financial Statements and the Combined Annual Pro Forma Financial Statements included therein and as defined below) will provide information in respect of the Filer and the Filer Shares that is sufficient to enable an investor to make an informed investment decision regarding the Filer Acquisition.

28. Disclosure of the following in the Offer Circular, Notice or Subsequent Arrangement Circular is not necessary to allow TMX Shareholders to form a reasoned judgment concerning the Filer Acquisition:

    (a) Alpha Group Historical Interim Financial Statements;

    (b) (i) a *pro forma* statement of financial position of the Filer as at March 31, 2012 (or, if the Subsequent Arrangement Circular is dated on or after August 15, 2012, June 30, 2012) giving effect to the Filer Acquisition and the acquisitions of each of CDS and Alpha Group by the Filer as if they had occurred on such date, and

[2] Defined in section 1.1 of NI 51-102 to include, *inter alia*, arrangements such as the Subsequent Arrangement.

(ii) *pro forma* income statements of the Filer for the period ended March 31, 2012 (or, if the Subsequent Arrangement Circular is dated on or after August 15, 2012, June 30, 2012), giving effect to the Filer Acquisition and the acquisitions of each of CDS and Alpha Group by the Filer as if they had occurred on April 28, 2011 (collectively, the **Combined Interim Pro Forma Financial Statements**); and

(c) MD&A in respect of the CDS Historical Financial Statements and Alpha Group Historical Financial Statements.

29. The Offer Circular includes:

(a) stand-alone audited financial statements of the Filer as at April 28, 2011; and

(b) *pro forma* financial statements of the Filer giving effect to the Filer Acquisition as if it had occurred on April 28, 2011.

Additionally, at least 10 days prior to the expiry of the Offer, the Filer will mail to TMX Shareholders and file on SEDAR a notice of change of information (the **Notice**) that will include:

(a) stand-alone audited financial statements of the Filer as at, and for the period ended, December 31, 2011 (the F**iler Historical Annual Financial Statements**);

(b) stand-alone unaudited financial statements of the Filer as at, and for the three months ended, March 31, 2012 (the **Filer Historical Interim Financial Statements** and together with the Filer Historical Annual Financial Statements, the **Filer Historical Financial Statements**);

(c) stand-alone audited financial statements of CDS as at, and for the twelve months ended, on each of October 31, 2011, October 31, 2010 and October 31, 2009 (collectively, the **CDS Historical Annual Financial Statements**);

(d) stand-alone unaudited financial statements of CDS as at, and for the six months ended, April 30, 2012 (the **CDS Historical Interim Financial Statements** and, together with the CDS Historical Annual Financial Statements, the **CDS Historical Financial Statements**);

(e) stand-alone audited financial statements of Alpha Group as at, and for the twelve months ended, on each of December 31, 2011, December 31, 2010 and December 31, 2009 (collectively, the **Alpha Group Historical Annual Financial Statements** and, together with Alpha Group Historical Interim Financial Statements, the **Alpha Group Historical Financial Statements**); and

(f) *pro forma* financial statements of the Filer giving effect to the Filer Acquisition and the acquisitions of each of CDS and Alpha Group by the Filer as if they had occurred, for purposes of the *pro forma* statement of financial position as at December 31, 2011, on such date, and for purposes of the *pro forma* income statements for the period ended December 31, 2011, as if the Filer Acquisition and the acquisitions of each of CDS and Alpha Group had occurred on April 28, 2011 (the **Combined Annual Pro Forma Financial Statements**).

MD&A in respect of the Filer Historical Financial Statements will also be included in the Notice.

30. The Subsequent Arrangement Circular will contain or incorporate by reference all of the financial statements referred to in paragraph 29.

31. In addition to the CDS Historical Financial Statements and Alpha Group Historical Annual Financial Statements, the Offer Circular, the Notice and the Subsequent Arrangement Circular has and/or shall include or incorporate by reference information in respect of CDS and Alpha Group, including:

(a) a general description of the business of each of Alpha Group and CDS;

(b) the Filer's plans to combine TMX Group with Alpha Group and CDS following completion of the Filer Acquisition;

(c) applicable risk factors;

(d) detailed descriptions of the definitive agreements entered into in connection with the acquisition by the Filer of each of Alpha Group and CDS;

(e) regulatory provisions generally applicable to each of the Filer, Alpha Group and CDS following completion of the acquisition thereof by the Filer (including, for greater certainty, the fee model that will apply to the products and services of CDS); and

(f) governance structures.

32. The Offer Circular and Notice will, except as permitted by the Requested Relief, otherwise comply with Item 19 of Form 62-504F1. The Subsequent Arrangement Circular will, except as permitted by the Requested Relief, otherwise comply with Item 14.2 of Form 51-102F5.

33. As at the date hereof, each of CDS and Alpha Group are not reporting issuers in any jurisdiction in Canada. Accordingly, neither of such entities is presently obligated under applicable Canadian securities laws regarding continuous disclosure to have prepared: (a) financial statements in respect of any interim periods; or (b) MD&A in respect of any financial statements.

34. The Filer understands that CDS prepares interim financial statements on an ongoing basis, and the Filer will accordingly include the CDS Historical Interim Financial Statements in the Notice. However, the Filer understands that Alpha Group does not currently prepare any interim financial statements other than certain internal documents prepared for the board of directors by management. The Filer understands that Alpha Group will commence preparing quarterly interim statements beginning for the six month period ended June 30, 2012, but that such statements will not be finalized until August 2012.

35. The Filer understands that neither of CDS or Alpha Group has prepared MD&A in respect of the CDS Historical Financial Statements or the Alpha Group Historical Financial Statements, as applicable.

36. The business of CDS represents only a very small proportion of the existing TMX Group operations on a quantitative basis. Specifically:

(a) the consolidated assets of CDS represent less than 4% of the consolidated assets of TMX Group;

(b) the aggregate purchase price payable in respect of the acquisition of CDS ($167.5 million) represents 5.6% - 6.4% of the total potential cash consideration payable by the Filer under the Offer of between approximately $2.6 billion and $3.0 billion[3]; and

(c) the consolidated specified profit of CDS represents less than 3% of the consolidated specified profit of TMX Group,

in each case, based on the most recently completed audited financial statements of each of TMX Group and CDS, respectively.

37. The business of Alpha Group represents only a very small proportion of the existing TMX Group operations on a quantitative basis. Specifically:

(a) the consolidated assets of Alpha Group represent less than 1.0% of the consolidated assets of TMX Group;

(b) the aggregate purchase price payable in respect of the acquisition of Alpha Group ($175.0 million) represents approximately 5.8% - 6.7% of the total potential cash consideration payable by the Filer under the Offer of between approximately $2.6 billion and $3.0 billion[4]; and

(c) the consolidated specified loss of Alpha Group represents less than 1.7% of the consolidated specified profit of TMX Group,

in each case, based on the most recently completed audited financial statements of each of TMX Group and Alpha Group, respectively.

Effect of Decision

33. The Filer acknowledges that the granting of this decision does not constitute approval of the Filer Acquisition for any regulatory purpose.

[3] Based on the number of issued outstanding TMX Group shares on June 22, 2012.
[4] *Ibid*.

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:

(i) the Bid Document Relief is granted, and

(ii) the Subsequent Arrangement Circular Relief is granted provided the Filer completes the Offer.

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

2.1.5 Daimler Canada Finance Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Filer granted exemption from the prospectus requirement in connection with trades of commercial paper/short term debt instruments that may not meet the "approved credit rating" requirement for the purpose of the short-term debt exemption in section 2.35 of Regulation 45-106 respecting Prospectus and Registration Exemptions – Commercial paper/short-term debt instruments only required to obtain one prescribed credit rating from an approved credit rating organization – Relief granted subject to conditions.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., s. 53.
Regulation 45-106 respecting Prospectus and Registration Exemptions, s. 2.35.

Translation

June 27, 2012

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
QUÉBEC AND ONTARIO
(the "Jurisdictions")

AND

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

AND

IN THE MATTER OF
DAIMLER CANADA FINANCE INC.
(the "Filer")

DECISION

Background

The securities regulatory authority or regulator in each of the Filing Jurisdictions (the "**Decision Maker**") has received an application from the Filer for a decision under the securities legislation of the Filing Jurisdictions (the "**Legislation**") that trades of negotiable promissory notes or commercial paper maturing not more than one year from the date of issue of the Filer be exempt from the prospectus requirement of the Legislation (the "**Exemption Sought**").

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

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

(b) the Filer has provided notice that section 4.7(1) of *Regulation 11-102 respecting Passport System* ("**Regulation 11-102**") is intended to be relied upon in British Columbia, Alberta, Saskatchewan, Manitoba, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, Northwest Territories, Yukonand Nunavut (collectively the "**Passport Jurisdictions**"); and

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

Interpretation

Terms defined in *Regulation 14-101 respecting Definitions* and Regulation 11-102 have the same meanings if used in this decision, unless otherwise defined.

In this decision:

"Asset-backed Short-term Debt": short-term debt that is backed, secured or serviced by or from, a discrete pool of mortgages, receivables or other financial assets or interests designed to ensure the servicing or timely distribution of proceeds to holders of that short-term debt;

"Regulation 45-106": *Regulation 45-106 Respecting Prospectus and Registration Exemptions*;

"Regulation 81-102": *Regulation 81-102 Respecting Mutual Funds*.

Representations

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

1. The Filer is a corporation governed by the *Business Corporations Act* (Québec) with its registered and head office located in Montréal, Québec.

2. The Filer is not a reporting issuer in any of the Jurisdictions or Passport Jurisdictions and is not in default of the securities legislation of the Jurisdictions or Passport Jurisdictions.

3. A trade in short-term debt is exempt from the prospectus requirement pursuant to section 2.35 of Regulation 45-106 only where short-term debt has an approved credit rating from an approved credit rating organization. The terms "approved credit rating" and "approved credit rating organization" used in Regulation 45-106 have the same meaning as in Regulation 81-102.

4. For short-term debt to satisfy the definition of approved credit rating in Regulation 81-102, that short-term debt (a) must have a rating at or above

one of the rating categories set out in that definition issued by an "approved credit rating organization" for that short-term debt, and (b) must not have a rating below one of the rating categories set out in that definition issued by an "approved credit rating organization" for that short-term debt.

5. The negotiable promissory notes or commercial paper of the Filer have a "R-1 (low)" rating from DBRS Limited, which rating meets the prescribed threshold in the definition of "approved credit rating" in Regulation 81-102. However, the negotiable promissory notes or commercial paper of the Filer do not meet the other prescribed thresholds in the definition of "approved credit rating" in Regulation 81-102 because they have a "F2" rating from Fitch Ratings Ltd., a "P-2" rating from Moody's Investors Service, Inc. and a "A-2" rating from Standard & Poor's, all of which ratings are lower than the ratings prescribed by the definition of approved credit rating in Regulation 81-102.

6. The Filer has been granted relief similar in nature to the Exemption Sought under a decision document of the Decision Maker dated June 30, 2010, which has not yet expired (the "**Prior Decision**").

Decision

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

The decision of the Decision Makers under the Legislation is that the Exemption Sought is granted provided that:

1. the negotiable promissory notes or commercial paper of the Filer:

   (a) mature not more than one year from the date of issue;

   (b) are not convertible or exchangeable into or accompanied by a right to purchase another security other than negotiable promissory notes or commercial paper of the Filer;

   (c) are not Asset-backed Short-term Debt; and

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

Rating Organization	Rating
DBRS Limited	R-1 (low)
Fitch Ratings Ltd.	F2
Moody's Investors Service, Inc.	P-2
Standard & Poor's	A-2

2. each trade by the Filer of negotiable promissory notes or commercial paper of the Filer to a resident in a Jurisdiction or Passport Jurisdiction in reliance on this decision is made:

   (a) through an agent who is a registered dealer, registered in a category that permits the trade;

   (b) through a bank listed in Schedules I, II or III to the Bank Act (Canada) trading in reliance on an exemption from the registration requirement available in the circumstances in the Jurisdictions in which the trade occurs; or

   (c) through a dealer permitted to rely on the exemption from the dealer registration requirement for international dealers in section 8.18 of *Regulation 31-103 Respecting Registration Requirements, Exemptions and Ongoing Registrant Relationships*;

3. for each Jurisdiction and Passport Jurisdiction, the Exemption Sought will terminate on the earlier of:

   (a) 90 days after the coming into force of any rule, other regulation or blanket order or ruling under the securities legislation of that jurisdiction that amends the conditions of the prospectus exemption contained in section 2.35 of Regulation 45-106 or provides an alternate exemption; and

   (b) June 30, 2017;

4. the Prior Decision is revoked effective as of the date hereof;

"Louis Morisset"
Superintendent, Securities Markets
Autorité des marchés financiers

2.1.6 Trapeze Capital Corp. et al.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – paragraph 4.1(1)(b) of National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations – a registered firm must not permit an individual to act as a dealing, advising or associate advising representative of the registered firm if the individual is registered as a dealing, advising or associate advising representative of another registered firm – policies in place to handle potential conflicts of interest – Filer exempted from prohibition.

Applicable Legislative Provisions

National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, ss. 4.1, 15.1.

July 20, 2012

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
TRAPEZE CAPITAL CORP.
(TCC)

AND

TRAPEZE ASSET MANAGEMENT INC.
(TAMI)

AND

ANTHONY VISANO
(the Filers)

DECISION

Background

The regulator in Ontario has received an application from the Filers (the **Application**) for a decision under the securities legislation of the Jurisdiction of the regulator (the **Legislation**) for relief from the requirement under paragraph 4.1(1)(b) of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**) to permit Anthony Visano (the **Representative**) to be registered as both a dealing representative of TCC and an advising representative of TAMI (the **Dual Registration**) (the **Relief Sought**).

Interpretation

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

Representations

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

1. TCC is registered under NI 31-103 as an investment dealer in Ontario, Alberta, Quebec and British Columbia and is a member of Investment Industry Regulatory Organization of Canada (**IIROC**).

2. TAMI is registered under NI 31-103 as a portfolio manager and an exempt market dealer in Ontario and a portfolio manger in Alberta, British Columbia, Manitoba, New Brunswick, Nova Scotia and Saskatchewan.

3. The Filers are affiliated as they are both owned by the same entity, 1346049 Ontario Limited, which is controlled by Randall Abramson.

4. TAMI and TCC also share common officers and directors and have approximately 6 individuals that are dually registered.

5. The Representative is currently registered in Ontario as a dealing representative under the category of investment dealer with TCC. He also carries out the activities of an advising representative under TTC but is exempt from registration in such capacity under section 8.24 of NI 31-103. He has applied for registration as an advising representative of TAMI in Ontario only and is not seeking registration in other jurisdictions at this time.

6. TCC was established by the principals in 1998 in order to provide investment services (portfolio management and brokerage) to clients, many of whom were brought over from the principals' previous sponsoring firm, which was also an investment dealer. TAMI was established in 1999 by the principals of TCC, along with another individual (who is no longer an employee or shareholder of TAMI), to provide portfolio management services to clients through separately managed accounts and pooled funds marketed to institutional clients, as well as to individuals. Currently, TCC does little or no marketing and most new client accounts are opened at TAMI.

7. The Representative has been a full time employee of both TAMI and TCC since 2004 and has been conducting research and analysis of equity and

fixed income securities to support the portfolio managers in making investment decisions. The intention is for the Representative to spend a portion of time in an advising capacity for client accounts at TAMI, including client accounts for the Representative's family members. TAMI may wish assign Anthony as a portfolio manager for existing (e.g., Trapeze Value Trust, Trapeze Value Class) or new investment funds managed by TAMI.

8. Each TAMI and TCC client receives a disclosure explaining that (a) the TAMI and TCC are related to one another (b) TAMI may use TCC exclusively for brokerage services (c) TAMI and TCC share officers and directors and (d) TAMI and TCC share the same office premises.

9. The corporate Filers have in place policies and procedures to address conflicts of interest that may arise as a result of the Dual Registration, and believe that they will be able to appropriately deal with these conflicts. They currently have 6 dually registered individuals and the corporate Filers have represented that they have been able to deal with the potential of conflicts.

10. The Representative will be subject to supervision by, and the applicable compliance requirements of, both firms. Existing compliance and supervisory structures will apply depending on which regulatory entity the client has engaged for advisory purposes.

11. In addition, the Filers have represented that TAMI and TCC have the identical standard fee schedules for their clients (subject to certain exceptions for legacy accounts of each of TAMI and TCC for which a different fee agreement may apply). This has eliminated any financial incentives to direct a potential client to one over the other. Accordingly, there is limited inherent conflict of interest with respect to business development activities.

12. The corporate Filers are each wholly-owned subsidiaries of 1346049 Ontario Limited and accordingly, the Dual Registration will not give rise to the conflicts of interest present in a similar arrangement involving unrelated, arm's length firms. The interests of TAMI and TCC are aligned and therefore, the potential for conflicts of interest are remote.

13. None of the Filers is in default of any requirements of securities legislation in any jurisdiction of Canada

14. In the absence of the Relief Sought, the corporate Filers would be prohibited from permitting a Representative to act as an advising representative of TAMI while the individual is a dealing representative of TCC even though TAMI is an affiliate of TCC.

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 Relief Sought is granted.

"Marrianne Bridge"
Deputy Director, Compliance and Registrant Regulation
Ontario Securities Commission

2.1.7 AlphaPro Management Inc. and the Top Funds (as defined below)

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief granted from subsection 2.1(1) and paragraphs 2.5(2)(a), (b) and (c) of NI 81-102, the fund on funds restrictions, to permit commodity pools to enter into a forward agreement providing exposure to commodity pools investing in, or gaining exposure to exchange traded mutual funds tracking the performance of, physical commodities. Also relief granted allowing payment of brokerage commission in relation to the sales and purchases of securities of the related underlying fund(s), provided that the requirements of section 2.5 of NI 81-102, except for paragraph 2.5(2)(e) – National Instrument 81-102 Mutual Funds are complied with.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, ss. 2.5(2)(a) and (e), 19.1.
National Instrument 81-104 Commodity Pools.

June 27, 2012

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

AND

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

AND

IN THE MATTER OF
ALPHAPRO MANAGEMENT INC.
(the Filer)

AND

THE TOP FUNDS
(as defined below)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) for an exemption (the **Exemption Sought)** relieving the existing mutual funds listed at Schedule "A" (the **Existing Top Funds**) and such mutual funds that may be managed by the Filer or its affiliates in the future (the **Future Top Funds**, and together with the Existing Top Funds, the **Top Funds** and individually, a **Top Fund**) that are subject to National Instrument 81-102 – *Mutual Funds* (**NI 81-102**), from the prohibitions in:

(a) paragraph 2.5(2)(a) of NI 81-102 to permit each Top Fund to invest in exchange traded mutual funds that are not subject to National Instrument 81-101 – *Mutual Fund Prospectus Disclosure* (**NI 81-101**); and

(b) paragraph 2.5(2)(e) of NI 81-102 to permit each Top Fund to pay brokerage commissions in relation to its purchase and sale on a recognized exchange of securities of exchange traded mutual funds that are managed by the Filer, or an affiliate or associate of the Filer

(collectively, the **Exemption Sought)**

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

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

(b) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 – *Passport System* (**MI 11-102**) is intended to be relied upon in each of the other provinces and territories of Canada.

Interpretation

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

Representations

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

About the Filer

1. The Filer is a corporation incorporated pursuant to the laws of Canada.

2. The Filer, or an affiliate of the Filer, acts as, or will act as, the investment fund manager of the Top Funds.

3. The Filer is not in default of the securities legislation of any of the provinces or territories of Canada.

About the Top Funds

4. The Top Funds are, or will be, open end mutual funds established as trusts under the laws of the Province of Ontario.

5. The Top Funds are, or will be, governed by the provisions of NI 81-102; or NI 81-102 and National Instrument 81-104 – *Commodity Pools* (**NI 81-104**).

6. Each Top Fund distributes, or will distribute, securities pursuant to a simplified prospectus and annual information form prepared under NI 81-101 or to a long form prospectus prepared under Form 41-101F2 – *Information Required in an Investment Fund Prospectus* (**Form 41-101F2**).

7. The Top Funds are, or will be, reporting issuers in some or all of the provinces and territories of Canada.

8. The Existing Top Funds are not in default of any requirements of the securities legislation of any province or territory of Canada.

9. The Filer would like to be able to invest the assets of the Top Funds in the exchange traded funds set out in Schedule "B" (the **Existing Underlying ETFs**) and such other exchange traded mutual funds that may be established by the Filer or its affiliates or associates in the future (the **Future Underlying ETFs**, and together with the Existing Underlying ETFs, the **Underlying ETFs** or individually an **Underlying ETF**).

10. The investment by a Top Fund in securities of an Underlying ETF will be made in accordance with the fundamental investment objective of the Top Fund and will represent the business judgment of responsible persons uninfluenced by considerations other than the best interests of the Top Funds.

About the Underlying ETFs

11. The Filer or an affiliate is or will be the investment fund manager of the Underlying ETFs.

12. Each Underlying ETF is, or will be:

    (a) an open end mutual fund subject to NI 81-102 and National Instrument 41-101 – *General Prospectus Requirements* (**NI 41-101**);

    (b) a reporting issuer in each of the provinces and territories of Canada; and

    (c) listed on the Toronto Stock Exchange (the **TSX**) or another "recognized exchange" in Canada as that term is defined in securities legislation.

13. The Existing Underlying ETFs are not in default of any requirements of the securities legislation of any province or territory of Canada.

14. Each Underlying ETF distributes, or will distribute, its securities pursuant to a long form prospectus prepared under Form 41-101F2.

15. Each Underlying ETF does not or will not, at the time of purchase by a Top Fund, hold more than 10% of the market value of its net assets in securities of any other mutual fund other than the securities of a money market fund or a mutual fund that issues index participation units.

16. Each Underlying ETF issues, or will issue, units which are qualified for distribution in each of the provinces and territories of Canada.

17. The Underlying ETFs do not or will not issue "index participation units" as defined in NI 81-102.

18. No Underlying ETF has, or will have, a net market exposure greater than 100% of its net asset value.

19. Each Underlying ETF does not or will not pay management or incentive fees which to a reasonable person would duplicate a fee payable by the Top Funds for the same service.

20. Where the investment fund manager of a Top Fund (the **Top Fund Manager**) determines that the management fees and incentive fees (the **Fees**) payable by an Underlying ETF to its investment fund manager (the **Underlying ETF Manager**) would duplicate a fee payable by the Top Fund for the same service, either

    (a) The Underlying ETF Manager will pay a management fee rebate to the Top Fund that is equal to the Fees paid to it by that Underlying ETF and the Top Fund Manager will pay an amount equal to those Fees to the Underlying ETF Manager; or

    (b) The Top Fund Manager will pay to the Top Fund an amount equal to the Fees payable to the Underlying ETF Manager in respect of the Top Fund's investment in the Underlying ETF.

21. Holders of units of an Underlying ETF may:

    (a) sell units of an Underlying ETF on the TSX or another recognized exchange in Canada on which units of an Underlying ETF are listed for trading;

    (b) redeem units of that Underlying ETF in any number for cash at a redemption price of 95% of the closing price for the unit on the applicable exchange on the effective day of redemption; or

    (c) redeem or exchange a prescribed number of units (a PNU) of the Underlying ETF for cash or securities equal to the net asset value of each PNU tendered for redemption or exchange, respectively.

22. Each Underlying ETF may, from time to time, retain:

    (a) National Bank Financial Inc., an associate of the Filer, to act as its designated broker, distributor and securities lending agent;

    (b) Fiera Capital Corporation, an associate of an indirect minority shareholder of Filer, to act as portfolio sub-adviser; and

    (c) Horizons Investment Management Inc., an affiliate of the Filer, to act as its manager, trustee, or portfolio manager.

23. The Existing Underlying ETFs primarily achieve, and Future Underlying ETFs will primarily achieve, their investment objectives through direct holdings of cash and securities and, in some circumstances, through investment in specified derivatives for hedging and non-hedging purposes, in accordance with their investment objectives and strategies and with NI 81-102.

24. All brokerage costs related to trades in securities of the Underlying ETFs will be borne by the Top Funds in the same manner as any other portfolio transaction made on an exchange.

25. If a Top Fund makes a trade in securities of an Underlying ETF with or through an affiliate or associate of the Filer acting as dealer, the Filer will comply with its obligations under National Instrument 81-107 *Independent Review Committee for Investment Funds* in respect of any proposed related party transactions. Lastly, all such related party transactions will be disclosed to securityholders of the relevant Top Fund in its management report of fund performance.

Reasons for the Exemption Sought

26. An investment in an Underlying ETF by a Top Fund is an efficient and cost effective alternative to administering one or more investment strategies directly or engaging a sub-adviser to implement an investment strategy for a Top Fund.

27. Absent the Exemption Sought, an investment by a Top Fund in an Underlying ETF would be prohibited by paragraph 2.5(2)(a) of NI 81-102 solely because the Underlying ETF is not governed by NI 81-101;

28. An investment by a Top Fund in an Underlying ETF would not qualify for the exemption in paragraph 2.5(3) of NI 81-102 from paragraph 2.5(2)(a) of NI 81-102 because the Underlying ETF does not issue index participation units.

29. The only material difference between the Underlying ETFs and any other mutual fund governed by NI 81-102 is the method of distribution. If the Exemption Sought is granted the Top Funds will be permitted to purchase units of a mutual fund that is listed on the TSX (or other recognized exchange) in the same manner that they are permitted to invest in a mutual fund that is not listed on the applicable exchange.

30. It is anticipated that many of the trades conducted by the Top Funds would not be of the size necessary for the Top Fund to be eligible to purchase or redeem a PNU directly from the Underlying ETF. As a result, it is anticipated that the majority of trading in respect of units of the Underlying ETFs will be conducted in the secondary market using the facilities of a recognized exchange.

31. Absent the Exemption Sought, when the Top Funds trade securities of an Underlying ETF on a recognized exchange, paragraph 2.5(2)(e) would not permit the Top Fund to pay any brokerage fees incurred in connection with the trade.

32. The original decision issued on June 25, 2012 (the **Original Decision**) failed to include several funds that should have been listed as Current Top Funds or Current Underlying Funds and failed to note a change as to the portfolio sub-advisors of some of the Funds. It is intended that the Original Decision be revoked upon the issuance of this decision, in order to reflect these revisions.

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:

1) the Original Decision is revoked and replaced by this decision; and

2) the Exemption Sought is granted, provided that

   (a) A Top Fund does not short sell securities of an Underlying ETF; and

   (b) the Underlying ETFs do not rely on exemptive relief from

   (i) the requirements of section 2.3 of NI 81-102 regarding the purchase of physical commodities;

   (ii) the requirements of sections 2.7 and 2.8 of NI 81-102 regarding the purchase, sale or use of specified derivatives, with the exception of the relief from paragraphs 2.7(1)(a) and 2.8(1) of NI 81-102 granted to certain Underlying ETFs pursuant to the In the Matter of AlphaPro Management Inc. decision dated November 18, 2010; and

   (iii) paragraphs 2.6(a) and (b) of NI 81-102 with respect to the use of leverage; and

(c) each Underlying ETF is not a commodity pool governed by NI 81-104.

“Sonny Randhawa”
Manager, Investment Funds

Ontario Securities Commission

SCHEDULE "A"

EXISTING TOP FUNDS

Fund Name	Manager Trustee	Portfolio Manager	Portfolio Sub-Advisor
Horizons Dividend ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	Leon Frazer & Associates Inc.
Horizons North America Value ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	Patient Capital Management Inc.
Horizons North America Growth ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	n/a
Horizons S&P/TSX 60 Equal Weight Index ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	n/a
Horizons Global Dividend ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	Guardian Capital LP
Horizons Balanced ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	Hillsdale Investment Management Inc.
Horizons Corporate Bond ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	Fiera Capital Corporation[2]
Horizons Preferred Share ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	Fiera Capital Corporation[2]
Horizons Floating Rate Bond ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	Fiera Capital Corporation[2]
Horizons Gartman ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	The Gartman Letter, L.C.
Horizons Seasonal Rotation ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	n/a
Horizons S&P/TSX 60 130/30™ Index ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	ProShare Advisors LLC
Horizons Enhanced Income Equity ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	n/a
Horizons Enhanced Income Energy ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	n/a
Horizons Enhanced Income Financials ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	n/a
Horizons Enhanced Income Gold Producers ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	n/a
Horizons Enhanced Income U.S Equity (USD) ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	n/a
Horizons Enhanced Income International Equity ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	n/a
Horizons Tactical Bond ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	n/a
Horizons Income Plus ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	Barclays Capital Inc.
Horizons High Yield Bond ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	Fiera Capital Corporation[2]

Fund Name	Manager Trustee	Portfolio Manager	Portfolio Sub-Advisor
Horizons U.S. Floating Rate Bond ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	Fiera Capital Corporation[2]
Horizons Gold Yield ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	n/a
Horizons Silver Yield ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	n/a
Horizons Crude Oil Yield ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	n/a
Horizons Natural Gas Yield ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	n/a
Horizons Diversified Commodity Yield ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	n/a
Horizons Auspice Managed Futures Index ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	n/a
Horizons Morningstar Hedge Fund Index ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	n/a

[1]Affiliate of the Manager
[2]Associate of an indirect minority shareholder of the Manager

SCHEDULE "B"

EXISTING UNDERLING ETFs

Fund Name	Manager Trustee	Portfolio Manager	Portfolio Sub-Adviser
Horizons Dividend ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	Leon Frazer & Associates Inc.
Horizons Global Dividend ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	Guardian Capital LP
Horizons North American Value ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	Patient Capital Management Inc.
Horizons North American Growth ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	n/a
Horizons Balanced ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	Hillsdale Investment Management Inc.
Horizons Corporate Bond ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	Fiera Capital Corporation[2]
Horizons Preferred Share ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	Fiera Capital Corporation[2]
Horizons Floating Rate Bond ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	Fiera Capital Corporation[2]
Horizons Enhanced Income Equity ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	n/a
Horizons Enhanced Income Energy ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	n/a
Horizons Enhanced Income Financials ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	n/a
Horizons Enhanced Income Gold Producers ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	n/a
Horizons Enhanced Income U.S Equity (USD) ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	n/a
Horizons Enhanced Income International Equity ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	n/a
Horizons Australian Dollar Currency ETF	Horizons ETFs Management (Canada) Inc. [1]	Horizons Investment Management Inc.[1]	n/a
Horizons U.S. Dollar Currency ETF	Horizons ETFs Management (Canada) Inc. [1]	Horizons Investment Management Inc.[1]	n/a
Horizons High Yield Bond ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	Fiera Capital Corporation[2]
Horizons U.S. Floating Rate Bond ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	Fiera Capital Corporation[2]

[1]Affiliate of the Manager
[2]Associate of an indirect minority shareholder of the Manager

2.1.8 Manulife Financial Capital Trust – s. 1(10)

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – application for an order that the issuer is not a reporting issuer.

Ontario Statutes

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

July 24, 2012

Manulife Financial Capital Trust
200 Bloor Street East
Toronto, Ontario
M4W 1E5

Attention: H. Steven Moore, Senior Vice President and Treasurer

Dear Sirs/Mesdames:

Re: Manulife Financial Capital Trust (the Applicant) - Application for a decision under the securities legislation of Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, Northwest Territories, Nunavut and Yukon (the Jurisdictions) that the Applicant is not a reporting issuer

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

As the Applicant has represented to the Decision Makers that,

1. 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;

2. no securities of the Applicant are traded on a marketplace as defined in National Instrument 21-101 – *Marketplace Operation*;

3. 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

4. the Applicant is not in default of any of its obligations under the Legislation as a reporting issuer,

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

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

2.2 Orders

2.2.1 Amendment to the Assignment of Certain Powers and Duties of the Ontario Securities Commission – s. 6(3)

Headnote

Amendment to the Assignment of Certain Powers and Duties of the Ontario Securities Commission.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., s. 6(3).

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

AND

IN THE MATTER OF
THE ASSIGNMENT OF CERTAIN POWERS AND DUTIES
OF THE ONTARIO SECURITIES COMMISSION

ASSIGNMENT
[Subsection 6(3)]

WHEREAS:

A. On February 2, 2010, pursuant to subsection 6(3) of the Act, the Ontario Securities Commission (the "Commission") issued an assignment (the "February 2, 2010 Assignment") assigning certain of its powers and duties under the *Securities Act* (Ontario) (the "Act") to each "Director" as that term is defined in subsection 1(1) of the Act, acting individually;

B. the Commission considers it desirable to amend the February 2, 2010 Assignment;

NOW THEREFORE:

1. Effective July 1, 2012, subparagraph 2(a) of the February 2, 2010 Assignment is amended, without prejudice to the effectiveness of any lawful exercise prior to the date of this amendment of the powers and duties assigned thereby, and subparagraph 2(a.1) is added, as follows:

   (a) clauses 21(5)(a), 21(5)(b), 21.0.1(a) and 21.0.1(b) of the Act but only:

      (i) with respect to the review and decision regarding information filed in Form 21-101F1 or Form 21-101F2 or the exhibits thereto, and

      (ii) where such information relates to matters that do not raise significant regulatory or public interest concerns and do not introduce a novel feature to the capital markets;

   (a.1) clauses 21(5)(e), 21.0.1(c) and subsections 21.1(4), 21.2(3) and 21.2.1(3) of the Act, but only in respect of by-laws, rules, regulations, policies, procedures, interpretations or practices that

      (i) do not raise significant regulatory or public interest concerns and,

      (ii) where they relate to an exchange, a quotation and trade reporting system, an alternative trading system or a clearing agency, do not introduce a novel feature to the capital markets;

Dated the 22nd day of June, 2012.

"Paulette L. Kennedy"
Commissioner
Ontario Securities Commission

"Margot C. Howard"
Commissioner
Ontario Securities Commission

2.2.2 Amended and Restated Assignment of Certain Powers and Duties of the Ontario Securities Commission – s. 6(3)

Headnote

Amended and Restated Assignment of Certain Powers and Duties of the Ontario Securities Commission.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., s. 6(3).

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

AND

IN THE MATTER OF
THE ASSIGNMENT OF CERTAIN POWERS AND DUTIES
OF THE ONTARIO SECURITIES COMMISSION

ASSIGNMENT
[Subsection 6(3)]

WHEREAS:

A. On February 2, 2010, pursuant to subsection 6(3) of the Act, the Ontario Securities Commission (the "Commission") issued an assignment (the "February 2, 2010 Assignment") assigning certain of its powers and duties under the *Securities Act* (Ontario) (the "Act") to each "Director" as that term is defined in subsection 1(1) of the Act, acting individually;

B. On June 22, 2012, pursuant to subsection 6(3) of the Act, the Commission amended the February 2, 2010 Assignment, effective July 1, 2012, by amending the assignment of powers and duties previously assigned under paragraph 2(a) and by assigning additional powers and duties under clauses 21(5)(a), 21(5)(b), 21.0.1(a), 21.01(b) and 21.01(c) of the Act, to be exercised in certain limited circumstances;

C. The Commission considers it desirable to amend and restate the February 2, 2010 Assignment to amend the powers assigned in paragraphs 2(d), 2(g)(i)(A) and 2(g)(ii) of the February 2, 2010 Assignment, and to revoke the assignment of powers and duties under paragraph 2(j) of the February 2, 2010 Assignment;

NOW THEREFORE:

1. Effective July 26, 2012, the February 2, 2010 Assignment is revoked, without prejudice to the effectiveness of any lawful exercise prior to the date of this revocation of the powers and duties assigned thereby, and is hereby replaced with the following amended and restated assignment (the "Assignment").

2. Pursuant to subsection 6(3) of the Act, the Commission assigns to each Director, acting individually, the powers and duties vested in or imposed on the Commission by:

   (a) clauses 21(5)(a), 21(5)(b), 21.0.1(a) and 21.0.1(b) of the Act but only:

      (i) with respect to the review and decision regarding information filed in Form 21-101F1 or Form 21-101F2 or the exhibits thereto, and

      (ii) where such information relates to matters that do not raise significant regulatory or public interest concerns and do not introduce a novel feature to the capital markets;

   (b) clauses 21(5)(e), 21.0.1(c) and subsections 21.1(4), 21.2(3) and 21.2.1(3) of the Act, but only in respect of by-laws, rules, regulations, policies, procedures, interpretations or practices that

      (i) do not raise significant regulatory or public interest concerns and,

(ii) where they relate to an exchange, a quotation and trade reporting system, an alternative trading system or a clearing agency, do not introduce a novel feature to the capital markets;

(c) subsection 62(5) of the Act;

(d) section 74 of the Act, but only in respect of orders that a person or company is not subject to section 53 of the Act in connection with solicitations of expressions of interest before the filing of a preliminary short form prospectus in accordance with National Instrument 44-101 *Short Form Prospectus Distributions* for securities to be issued pursuant to an over-allotment option granted to an underwriter by an issuer or a selling securityholder of an issuer;

(e) subclause 1(10)(a)(ii) of the Act but only in respect of a reporting issuer:

(i) whose outstanding securities, including debt securities, are beneficially owned, directly or indirectly, by fewer than 15 securityholders in Ontario and fewer than 51 securityholders in total worldwide,

(ii) whose securities, including debt securities, are not traded in Canada or another country on a marketplace as defined in National Instrument 21-101 *Marketplace Operation* or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported,

(iii) that is not in default of any of its obligations as a reporting issuer, and

(iv) that will not be a reporting issuer in any jurisdiction of Canada immediately following the Director making an order that the reporting issuer is not a reporting issuer;

(f) clause 1(11)(b) of the Act, in the circumstances described in Parts 2 and 3 of Ontario Securities Commission Policy 12-602 *Designating an Issuer in Certain Other Canadian Jurisdictions as a Reporting Issuer in Ontario*;

(g) paragraph 1 of subsection 127(1) of the Act, provided the making of the order under subsection 127(1) of the Act is not contested on its merits and is only in respect of suspending the registration of:

(i) a registrant that has, in the opinion of the Director, acted contrary to the public interest and consents to such suspension; and

(ii) a registrant that has filed an application to surrender the registrant's registration pursuant to section 30 of the Act and has also consented to the suspension of the registrant's registration;

(h) paragraph 2 and paragraph 2.1 of subsection 127(1) of the Act and subsections 127(2), (3), (5), (7), (8) and (9) of the Act, provided that the making of the order under subsections 127(1), (7) or (8) of the Act is not contested on its merits and is only in respect of

(i) trading, generally or by a person or company identified in the cease trade order, or acquisition, by a particular person or company identified in the cease trade order, in or of securities of a reporting issuer that has failed to file, as applicable,

(A) comparative annual financial statements or interim financial reports containing the statements and the notes required by National Instrument 51-102 *Continuous Disclosure Obligations* ("NI 51-102") or by National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers* ("NI 71-102"),

(B) an auditor's report issued in connection with comparative annual financial statements required by NI 51-102, and NI 71-102,

(C) an AIF, MD&A, information circular, or business acquisition report (all as defined by NI 51-102 and by NI 71-102) containing information for each of the content items required by NI 51-102 and the applicable form, by Part 5 of National Instrument 52-110 *Audit Committees*, or by NI 71-102,

(D) a report on reserves data and other oil and gas information as required by National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities* ("NI 51-101") containing information for each of the content items required by NI 51-101 and Form 51-101F2,

(E) a technical report as required by National Instrument 43-101 *Standards of Disclosure for Mineral Projects* ("NI 43-101") containing information for each of the content items required by NI 43-101 and Form 43-101F1, or

(F) certification of filings as required by National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*

within the time period prescribed by Ontario securities law;

(ii) trading, generally or by a person or company identified in the cease trade order, or acquisition, by a particular person or company identified in the cease trade order, in or of securities of a reporting issuer that has acknowledged in writing that comparative annual financial statements or interim financial reports filed with the Commission were not prepared in accordance with generally accepted accounting principles, including, but not limited to, where an issuer has advised the Commission or staff in writing, or has publicly announced, that it intends to restate such financial statements;

(iii) trading, generally or by a person or company identified in the cease trade order, or acquisition, by a particular person or company identified in the cease trade order, in or of securities of a reporting issuer that has filed its financial statements accompanied by an auditor's report prepared by a public accounting firm that is, as of the date of the auditor's report, not a participating audit firm as defined by National Instrument 52-108 *Auditor Oversight*, or is not in compliance with any restrictions or sanctions imposed by the Canadian Public Accountability Board;

(i) subsection 140(2) of the Act in the circumstances described in clauses (b), (c) and (j) of section C of Ontario Securities Commission Policy 13-601 *Public Availability of Material Filed Under the Securities Act*;

(j) section 144 of the Act to:

(i) revoke or vary any decision made by a Director under authority assigned to him or her by the Commission pursuant to this Assignment or a predecessor Assignment, including another decision made under section 144 of the Act, but only if at the time of revoking or varying such decision the Director would have been authorized to make the decision being varied or revoked, or

(ii) vary any order made by the Commission under section 127 of the Act to the extent necessary to permit transfers of securities as contemplated by Section 3.2 of National Policy 12-202 *Revocation of a Compliance-related Cease Trade Order*,

provided that a person or company directly affected by a decision of a Director made pursuant to this Assignment may, by notice in writing sent by registered mail to the Secretary of the Commission within 30 days after the mailing of the notice of the decision, request and be entitled to a hearing and review of such decision by the Commission.

3. The Executive Director of the Commission shall from time to time determine which one or more other Directors, in each case acting alone, should, as an administrative matter, exercise each of the powers or perform each of the duties assigned by the Commission in paragraph 2 above, each of which powers may also be exercised and performed by the Executive Director, acting alone.

4. No person or company shall be required to inquire as to the authority of a member of the staff of the Commission to sign a decision pursuant to this Assignment in the capacity of a Director, and a decision purporting to be signed pursuant to this Assignment by a member of the staff of the Commission in the capacity of a Director shall be conclusively deemed to have been signed by a Director authorized by this Assignment without proof of such authority.

5. This Assignment does not preclude the Commission from itself exercising or performing any of the assigned powers or duties.

DATED this 3rd day of July, 2012.

"Kevin J. Kelly"
Commissioner
Ontario Securities Commission

"Edward P. Kerwin"
Commissioner
Ontario Securities Commission

2.2.3 Marlon Gary Hibbert et al. – s. 144(1)

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

AND

IN THE MATTER OF
MARLON GARY HIBBERT, ASHANTI CORPORATE SERVICES INC., DOMINION INTERNATIONAL RESOURCE MANAGEMENT INC., KABASH RESOURCE MANAGEMENT, POWER TO CREATE WEALTH INC. AND POWER TO CREATE WEALTH INC. (PANAMA)

ORDER
Section 144(1)

WHEREAS the Ontario Securities Commission (the "Commission") issued a temporary cease trade order on January 28, 2011 pursuant to sections 127(1) and (5) of the *Securities Act*, R.S.O., c. S.5, as amended (the "Act") in respect of all of the Respondents (the "Cease Trade Order");

AND WHEREAS on February 11, 2011, the Commission made an order extending the Cease Trade Order until July 28, 2011;

AND WHEREAS on July 26, 2011, the Commission made a further order extending the Cease Trade Order under the conclusion of the hearing on the merits;

AND WHEREAS the hearing on the merits took place on December 5, 7 and 9, 2011 and January 11, 2012;

AND WHEREAS on April 4, 2012, the Panel issued its Reasons and Decision and found that the Respondents breached the Act by: trading in securities without being registered to do so; acting as advisors with respect to investing in, buying or selling securities without registration; engaging in activities which constituted a distribution in securities for which no preliminary prospectus or prospectus had been filed and for which no receipt has been issued by the Director; and further, that Marlon Gary Hibbert ("Hibbert") had directly or indirectly engaged or participated in acts, practices or a course of conduct relating to securities that he knew or ought reasonably to have known would perpetrate a fraud on persons; and that Hibbert had misled Staff;

AND WHEREAS a sanctions hearing is presently scheduled for August 1, 2012;

AND WHEREAS Staff of the Commission ("Staff") have advised that they intend to seek a disgorgement order at the sanctions hearing;

AND WHEREAS Hibbert and PCWP have requested, and Staff support, a partial variation of the Cease Trade Order to permit Hibbert and PCWP to transfer approximately $650,000.00 from a trading account held in the name of PCWP located in Panama to the Ontario Securities Commission by way of a bank draft or direct wire transfer to an account held by or in the name of the Commission, in order to remit the same to the Commission to partially satisfy any disgorgement order that may be made at the sanctions hearing;

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

AND WHEREAS by Authorization Order made June 13, 2012, pursuant to subsection 3.5(3) of the Act, each of Howard I. Wetston, James E. A. Turner, Kevin J. Kelly, James D. Carnwath, Mary G. Condon, Margot C. Howard, Paulette L. Kennedy, Vern Krishna, Christopher Portner and Edward P. Kerwin, acting alone, is authorized, to exercise the powers of the Commission under the Act, subject to subsection 3.5(4) of the Act, to make orders under section 144 of the Act.

IT IS HEREBY ORDERED that, pursuant to subsection 144(1) of the Act, the Cease Trade Order be varied to permit Hibbert and PCWP to trade in securities solely to transfer approximately $650,000.00 from a trading account held in the name of PCWP located in Panama to the Ontario Securities Commission by way of a bank draft or direct wire transfer to an account held by or in the name of the Commission. For greater certainty, the funds are to be transferred directly to the Commission without any intervention by Hibbert other than the provision by Hibbert of instructions to PCWP and/or the financial institution giving effect to the transfer; and

IT IS FURTHER ORDERED that all other terms contained in the Cease Trade Order remain in effect.

DATED at Toronto this 18th day of July, 2012.

"James D. Carnwath"

2.2.4 Win-Eldrich Mines Limited – s. 144

Headnote

Section 144 – full revocation of cease trade order upon remedying of defaults.

Statutes Cited

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

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

AND

IN THE MATTER OF
WIN-ELDRICH MINES LIMITED
(the Reporting Issuer)

ORDER
(Section 144)

BACKGROUND

On May 22, 2012, the Director made an order under paragraph 2 of subsection 127(1) of the Act (the Cease Trade Order) that all trading in securities of the Reporting Issuer, whether direct or indirect, shall cease until further order by the Director.

The Order was made because the Reporting Issuer was in default of certain filing requirements under Ontario securities law as described in the Cease Trade Order.

The Reporting Issuer has applied to the Ontario Securities Commission under section 144 of the Act for a revocation of the Cease Trade Order.

REPRESENTATIONS

This order is based on the following facts represented by the Reporting Issuer:

1. The Reporting Issuer is a reporting issuer in the Provinces of British Columbia, Alberta and Ontario.

2. The Reporting Issuer has filed all outstanding continuous disclosure documents that are required to be filed under Ontario securities law.

3. The Reporting Issuer has paid all outstanding participation fees, filing fees and late fees owing to the Ontario Securities Commission.

4. The Reporting Issuer is also subject to a cease trader issued by the British Columbia Securities Commission on May 9, 2012 for failure to file certain continuous disclosure documents.

5. The Reporting Issuer's SEDAR and SEDI profiles are up-to-date.

6. Upon the issuance of this revocation order, the Reporting Issuer will issue a news release announcing the revocation of the Cease Trade Order. The Reporting Issuer will concurrently file the news release and a material change report regarding the revocation of the Cease Trade Order on SEDAR.

ORDER

The Director is of the opinion that it would not be prejudicial to the public interest to revoke the Cease Trade Order.

It is order pursuant to section 144 of the Act that the Cease Trade Order is revoked.

DATED at Toronto, Ontario on this 17th day of July 2012.

"Lisa Enright"
Manager, Corporate Finance

2.2.5 Energy Syndications Inc. et al. – s. 127

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

AND

IN THE MATTER OF
ENERGY SYNDICATIONS INC.,
GREEN SYNDICATIONS INC.,
SYNDICATIONS CANADA INC.,
DANIEL STRUMOS, MICHAEL BAUM
AND DOUGLAS WILLIAM CHADDOCK

ORDER
(Section 127)

WHEREAS on March 30, 2012, the Ontario Securities Commission (the "Commission") issued 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"), in relation to a Statement of Allegations filed by Staff of the Commission ("Staff") on March 30, 2012 in respect of Energy Syndications Inc. ("Energy"), Green Syndications Inc. ("Green"), Syndications Canada Inc. ("Syndications") (collectively, the "Corporate Respondents"), Daniel Strumos, ("Strumos"), Michael Baum ("Baum"), and Douglas William Chaddock ("Chaddock") (collectively, the "Respondents");

AND WHEREAS the Notice of Hearing set a hearing in this matter for April 11, 2012 at 11:30 a.m.;

AND WHEREAS on April 11, 2012, Strumos, Baum, and Chaddock, on his own behalf and on behalf of the Corporate Respondents, attended the hearing;

AND WHEREAS on April 11, 2012, the Commission ordered that the matter was adjourned to a confidential pre-hearing conference to be held on July 18, 2012 at 10:00 a.m.;

AND WHEREAS on July 18, 2012, a confidential pre-hearing conference was held, at which Strumos, Baum, and Chaddock, on his own behalf and on behalf of the Corporate Respondents, attended;

AND WHEREAS the Panel considered the submissions from Staff and the Respondents and the Commission is of the opinion that it is in the public interest to make this order;

IT IS ORDERED that this matter is adjourned to a confidential pre-hearing conference to be held on August 21, 2012 at 10:00 a.m.

DATED at Toronto this 18th day of July, 2012.

"Mary G. Condon"

2.2.6 Energy Syndications Inc. et al. – ss. 127(1), 127(8)

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

AND

IN THE MATTER OF
ENERGY SYNDICATIONS INC.,
GREEN SYNDICATIONS INC.,
SYNDICATIONS CANADA INC.,
LAND SYNDICATIONS INC. AND
DOUGLAS CHADDOCK

TEMPORARY ORDER
(Subsections 127(1) & 127(8))

WHEREAS on April 1, 2011, the Ontario Securities Commission (the "Commission") issued a temporary cease trade order (the "Temporary Order") pursuant to subsections 127(1) and 127(5) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") ordering the following:

1. pursuant to clause 2 of subsection 127(1) and subsection 127(5) of the Act that all trading in any securities of Energy Syndications Inc. ("Energy"), Syndications Canada Inc. ("Syndications"), Green Syndications Inc. ("Green") and Land Syndications Inc. ("Land") shall cease;

2. pursuant to clause 2 of subsection 127(1) and subsection 127(5) of the Act that all trading in any securities by Energy, Syndications, Green and Land or their agents or employees shall cease;

3. pursuant to clause 2 of subsection 127(1) and subsection 127(5) of the Act that all trading in any securities by Douglas Chaddock ("Chaddock") shall cease;

4. pursuant to clause 3 of subsection 127(1) and subsection 127(5) of the Act that the exemptions contained in Ontario securities law do not apply to Energy, Syndications, Green and Land or their agents or employees; and

5. pursuant to clause 3 of subsection 127(1) and subsection 127(5) of the Act that the exemptions contained in Ontario securities law do not apply to Chaddock;

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

AND WHEREAS on April 7, 2011, the Commission issued a Notice of Hearing (the "Notice of Hearing") to consider the extension of the Temporary Order, to be held on April 14, 2011 at 11:00 a.m.;

AND WHEREAS Staff of the Commission ("Staff") served the respondents with copies of the Temporary Order, the Notice of Hearing and Staff's supporting materials as evidenced by Affidavits of Service filed with the Commission;

AND WHEREAS the Commission held a hearing on April 14, 2011 and counsel for Energy, Green, Syndications and Chaddock attended the hearing;

AND WHEREAS Staff advised the Panel that it was not seeking to continue the Temporary Order as against Land;

AND WHEREAS counsel for Energy, Green, Syndications and Chaddock advised the Panel that they did not oppose the extension of the Temporary Order;

AND WHEREAS on April 14, 2011 the Commission ordered that:

1. The Temporary Order is extended until June 24, 2011, or until further order of the Commission;

2. The Temporary Order is not extended against Land; and

3. The extension of the Temporary Order shall not affect the right of any respondent to apply to the Commission under section 144 of the Act to revoke or vary this order upon five days written notice to Staff of the Commission;

AND WHEREAS on April 14, 2011 the Commission further ordered that the hearing be adjourned to June 22, 2011 at 10:00 a.m.;

AND WHEREAS the Commission held a hearing on June 22, 2011 to consider an extension of the Temporary Order;

AND WHEREAS counsel for Energy, Green, Syndications and Chaddock attended the hearing and advised the Panel that they did not oppose the extension of the Temporary Order;

AND WHEREAS on June 22, 2011 the Commission ordered that:

1. The Temporary Order is extended until September 9, 2011, or until further order of the Commission;

2. The extension of the Temporary Order does not prohibit Green from engaging in the sale of goods provided that any sales agreement does not constitute an investment contract, as defined by Ontario securities law; and

3. The extension of the Temporary Order shall not affect the right of any respondent to apply to the Commission under section 144 of the Act to revoke or vary this order upon five days written notice to Staff of the Commission;

AND WHEREAS on June 22, 2011 the Commission further ordered that the hearing be adjourned to September 8, 2011 at 11:00 a.m.;

AND WHEREAS the Commission held a hearing on September 8, 2011 to consider the extension of the Temporary Order;

AND WHEREAS counsel for Energy, Green, Syndications and Chaddock attended the hearing and advised that they did not oppose the extension of the Temporary Order;

AND WHEREAS on September 8, 2011 the Commission extended the Temporary Order on the same terms until March 9, 2012 and further ordered that the hearing be adjourned to March 8, 2012 at 10:00 a.m.;

AND WHEREAS the Commission held a hearing on March 8, 2012 to consider the extension of the Temporary Order, at which Chaddock attended on behalf of himself and on behalf of Energy, Green, and Syndications;

AND WHEREAS on March 8, 2012 the Commission extended the Temporary Order on the same terms until April 12, 2012, and further ordered that the hearing be adjourned to April 11, 2012 at 11:00 a.m.;

AND WHEREAS the Commission held a hearing on April 11, 2012 to consider the extension of the Temporary Order, at which Chaddock attended on behalf of himself and on behalf of Energy, Green, and Syndications;

AND WHEREAS on April 11, 2012 the Commission extended the Temporary Order on the same terms until July 19, 2012, and further ordered that the hearing be adjourned to July 18, 2012 at 10:30 a.m.;

AND WHEREAS the Commission held a hearing on July 18, 2012 to consider the extension of the Temporary Order;

AND WHEREAS Chaddock attended the hearing on behalf of himself and on behalf of Energy, Green, and Syndications;

AND WHEREAS the Panel considered the submissions from Staff and Chaddock and the Commission is of the opinion that it is in the public interest to make this order;

IT IS HEREBY ORDERED that:

1. The Temporary Order is extended until August 22, 2012 or until further order of the Commission;

2. The extension of the Temporary Order does not prohibit Green from engaging in the sale of goods provided that any sales agreement does not constitute an investment contract, as defined by Ontario securities law; and

3. The extension of the Temporary Order shall not affect the right of any respondent to apply to the Commission under section 144 of the Act to revoke or vary this order upon five days written notice to Staff of the Commission;

IT IS FURTHER ORDERED that the hearing of this matter is adjourned to August 21, 2012 at 10:30 a.m. or on such other date or time as provided by the Secretary's Office and agreed to by the parties.

DATED at Toronto this 18th day of July, 2012.

"Mary G. Condon"

2.2.7 CRC Royalty Corporation – s. 144

Headnote

Section 144 – full revocation of cease trade order upon remedying of defaults.

Statutes Cited

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

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

AND

IN THE MATTER OF
CRC ROYALTY CORPORATION
(the Reporting Issuer)

ORDER
(Section 144)

Background

On May 7, 2012, the Director made an order under paragraph 2 of subsection 127(1) of the Act (the Cease Trade Order) that all trading in securities of the Reporting Issuer, whether direct or indirect, shall cease until further order by the Director.

The Order was made because the Reporting Issuer was in default of certain filing requirements under Ontario securities law as described in the Cease Trade Order (the Default).

The Reporting Issuer has applied to the Ontario Securities Commission under section 144 of the Act for a revocation of the Cease Trade Order.

Representations

This order is based on the following facts represented by the Reporting Issuer:

1. The Reporting Issuer is a reporting issuer under the securities legislation of the provinces of Ontario British Columbia, Alberta, Saskatchewan, Manitoba, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland.

2. The Reporting Issuer is not in default of the Cease Trade Order.

3. Except for the Default, the Reporting Issuer is not in default of any requirements under Ontario securities law.

4. The Reporting Issuer has filed all outstanding continuous disclosure documents that are required to be filed under Ontario securities law.

5. The Reporting Issuer has paid all outstanding activity, participation and late filing fees that are required to be paid.

6. The Reporting Issuer's SEDAR profile and SEDI issuer profile supplement are current and accurate.

7. Upon the issuance of this revocation order, the Reporting Issuer will issue a news release announcing the revocation of the Cease Trade Order. The Reporting Issuer will concurrently file the news release regarding the revocation of the Cease Trade Order on SEDAR.

8. The Reporting Issuer was also subject to a similar cease trade orders issued by Alberta and British Columbia as a result of the failure to make the filings described in the Cease Trade Order. The orders issued by Alberta and British Columbia were revoked on July 4, 2012 and July 5, 2012, respectively.

Order

The Director is of the opinion that it would not be prejudicial to the public interest to revoke the Cease Trade Order.

It is ordered under section 144 of the Act that the Cease Trade Order is revoked.
Dated: July 6, 2012

"Lisa Enright"
Manager, Corporate Finance Branch

2.2.8 Shaun Gerard McErlean and Securus Capital Inc. – 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
SHAUN GERARD MCERLEAN AND
SECURUS CAPITAL INC.**

**ORDER
(Sections 127 and 127.1)**

WHEREAS on December 8, 2010 the Ontario Securities Commission (the "Commission) issued an Amended Notice of Hearing pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended, accompanied by a Statement of Allegations dated December 8, 2010 filed by staff of the Commission ("Staff") in respect of Shaun Gerard McErlean and Securus Capital Inc.;

AND WHEREAS a hearing on the merits in this matter was held before the Commission on November 14, 15, 16, 17, 21, 23 and 24, 2011, January 12, 2012, March 26, 28 and 30, 2012, April 2, 3, 5, 11 and 12, 2012 and June 18, 2012;

AND WHEREAS, following the hearing on the merits, the Commission issued its Reasons and Decision with respect to the merits on July 19, 2012;

IT IS ORDERED that Staff and Shaun Gerard McErlean attend before the Commission on August 13, 2012 at 2:00 p.m. for the purpose of scheduling a hearing with respect to sanctions and costs, which shall take place within 60 days of this Order.

Dated at Toronto this 19th day of July, 2012.

"Vern Krishna"

"James D. Carnwath"

2.2.9 Peter Sbaraglia

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

AND

IN THE MATTER OF
PETER SBARAGLIA

ORDER

WHEREAS on February 24, 2011, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") in relation to a Statement of Allegations filed by Staff of the Commission ("Staff") on February 24, 2011 with respect to Peter Sbaraglia ("Sbaraglia");

AND WHEREAS on March 31, 2011, the Commission heard submissions from Staff and counsel for Sbaraglia and adjourned the hearing to April 28, 2011;

AND WHEREAS on April 28, 2011, the Commission heard submissions from Staff and counsel for Sbaraglia and adjourned the hearing to June 7, 2011;

AND WHEREAS on June 7, 2011, the Commission heard submissions from Staff and counsel for Sbaraglia and adjourned the hearing to July 27, 2011;

AND WHEREAS on July 27, 2011, the Commission heard submissions from Staff and Sbaraglia and ordered that a pre-hearing conference in this matter take place on October 28, 2011;

AND WHEREAS on October 28, 2011, the Commission held a pre-hearing conference in this matter and heard submissions from Staff and counsel for Sbaraglia and adjourned the pre-hearing conference to November 25, 2011 on the consent of the parties;

AND WHEREAS on November 25, 2011, following a pre-hearing conference at which the Commission heard submissions from Staff and counsel for Sbaraglia, the Commission ordered that: Sbaraglia's motion regarding Staff's disclosure, if Sbaraglia determined to bring such a motion, be scheduled for January 24, 2012; the hearing on the merits commence on June 4, 2012 and continue until June 26, 2012, excluding June 5 and 19, 2012; and a pre-hearing conference be held on April 30, 2012;

AND WHEREAS on January 24, 2012, the Commission held a hearing with respect to a disclosure motion brought by Sbaraglia and ordered that the minimum time requirements under subrule 4.3(1) and rule 4.5 of the Ontario Securities Commission *Rules of Procedure* (2010), 33 O.S.C.B. 8017 (the "Rules") be extended by an additional 10 days;

AND WHEREAS on April 30, 2012, the Commission held a hearing with respect to a motion brought by counsel for Sbaraglia seeking an adjournment of the hearing on the merits, which was opposed by Staff, and the Commission ordered that: the hearing on the merits originally scheduled to commence on June 4, 2012 will commence on October 22, 2012 and continue until November 14, 2012, inclusive, with the exception of October 23, 2012 and November 5 and 6, 2012, on a peremptory basis with respect to Sbaraglia; a pre-hearing conference be held on June 4, 2012; and the extension of the minimum time requirements under subrule 4.3(1) and rule 4.5 of the Rules ordered on January 24, 2012 be set aside;

AND WHEREAS on June 4, 2012, the Commission held a pre-hearing conference and heard submissions from Staff and counsel for Sbaraglia and adjourned the pre-hearing conference to July 4, 2012;

AND WHEREAS on July 4, 2012, the Commission held a pre-hearing conference and heard submissions from Staff and counsel for Sbaraglia and adjourned the pre-hearing conference to July 19, 2012;

AND WHEREAS on July 19, 2012, the Commission held a hearing with respect to a motion brought by counsel for Sbaraglia seeking an adjournment of the hearing on the merits;

AND WHEREAS counsel for Sbaraglia advised the Commission that, on October 2, 2012, the Court of Appeal will hear an appeal and cross-appeal of the decision of the Superior Court of Justice dated May 23, 2012 regarding Sbaraglia's motion to compel production by the Receiver of certain documents alleged by Sbaraglia to be relevant to this matter;

AND WHEREAS Staff consented to the motion for adjournment;

AND WHEREAS the Commission considered the submissions and motion materials of counsel for Sbaraglia and Staff;

AND WHEREAS the Commission considered the factors set out in rule 9.2 of the Rules;

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

IT IS ORDERED THAT:

1. The hearing on the merits scheduled to commence on October 22, 2012 will commence on March 18, 2013, on a peremptory basis with respect to Sbaraglia, and shall continue until April 5, 2013, inclusive, with the exception of March 26 and 29, 2013, and further continue on April 24 and 25, 2013; and

2. A pre-hearing conference will be held on November 7, 2012, at 9:00 a.m.

DATED at Toronto this 19th day of July, 2012.

"Christopher Portner"

2.2.10 Tranzeo Wireless Technologies Inc. – s. 144

Headnote

Section 144 – full revocation of cease trade order upon remedying of defaults.

Statutes Cited

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

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

AND

IN THE MATTER OF
TRANZEO WIRELESS TECHNOLOGIES INC.
(the Reporting Issuer)

ORDER
(Section 144)

BACKGROUND

On April 30, 2012, the Director made an order under paragraph 2 of subsection 127(1) of the Act (the Cease Trade Order) that all trading in securities of the Reporting Issuer, whether direct or indirect, shall cease until further order by the Director.

The Order was made because the Reporting Issuer was in default of certain filing requirements under Ontario securities law as described in the Cease Trade Order (the Default).

The Reporting Issuer has applied to the Ontario Securities Commission under section 144 of the Act for a revocation of the Cease Trade Order.

REPRESENTATIONS

This order is based on the following facts represented by the Reporting Issuer:

1. The Reporting Issuer is a reporting issuer under the securities legislation of the provinces of Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland..

2. The Reporting Issuer has filed all outstanding continuous disclosure documents that are required to be filed under Ontario securities law.

3. The Reporting Issuer has paid all outstanding activity, participation and late filing fees that are required to be paid.

4. The Reporting Issuer was also subject to a similar cease trade order issued by the British Columbia Securities Commission (BC) and and l'Autorité des marchés financiers (QU) as a result of the failure to make the filings described in the Cease Trade Order. The order issued by BC was revoked on July 5, 2012 and the order issued by QU was revoked on July 11, 2012.

5. The Reporting Issuer's SEDAR profile and SEDI issuer profile supplement are current and accurate.

6. Upon the issuance of this revocation order, the Reporting Issuer will issue a news release announcing the revocation of the Cease Trade Order. The Reporting Issuer will concurrently file the news release and a material change report regarding the revocation of the Cease Trade Order on SEDAR.

ORDER

The Director is of the opinion that it would not be prejudicial to the public interest to revoke the Cease Trade Order.

It is ordered under section 144 of the Act that the Cease Trade Order is revoked.

DATED: July 24th, 2012

"Lisa Enright"
Manager, Corporate Finance

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Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 OSC Decisions, Orders and Rulings

3.1.1 Shaun Gerard McErlean and Securus Capital Inc. – s. 127

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

AND

IN THE MATTER OF
SHAUN GERARD MCERLEAN AND
SECURUS CAPITAL INC.

REASONS AND DECISION
(Section 127 of the Act)

Hearing:	November 14, 15, 16,17, 21, 23 and 24, 2011, January 12, 2012, March 26, 28 and 30, 2012, April 2, 3, 5, 11 and 12, 2012 and June 18, 2012		
Decision:	July 19, 2012		
Panel:	Vern Krishna, Q.C.	–	Commissioner and Chair of the Panel
	James D. Carnwath, Q.C.	–	Commissioner
Appearances:	Matthew Britton	–	For Staff of the Commission
	Self-Represented	–	Shaun Gerard McErlean
	No one appeared on behalf of Securus Capital Inc.		

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I. INTRODUCTION

[1] On December 8, 2010, Enforcement Staff ("**Staff**") of the Ontario Securities Commission (the "**Commission**") filed a Statement of Allegations as follows:

> Staff allege that Shaun Gerard McErlean ("**Mr. McErlean**" or "**Shaun McErlean**") and Securus Capital Inc. ("**Securus**") (collectively the "**Respondents**"):
>
> (a) between January 22, 2009 and August 12, 2010, the Respondents engaged in or participated in an act, practice or course of conduct relating to securities that the Respondents knew, or reasonably ought to have known, perpetrated a fraud on any person or company, contrary to s. 126.1(b) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "***Act***");
>
> (b) between January 22, 2009 and September 28, 2009, McErlean traded securities without being registered to trade securities and without an exemption from the dealer registration requirement, contrary to s. 25(1)(a) of the *Act*;
>
> (c) between September 29, 2009 and August 12, 2010, without an exemption from the dealer registration requirement, the Respondents engaged in or held themselves out to be engaged in the business of trading securities without being registered in accordance with Ontario securities law, contrary to s. 25(1) of the *Act*;
>
> (d) between January 22, 2009 and September 28, 2009, McErlean acted as an adviser without registration and without an exemption from the adviser registration requirement, contrary to s. 25(1)(c) of the *Act*;
>
> (e) between September 29, 2009 and August 12, 2010, the Respondents, without an exemption from the adviser registration requirement, engaged in the business of, or held themselves out as engaging in the business of, advising with respect to investing in, buying or selling securities without being registered in accordance with Ontario securities law, contrary to s. 25(3) of the *Act*;
>
> (f) between January 22, 2009 and August 12, 2010, the Respondents traded securities which was a distribution of securities without having filed a preliminary prospectus or a prospectus with the Director or having an exemption from the prospectus requirement, contrary to s. 53(1) of the *Act*; and
>
> (g) that Mr. McErlean, as a director of Securus, authorized, permitted or acquiesced in the conduct of Securus contrary to s. 129.2 of the *Act*.

[2] We find that each of the allegations made by Staff against Mr. McErlean and Securus have been proven on a balance of probabilities.

II. STAFF WITNESSES

[3] Witnesses' testimony will be identified by Transcript Volume number and page number as "Tr. Vol. -, pp. xx – xx". Exhibits entered will be referred to by exhibit number as "Ex. – ". Hearing briefs will be referred to by Volume number, Tab and Page number as "Vol - , Tab(s) -, pp. xx – xx".

A. Indi Dhillon

[4] Mr. Dhillon is a forensic accountant in the Enforcement Branch of the Commission and his task is to assess and investigate potential breaches of Ontario securities law. He has been with the Commission for 15 years.

[5] Mr. Dhillon was assigned to the investigation of Mr. McErlean and Securus in March of 2010. During the course of his investigation, he collected documents and records that were filed, subject to identification, as Hearing Briefs, Volumes 1-16 inclusive.

[6] Mr. Dhillon's search of the National Registration Database revealed that Mr. McErlean was registered in October 2004 as an investment representative, sponsored by CIBC World Markets ("**CIBC**"). His registration terminated on January 22, 2009.

[7] During his investigation, Mr. Dhillon learned of Aquiesce Investments ("**Aquiesce**"). A Business Names Report shows Aquiesce to be a sole proprietorship with an address of 102 Bear Trail, Newmarket, Ontario. Aquiesce is shown as engaged in investment consulting. Mr. McErlean applied for registration of Aquiesce and his residence address is also 102 Bear Trail, in Newmarket, which is Mr. McErlean's residence (Ex. 1, Vol. 16, Tab 1, pp. 1-3).

[8] A subsequent search by Mr. Dhillon revealed that Aquiesce was not registered with the Commission, neither was it a reporting issuer in Ontario.

[9] Staff referred Mr. Dhillon to Vol. 1, Tabs 2–32, introduced as Ex. 2. The tabs contain all the bank statements and supporting documentation for TD Canada Trust Acc. No. 522 1560 in the name of Aquiesce INV. The account opened on December 10, 2008; transactions are shown until January 2, 2009. The last entry at Tab 32 shows a balance of $101,337.28. Mr. Dhillon was then referred to Vol. 16, Tab 2, pp. 4-30, entered as Ex. 3. Documents at Tab 2 include a complaint received at the Contact Center of the Commission from one TB, acting for a Colorado company, GP Co. and its CEO, Mr. JG. The complaint referred to an "Aquiesce Investments Trade Agreement" with PD Co., one of JG's companies. The agreement was never signed by Aquiesce and was described in an internal Staff memo as not contrary to Ontario's securities law. Considerable questions were posed to Mr. Dhillon concerning this unsigned agreement, which apparently did not contravene Ontario's securities law. Further pages from Tab 2, pp. 31 - 33 were entered as Ex. 4. Mr. Dhillon's evidence on this area and these two exhibits are of little or no assistance to the Panel.

[10] Mr. Dhillon was then asked about a meeting he had with James Dickson, a senior manager in the Corporate Investigations Department of the Royal Bank of Canada ("**RBC**"). When Mr. Dhillon and Mr. Dickson met, RBC account statements in the name of Securus were shown to Mr. Dhillon, together with supporting documents. Mr. Dickson showed Mr. Dhillon a Statement of Claim filed by ALLC, a Colorado company, against Mr. McErlean, Aquiesce, TD Waterhouse Canada Inc. ("**TD Waterhouse**"), the Toronto-Dominion Bank ("**TD Bank**"), and RBC (Ex. 5, Vol. 12, Tab 3, p. 10-22).

[11] In paragraph 17 of the Statement of Claim, the plaintiff pleads that on June 11, 2009, USD $2 million was wired from the plaintiff's account to be deposited to the Aquiesce Acc. No. 522 1560 for credit to ALLC.

[12] Staff referred Mr. Dhillon to Vol. 1, Tab 33, entered as Ex. 6, which he identified as a discount brokerage account application made by Shaun McErlean to TD Waterhouse. In the application, Mr. McErlean identifies his primary financial institution as TD Canada Trust, Newmarket with the Acc. No. 522 1560, as earlier identified in these Reasons. The TD Waterhouse brokerage account was numbered 72YJ94.

[13] Staff referred Mr. Dhillon to Vol. 1, Tabs 34, 35 and 36, entered at Ex. 7. Mr. Dhillon said these tabs contained transactions in the Aquiesce brokerage account with TD Waterhouse No. 72YJ94 from July 1, 2009 to August 31, 2009.

[14] Staff then drew Mr. Dhillon's attention to Ex. 2 containing the records for Acc. No. 522 1560 in the name of Aquiesce. Mr. Dhillon demonstrated that in the period from December 12, 2008 to June 4, 2009 there were deposits in the account of $400,000 approximately. This sum appeared to be made up of deposits by three or four persons based in Ontario. By June 4, 2009 there was a nominal amount in the account of $17.34. However, on June 11, 2009 a wire transfer from ALLC went into the account in the amount of USD $2 million or CAD $2,229,988.85. The wire transfer is found in Ex. 2, Vol. 1, Tab 19, p. 214. The "Payment Details" indicate the amount of the transfer is for further credit to ALLC in Acc. No. 77C436B-A.

[15] Mr. Dhillon was asked to explain how the CAD $2,229,988.85 was used. He replied:

(i) two entries of $74,040 and $86,380 were transferred to close a particular account;

(ii) a Canadian draft of $570,113.06 was distributed as follows:

(a)	to Bernadette McErlean,	$8,056.58;
(b)	RM, a relative of Shaun McErlean	$24,390.11;
(c)	to BM, a relative of Shaun McErlean	$22,500;
(d)	to SB,	$25,000;
(e)	to SP,	$100,000;
(f)	to RK,	$333,333.33;
(g)	to Shaun McErlean,	$17,500; and
(h)	to CIBC VISA,	$39,333.04
	Total:	$570,113.06

[16] Mr. Dhillon noted that RK had previously deposited $300,000 into the Aquiesce Acc. No. 522 1560.

[17] Mr. Dhillon identified a transfer from Acc. No. 522 1560 of $1,400,000 to TD Waterhouse. He said it appeared the monies were invested in publicly traded companies, as shown at Ex. 7, Vol. 1, Tab 34, p. 385.

[18] Mr. Dhillon then took us to Ex. 2, Vol. 1, Tab 21, p. 248 and identified a wire transfer to TD Acc. No. 522 1560 of $1,145,442.73 from Cash Flow Financial LLC, being approximately USD $1 million. On the same date there was a transfer to the TD Waterhouse brokerage Acc. No. 72YJ94 of $800,000, shown in Ex. 2, Vol. 1, Tab 34, p. 385.

[19] Mr. Dhillon then described a transfer from the trading Acc. No. 72YJ94 of $8,000 to Aquiesce Acc. No. 522 1560 on the June 19, 2009, found at Ex. 2, Vol. 1, Tab 34, p. 385. The deposit to the Aquiesce account is found at Ex. 2, Vol. 1, Tab 21, p. 248.

[20] Mr. Dhillon turned to his investigation of Securus, and an account opened at RBC for that company by Mr. McErlean, Acc. No. 101-842-3. He was referred to Vol. 3, Tab 1 which contain the opening documents for the account and Tab 2, which contained the account statements from December 2009 to August 2010. Tabs 3 to 10 provide the back up bank documents supporting the transactions that occurred in that account over that period. These documents were entered as Ex. 8, Vol. 3, Tabs 1-10.

[21] The documents show that Mr. McErlean was the president of Securus and the signing officer. His principal occupation is shown as being a “business consultant” which is typewritten. The words “investment advisor” have been added in handwriting. Much heat but not much light was expended on how the words “investment advisor” came to appear on the banking documents. The Panel’s conclusion is that this evidence is of no assistance in finding whether Mr. McErlean purported to act as a investment advisor.

[22] Entered as Ex. 9, Vol. 4, Tabs 1-14 inclusive were documents pertaining to Securus delivered by RBC to the Commission. They were described as not as complete as the banking documents filed at Ex. 8.

[23] Staff then referred Mr. Dhillon to Vol. 13, Tab 1, entered as Ex. 10, a document prepared by Mr. Dhillon described as Source and Application of Funds for RBC Business Bank Acc. No. 101-842-3 for the period from December 22, 2009 to August 9, 2010. An edited version (to remove personal information of investors) here follows:

Securus Capital Inc.

Source and Application of Funds for RBC Business Bank Account No. 03342-101-842-3 for the period from December 22, 2009 to August 9, 2010

Source of Funds:	**$**
Wire Transfers:	
TK AG, (apparently a German corporation)	2,129,140
RW (apparently a German resident)	1,410,560
MT REG (apparently a German trust)	1,390,700
MVWP (apparently a German resident)	1,369,400
Ms. LK (a Dubai resident)	1,543,568
EAEB (apparently a Dubai corporation)	1,310,963
Other Deposit (source unknown)	258,467
Other deposits/credits re items under $5,000	8,611
Total:	**9,421.409**
Application of Funds:	
To Shaun McErlean Cash or Visa payments	316,860
To Shaun relatives:	362,327
To Shaun related entities or persons:	
R3 Auto and Finance	717,007
Warrior One MMA Ltd.	359,096
RT Wood Natural Energy Corp.	389,000
M&AD	75,000
RS	20,000
Sub-total: To Shaun, relatives or related entities or persons	**2,239,290**
To former clients/investors of Shaun:	
LLF Lawyers LLP in Trust – Payment for ½ ALLC	1,049,700
RK – former CIBC client	375,575
To current investors:	1,352,414
Unknown debit memos and cheques, bank charges and other cheques under $5,000	2,451,523
Total:	**7,468,502**
Balance in RBC Account as of August 9, 2010	**1,952,907**
Adjustment for Pending deposit from investor not credited to a/c:	
Pending Deposits – July 25, 2010 wire transfer of USD $1,049,968 from Ms. LK – bank account statements reflect only a deposit of USD $248,968 – CDN equivalent – $258,466.91. Using the same exchange conversion rate -- USD $800,000 is equivalent to $830,522	832,522
Adjusted balance in the RBC account as of August 9, 2010	**2,785,429**

(There are two small errors made in entering the Canadian equivalent amounts from the USD $1,049,968 transfer from Ms. LK.)

[24] Mr. Dhillon took us to the cross-entries for Acc. No. 101-842-3 found in Ex. 8, Vol. 3. He explained the reference to a "pending deposit from an investor not credited to the a/c." Ms. LK wired USD $1,049,968 for deposit on July 25, 2010. The bank account statements reflect only a deposit of USD $248,968, or CAD $258,466.91. Mr. Dhillon explained that Mr. McErlean requested a draft of USD $800,000 immediately from the transfer to the effect that that sum did not go in and go out of the account. The Canadian equivalent of $258,466.91 of the balance of that transfer is shown as "other deposit – source unknown" on Ex. 10.

[25] Mr. Dhillon demonstrated by reference to the bank records that the item "current investors" relates to the investors who wired funds. We are satisfied that $1,352,414 was returned to them.

[26] Mr. Dhillon also demonstrated to our satisfaction that from the $2,451,523 described as "unknown debit memos, etc.," an amount of $584,674.27 was transferred to AS in Trust in respect of an Emco purchase. Mr. Dhillon's understanding was that this was a building in Barrie, Ontario.

[27] Overall, we are satisfied that the source and application of funds prepared by Mr. Dhillon accurately shows the sums of money deposited in the Securus bank Account No. 101-842-3 for the period described, subject to the minor errors in the calculation of the exchange rate from U.S. dollars to Canadian dollars. We accept the accuracy of the application of those funds, making allowance for the USD $800,000 applied to ALLC which were never deposited in the account.

[28] Mr. Dhillon then confirmed that Staff received a number of documents from RBC indicating that offshore individuals were calling RBC inquiring whether their entities, corporate or otherwise, had accounts at RBC.

[29] In Ex. 11, Vol. 12, Tabs 4-8 inclusive, are found email communications between RBC and TJ, a German investor, forwarded to Mr. Dhillon. Included are copies of an account summary TJ received from Dr. Uri Moelkner. An account summary on RBC letterhead shows a credit of €1,445,600. At Tab 6 is a communication from Securus Fund, L.P. ("**Securus Fund**"), 108 West 13th Street, Wilmington, Delaware, 19801, U.S.A.

[30] TJ confirmed to RBC that he had never heard of Shaun McErlean.

[31] In Vol. 12, Tabs 1-20, entered as Ex. 12, are email communications between RBC and one DH, representing a corporate entity JCNGNBH. TJ was inquiring about an RBC Acc. No. 102-8223 with a further account reference of 7205414. In Tab 14 at p. 63, is a letter on Securus Fund letterhead with an address of 29 Boo Lane, Pawley Islands, Georgetown, Delaware, U.S.A. to JCNGNBH over the purported signature of Shaun McErlean. Also included is a confidential private placement memorandum of Securus (Tab 17) and a limited partnership agreement of Securus Fund. The general partner is shown to be Oristi Holdings S.A. and a signature purported to be that of Shaun McErlean is affixed. In Vol. 12, Tab 21, entered as Ex. 13, are a number of inconsequential emails.

[32] In Ex. 14, Vol. 12, Tabs 23-25 inclusive, are documents concerning Tobias Haessner, a witness in this proceeding, including emails, banking documents and account statements with reference to MT REG. Mr. Haessner sought confirmation that MT REG had an RBC Acc. No. 720 6920A, containing €1 million.

[33] At Tab 23, there is an email from Mr. Haessner setting out account numbers for each of TK, MT REG, RW, MVWP and EAEB. The evidence of Mr. Dickson of RBC will establish that these accounts were non-existent. At Tab 25, there is an email from Shaun McErlean to KM, a U.S. citizen living in Durham, North Carolina, and Mr. Haessner, in which Mr. McErlean complains about his loss, the misguided shady business people he got involved with and instructs them to inform all clients "that our business relation has come to an end. I will transfer all funds to the account details that I have on file. I'm done."

[34] The following Exhibits were also entered through Mr. Dhillon:

(1) Exs. 15, 15A and 16 containing email correspondence between Staff and Shaun McErlean;

(2) Ex. 17, Vol. 9, Tabs 1-10 inclusive being the transcript of Shaun McErlean's voluntary interview dated August 13, 2010;

(3) Ex. 18, Vol. 9, Tabs 11-14 being a transcript of Shaun McErlean's compelled interview dated August 20, 2010;

(4) Ex. 19, Vol. 2 in its entirety containing documents pertaining to Right Step Solutions Inc., Radical Rods, Rides & Restoration Inc. ("**Radical Rods**") and R3 Auto and Finance Inc. regarding customer profiles and various account statements and banking documents;

(5) Ex. 20, Vol. 10, Tabs 1-9 inclusive containing incorporation documents and bank documents referring to the companies set out in (4), above;

(6) Ex. 21, Vol. 5, Tabs 1-3, contains RT Wood Natural Energy Corp. documents;

(7) Ex. 22, Vol. 16, Tab 5 is a sales history report identifying the Securus real estate purchase from Emco Limited, a property in Barrie occupied by Securus interests; and

(8) Ex. 23, Vol. 13, Tabs 2-7 contains orders and directions of the Commission and the Supreme Court of Justice (Ontario).

[35] In cross-examination by Mr. McErlean, Mr. Dhillon acknowledged that he told Mr. McErlean at the end of his voluntary interview "We appreciate that you've come down, and you've been cooperative with us, and you answered our questions. We appreciate that."

[36] Mr. McErlean's cross-examination of Mr. Dhillon provides little assistance to the Panel. Understandably, Mr. McErlean was unfamiliar with the techniques of cross-examination and on many occasions attempted to put in evidence circumstances of which Mr. Dhillon was unaware. His questions involved jumping from exhibits to exhibits without providing any clarity to the point Mr. McErlean was making.

[37] Considerable time was spent on asking Mr. Dhillon why he swore an affidavit that the false bank statements were prepared by Securus. Mr. Dhillon tried to explain that at that point in the investigation the name Securus was at the top of the documents. It was nothing more nor less than that.

[38] Ex. 24, Vol. 13, Tabs 8-10, contains certificates regarding Aquiesce, Securus and Shaun McErlean.

[39] Mr. McErlean also spent considerable time on the words "investment advisor" hand-written in the banking documents for Securus referred to earlier in these Reasons. We have concluded that the appearance of those words in the banking documents is not evidence that Mr. McErlean was advising investors.

[40] However, Mr. McErlean noted that Mr. Dhillon had sworn an affidavit that he, Mr. McErlean, acknowledged "that the investors who advanced these funds into the RBC account have generally promised a guaranteed rate of 5%." Mr. Dhillon was pressed on the point and finally acknowledged that nowhere in the voluntary interview did Mr. McErlean say there was a guaranteed return.

[41] During the cross-examination of Mr. Dhillon, Mr. McErlean entered Exs. 25-29. We find them of no value and they play no part in our decision.

[42] In re-examination, Staff entered Ex. 30, including investigative notes of Mr. Dhillon dated August 17, 2010. Entered as Ex. 31, was a transcript which was of no assistance to the Panel.

B. Richard Radu

[43] Mr. Radu is a Senior Investigator in the Enforcement Branch of the Commission. His evidence may be found in Tr. Vol. 3, pp. 67-122 and Tr. Vol. 4, pp. 16-95. From 1988 to 1999 he was a member of the Royal Canadian Mounted Police (the "**RCMP**"). For eight of those years he was in Commercial Crimes, specifically assigned to the Market and Securities Unit. Before he joined the RCMP, he was an assistant manager with the Bank of Nova Scotia in Saskatchewan.

[44] After familiarizing himself with the file on Shaun McErlean, he conducted a telephone interview with KM. He made notes of the interview and incorporated them in his will-say statement. KM is a U.S. citizen living in Durham, North Carolina. He met Mr. McErlean before January 2009 when Mr. McErlean worked at TD Bank. Sometime after their first meeting, Mr. McErlean called KM to advise that he wanted to leave TD Bank and start his own company. He asked KM to invest up to a $1,000,000 towards the $4,000,000 in total he felt he needed.

[45] KM told Mr. Radu he owned a dormant company, Securus Fund. He spoke with a friend of his, DF, about setting up an operation with Mr. McErlean to bring in clients. Finally a partnership was organized, including KM's friend, DF, Dr. Uli Moelkner and Mr. McErlean.

[46] Funds were to be deposited with Securus Fund and Mr. McErlean would be the trader, with zero risk to the clients. Mr. McErlean was to open an account in the name of Securus Fund and then open an account for each client and to provide appropriate documentation. KM told Mr. Radu that Mr. McErlean was to do all of the trading, that he never doubted Mr. McErlean; he knew Mr. McErlean's aunt, known as MI, very well.

[47] Following TK's investment, KM noticed the account was in the name of "Securus Capital Inc." and not "Securus Fund, L.P." Mr. McErlean told KM that they couldn't use the word "Fund" so he used "Capital Inc.". Mr. McErlean assured KM that

Securus was in the name of the four partners but never did provide KM with confirming documentation. It was only later that KM discovered that Mr. McErlean had sole control of the Securus account.

[48] Following the creation of the partnership, KM discovered that Dr. Moelkner was involved in a law suit in Germany and so KM removed Dr. Moelkner from Securus Fund.

[49] Five clients provided approximately €1,000,000 for a total of €5,500,000. According to KM in his conversation with Mr. Radu, the sum should still be there. KM said that he received RBC records from Mr. McErlean regarding separate accounts for each client. However, when he contacted someone at RBC, he was told the Commission had frozen the Securus account on August 12, 2010.

[50] Mr. McErlean's aunt, MI, told KM that Mr. McErlean used Securus for other purposes of which KM was not aware. KM received no money from Securus on a monthly basis. An entity by the name of Cascade received three payments of $25,000 each. KM ended the interview by agreeing to provide Staff with documents. Mr. Radu subsequently received a wealth of documents from KM. The first set involved Investor MVWP, one of the investors shown on Mr. Dhillon's Source and Application of Funds. In Vol. 8, Tab 6 were three documents. A document entitled, Asset Management Agreement and Power of Attorney between MVWP and Securus Fund was entered as Ex. 32, Vol. 8, Tab 6, pp. 46-53. A second Asset Management Agreement and Power of Attorney was entered as Ex. 33, Vol. 8, Tab 6, pp. 54-61. This document was signed by MVWP and on behalf of "Secur Capital L.P." and "Secur Capital Inc." by S. McErlean and KM. A third document, a letter from MVWP to Mr. McErlean, was entered as Ex. 34, Vol. 8, Tab 6, p. 62 in which he purports to cancel his contract with Securus Fund.

[51] KM sent a further tranche of three documents. The first document is an account application to RBC Direct Investing Inc., signed by MVWP, entered as Ex. 35, Vol. 8, Tab 7, pp. 65-69. The second involves the communication to the Dresdner Bank, involving Investor MVWP transferring €1,000,000 to RBC Acc. No. 526 942A. No such account existed with RBC. This became Ex. 36, Vol. 8, Tab 7, pp. 70-71. The final document is described as a business account statement on the letterhead of RBC confirming over $1,000,000 in Securus Acc. No. 101-842-3, entered as Ex. 37, Vol. 8, Tab 7, p. 72.

[52] Documents involving Investor MT REG and Securus Fund were entered as Exs. 38-43 inclusive. Significant among the documents is Ex. 40, Vol. 8, Tab 4, p. 34, a letter on Securus Fund letterhead, to MT REG confirming the establishment of an account at RBC in Newmarket. The letter is signed by Shaun McErlean.

[53] Exhibit 44, Vol. 8, Tab 3 is a copy of an email from Shaun McErlean to KM enclosing a blank application form to open an account at RBC.

[54] Exhibits 45-56 are all found in Vol. 6, Tabs 3-5 and consist of emails and attachments referencing TK. The emails confirm that TK invested a total of €1,420,000 by transferring sums to Securus. The emails also confirm Mr. McErlean forwarded a fake RBC statement referencing TK's investment.

[55] Mr. Radu testified about a telephone interview he conducted with NK, a resident of Sedona, Arizona, in the U.S. NK said he invested USD $1,000,000 with Mr. McErlean and Securus to be invested in medium-term notes that are normally sold between banks. He was put in touch with Mr. McErlean by BS and MI. In June 2010, NK travelled to Toronto and set up an account at RBC over which he had control. He said he still has his USD $1,000,000. NK subsequently learned later in 2010 that the Commission had frozen the account.

[56] Subsequently, NK forwarded an email with eight attachments entered as Ex. 57, Vol. 8, Tab 10. In Ex. 58, Vol. 12, Tab 28 are documents confirming NK's interaction with the Commission's Contact Center.

[57] In Ex. 59, Vol. 12, Tab 27, are documents flowing from a complaint by VT regarding his account with RBC over which he retained control. He told the Contact Center that the account was opened with the help of BS and MI who, in conjunction with Mr. McErlean, offered a minimum investment return of 50% per month from a private placement program. BS and MI were identified as sharing 15% in the program. VT was looking for $2,500,000 from Mr. McErlean based on the promised return.

[58] Finally, Mr. Radu was referred to Vol. 12, Tab 26, entered as Ex. 60. Tab 26 contained documents with respect to the investment of ALLC. Mr. Radu spoke with Mr. A, a representative of AALC, and learned that there was no interest in pursuing ALLC's loss with the Commission. Mr. A declined to be interviewed.

[59] Mr. Radu identified a transcript of Mr. McErlean's compelled interview as conducted by Mr. Radu and entered as Ex. 61.

[60] Staff then entered Ex. 62, Vol. 11, all having to do with Mr. Bateman, a witness to be subsequently called.

[61] Mr. Radu was then asked about an interview he conducted with Ms. LK, a resident of Dubai. The interview was conducted on December 8, 2010 and Ms. LK was represented by counsel. Her voluntary interview was entered as Ex. 63, Vol.

6, Tabs 6 – 50. In addition, all documents provided to Staff by Ms. LK during her interview at Commission offices may be found in Ex. 64, Vol. 7, Tab 1-9.

[62] In anticipation of LK attending to testify, additional documents were entered through Mr. Radu. Exhibit 65, Vol. 8, Tab 2 is a Securus Capital Private Investment Agreement between Securus and Ms. LK. Exhibit 66, Vol. 8, Tab 1 is a private treaty agreement between her and Cartol Limited.

[63] Exhibit 67, Vol. 8, Tabs 11-53 are the telephone records for Mr. McErlean's residence from January 2009 to September 2010.

[64] Exhibit 68, Vol. 9, Tab 16 is a CD-ROM containing PIN to PIN messages sent from Mr. McErlean's BlackBerry provided to Staff by Research In Motion.

[65] Mr. McErlean's cross-examination of Mr. Radu began by asking him to look at Ex. 25, Vol. 6, Tab 1, an Asset Management Agreement and Power of Attorney. Mr. Radu agreed that the font in the first seven pages of the document was quite different from the font on the signature page. Mr. McErlean then referred Mr. Radu to Ex. 25, Vol. 6, Tab 2, p. 28, which appears to be a stand-alone document in the form of a signature page, much like the one at p. 9 of Tab 1. Mr. Radu said he never questioned KM about the difference in the font size of the signature pages.

[66] Mr. McErlean asked Mr. Radu to examine p. 44 in Vol. 8, Tab 6. The document is an email with three attachments dealing with investor MVWP. At p. 46 is an Asset Management Agreement and Power of Attorney that appears to be signed on p. 53 by MVWP and Dr. Uli Moelkner on behalf of Securus Fund. At p. 54 in the same tab is a Asset Management Agreement and Power of Attorney. Once again, Mr. Radu was asked to compare the font size on the first seven pages of the document with the signature page found at p. 61. Once again, Mr. Radu agreed the font size was different. At p. 62 in the same tab is a letter addressed to Securus Fund at 108 West Thirteenth Street, Wilmington, Delaware, 19801, U.S.A. and beginning with "Dear Mr. McErlean". Mr. Radu was asked if he knew how Mr. McErlean received this letter or if he received it. Mr. Radu acknowledged that he did not.

[67] Mr. McErlean then produced 14 pages of hand-written notes made by Mr. Radu during the course of the investigation. The notes were entered as Ex. 69. The gist of his cross-examination on this point was to stress to Mr. Radu that KM was willing to attend for an interview but was never interviewed. After considerable questions and discussion, Mr. Radu acknowledged that KM was repeatedly asked to come and testify. KM continued to say he was willing to do so but never appeared. Also filed on the cross-examination was Ex. 70, a Document Case Assessment sent to Mr. Radu.

[68] The Panel took from Mr. McErlean's cross-examination of Mr. Radu that we will hear his explanations for the matters raised with Mr. Radu during the cross-examination. A number of inconsistencies were acknowledged by Mr. Radu but he, of course, could offer no explanation for the changes in the font size of some agreements nor why KM apparently was unwilling to appear.

C. James Dickson

[69] Mr. Dickson is a Chartered Accountant and a specialist in investigative and forensic accounting. He is the senior manager for forensic accounting at RBC in the Corporate Investigation Services group. He performed the same function for KPMG in the preceding years before joining RBC.

[70] Mr. Dickson was asked if RBC received a number of requests from companies and individuals residing in Germany. Mr. Dickson stated that requests came in to confirm account balances or account statements for accounts they either held in their own name or as sub-accounts of Securus. The various documents that were provided to Mr. Dickson sometimes referred to Securus Fund and sometimes to Securus. All of the enquiries came from persons who believed they had advanced funds into accounts with RBC. Mr. Dickson's understanding was that the persons in Germany were making some sort of investment with Securus.

[71] Part of the documentation received included falsified RBC Account Statements. Mr. Dickson's review confirmed that they did not in fact represent true accounts held with RBC. He identified that the funds in fact were, for the most part, paid into accounts maintained by Securus at RBC. RBC decided to restrain the accounts and conducted a general overview of what had taken place and determined that just under $2,000,000 was remaining in the account at that point. The bank attempted to get in touch with Mr. McErlean, but was not successful and the matter was reported to the Commission.

[72] The investigation revealed that persons in Germany were not clients of RBC nor was Securus Fund. The evidence did establish that the persons in Germany had deposited funds in the account in the name of Securus.

[73] Mr. Dickson was referred to Ex. 9, Vol. 4, Tabs 1-14 inclusive containing the Securus documents provided to the Commission by RBC. Mr. Dickson confirmed that the documents were the type of documents completed by any company opening an account in the ordinary course.

[74] Mr. Dickson was referred to Ex. 5, Vol. 12, Tab 13, the Statement of Claim filed by ALLC, in which ALLC sued Mr. McErlean and, among others, RBC.

[75] Mr. Dickson confirmed that Aquiesce held an account with RBC. It was his understanding that ALLC had advanced funds to Mr. McErlean and/or Aquiesce for investment purposes in the approximate amount of $2,000,000.

[76] Mr. Dickson was then asked to examine a number of documents purporting to be RBC statements or referencing RBC account numbers. At the end of this exercise, he was asked to look at Ex. 14, Vol. 12, Tab 23, p. 191, which listed TK, MT REG, RW, MVWP and EAEB who appear in the Source and Application of Funds document set out earlier in these Reasons. For each customer, an account number is shown and it was Mr. Dickson's evidence, which we accept, that the account numbers are false and do not exist at RBC. Mr. Dickson said that the customers listed are not customers of RBC. No accounts at RBC have an 'A' at the end of the account number.

[77] Mr. Dickson was taken to Ex. 14, Vol. 12, Tab 25, pp. 211-213 and 214, purporting to be "screenshots" of account statements presumably brought up on a computer screen. Mr. Dickson testified that none of the screenshots were genuine representations of an RBC account at the applicable dates. His investigation showed that all the screenshots were fakes.

[78] We took from Mr. Dickson's evidence that the only Securus account with RBC was Acc. No. 101-842-3 and any other representation with a different account number held by Securus was bogus.

[79] Mr. Dickson was then asked to review wire transfers from investors that were deposited into the Securus account, entered as Ex. 9, Vol. 4, Tabs 1-14. He confirmed that over $9,000,000 was credited to the account from individuals and entities offshore. In Vol., 4, Tab 4, he identified a wire transfer of CAD $1,480,000 into the account from TK. In Tab 5, he identified a wire transfer of CAD $595,980 going into the account from TK. In Tab 6, he identified a wire transfer of €999,972 going into the account from RW, representing CAD $1,410,560.50. In Tab 7, he identified the transfer of €1,000,000 going into the account from MT REG. In Tab 8, he identified a wire transfer for €1,000,000 going into the account from MVWP. In Tab 9, he identified a wire transfer for CAD $53,160 going into the account from TK. In Tab 10, he identified a wire transfer for USD $557,634 going into the account from Ms. LK. In Tab 11, he identified a wire transfer for USD $896,054.42 going into the account from Ms. LK, of which the Canadian equivalent was CAD $922,488.03. In Tab 12, he identified a wire transfer for USD $46,302 going into the account from Ms. LK, of which the Canadian equivalent was CAD $46,996.53. In Tab 13, he identified a wire transfer of €999,972 going into the account from EAEB, resulting in a conversion to CAD $1,310,963.29. In Tab 14, he identified a wire transfer of USD $1,049,968 going into the account from Ms. LK. Of that amount, USD $800,000 was purchased as a draft for payment to LLF Lawyers, who acted for ALLC. The draft for the $800,000 was created with the funds never going into the account. The balance of the funds after conversion to CAD $258,467 did go into the account.

[80] Mr. Dickson confirmed that as of August 9, 2010 the balance in the Securus account was $1,952,905.39. The account remains under restraint. Mr. Dickson said that RBC made one, possibly two attempts to meet with Mr. McErlean and he was either unavailable or unwilling to meet with an investigator.

[81] Mr. McErlean's cross-examination of Mr. Dickson was somewhat helter-skelter, directed towards establishing that Mr. McErlean was not trying to avoid a meeting with RBC. This was of little help to the Panel.

[82] However, Mr. McErlean directed Mr. Dickson to Vol. 12, Tab 6, p. 29, where TJ writes to Mr. Barbour of RBC to this effect: "here are the copies of the account summary we got from Dr. Moelkner. There were 11 summaries from Chadstone, this was the first one." Mr. Dickson was then referred to p. 31 in Tab 6 where appears a purported business account statement on the letterhead of RBC. The statement shows an Acc. No. 101-842-2, the account in the name of TJ and HJ. The balance in the account is shown as €1,445,600. Mr. Dickson confirmed that the statement was bogus and that the sum of €1,445,600 went into the Securus account, not into an account purportedly controlled by TJ and HJ.

[83] Mr. Dickson was then referred to Vol. 12, Tab 9, p. 45, a letter from TJ addressed to the head office of RBC. TJ writes "Allegedly our trustee, Dr. Moelkner (Securusfund) established a bank account with the Acc No. 03342-101-842-2 for me, TJ and my wife, HJ with the Royal Bank of Canada." TJ goes on to ask for an acknowledgement of the account and the amount of the money which is deposited into the account. Mr. Dickson confirmed that this was not a RBC account.

[84] Staff counsel then returned Mr. Dickson to Ex. 9, Vol. 4, Tabs 4-14. Once again, Mr. Dickson identified these as copies of the wire transfers from investors that were deposited into the Securus account. He confirmed that Euro dollar amounts were converted to Canadian funds and U.S. dollar amounts were also converted in the same manner. The dollar amounts reflected the amounts credited to the various investors in the Source and Application of Funds document reproduced earlier in these Reasons.

[85] Mr. Dickson also confirmed that the wire transfer by Ms. LK of $1,049,968 was the subject of two drafts, one for USD $800,000 paid to LLF Lawyers and the balance deposited into the Securus account. Mr. Dickson also confirmed that as of August 20, 2010 the balance in the Securus account was $1,952,905.39.

[86] Mr. McErlean's cross-examination of Mr. Dickson did not assist the Panel.

D. Tobias Haessner

[87] Mr. Haessner is a resident of Crailsheim, Germany and is self employed. He has a degree in political science and subsequently obtained a degree in marketing from the Free University of Berlin.

[88] In 2009, Mr. Haessner met DF, a man with a background and contacts in Africa, specifically African governments. It had always been his goal to develop projects and help finance projects in Africa. Mr. Haessner started to work for DF in 2010. He was to research and investigate different kinds of projects, including renewable energy, solar thermics and geothermics. He ordered feasibility studies, visited scientific congresses and studied the appropriate literature. The plan was to open an office in Botswana in 2010. DF told Mr. Haessner he had some experience in trading, particularly in certain kinds of project financing involving medium-term notes and senior unsubordinated bank debentures. When he started with DF no money had yet been raised for the intended projects.

[89] DF had contacted Uli Moelkner, an alleged friend who claimed to have access to some "really rich clients". Also, in January 2010, another contact was made with Shaun McErlean who thought he could access RBC and get involved in trading. Shortly put, Uli Moelkner was a fraudster and involved in criminal behaviour. He had no access to financing. Following his arrest in July 2010, he was sentenced to seven and a half years in prison.

[90] In the fall of 2009, DF had been introduced to Mr. McErlean by KM, a resident of the United States. The introduction was via email and telephone; KM never met Mr. McErlean in person. The same was true of Mr. Haessner who got to know Mr. McErlean through email.

[91] A company was established by Uri Moelkner, KM, DF and Shaun McErlean. The company, named Securus Fund, was formed to trade in medium-term notes with funds to be invested by clients, not by Uri Moelkner. During the first month in 2010, it became clear that Mr. McErlean established a second company, Securus, in Canada. Mr. Haessner said it should have been a subsidiary of Securus Fund but that never happened.

[92] The investment plan communicated to clients in Germany was such that their money would be collected and bundled at several sub-accounts at RBC in order to achieve trading power at the main account of Securus. Mr. McErlean told DF and KM that he was able to earn profits, approximately 20% per month. The intention was that a client would receive 5% of the 20% monthly sum, earned or accumulate the 5% monthly, with the balance to be divided among the shareholders and then to be used for project financing. There was no breakdown of how the profits would be distributed amongst the various parties. During the first months, KM, DF, Shaun McErlean and Uri Moelkner received €25,000; another €40,000 went into project financing. There was no written agreement about what would happen with the money.

[93] Five investors put approximately €5,500,000 in the scheme. They were told that they would get their own accounts or sub-accounts at RBC. After completing the account application information at RBC, Mr. McErlean provided DF and Mr. Haessner with an account number. Mr. McErlean wired instructions saying that the money goes to the main account at Securus but for credit to or for the benefit of the named client and in a sub-account number for that client. Shaun McErlean sent RBC account opening forms to Germany and the client filled them out; the forms were returned to Mr. McErlean who provided an account number for that client. The sub-account number was in turn forwarded to the client who then carried out the actual transfer of the funds to the Securus account by wire transfer. All account statements for the client were received from Mr. McErlean, never from RBC. It was originally planned that all clients would get their own internet banking and access at RBC as represented by Mr. McErlean. Later on, he said that RBC had technical problems; for that reason Mr. McErlean provided screenshots of internet banking accounts and account statements.

[94] Account statements were only in the name of Securus and not in the name of the client. Delays developed in timely payments of the monthly sums promised and Uri Moelkner became belligerent in seeking payments for the clients he introduced. Mr. Haessner wrote Mr. McErlean, KM and DF stating that he was unwilling to continue to work in the environment created by arguments over timeliness. In turn, Mr. McErlean wrote that the corporation was coming to an end and he would send all the money back to the clients. Ultimately, the matter was brought to the attention of the Commission.

[95] Mr. Haessner was taken to Vol. 15, Tabs 1-12 inclusive which contained a series of email communications from Mr. McErlean to Messrs. Haessner and DF and corresponding emails in reply. Included in the material furnished by Shaun McErlean regarding the clients' accounts with RBC are fake screenshots and fake account statements as identified earlier by Mr. Dickson. The emails reveal a picture of clients in Germany wondering where there money was, why they were not receiving confirmation of their sub-account, and why they were not receiving monthly payouts. It is obvious to us that Mr. McErlean was doing

everything in his power to put off the inevitable discovery of his deception by using fake RBC bank statements and fake RBC screen shots of the account.

[96] Mr. McErlean's cross-examination of Mr. Haessner did not assist the Panel.

E. Ms. LK

[97] Ms. LK has been a resident of Dubai, United Arab Emirates, for the past 15 years. She owns two companies in Dubai, one which buys and sells commodities, the other active in real estate. Her evidence may be found in Tr. Vol. 8, pp. 4-81.

[98] LK confirmed that Mr. Richard Radu of the Commission emailed her in the fall of 2010. Arrangements were made for LK to come to Toronto in December 2010 to be interviewed at the offices of the Commission. She brought with her a book of documents containing all the relevant documents and emails with people she dealt with involving her investment with Securus.

[99] She was asked to examine Ex. 64, Vol. 7, Tabs 1-9, and she confirmed that it contained the documents involving Securus.

[100] LK described how she met two persons, named Steve Carleson and Benny Tolentino, while in the United Arab Emirates. Mr. Carleson was from the United States and Mr. Tolentino from the Philippines. She described Mr. Carleson as a retired banker who was trading in financial instruments. Messrs. Carleson and Tolentino told her "a lot of stories" about how well they were doing in investing in financial instruments. Ultimately, LK signed an agreement with Cartol Limited, a company owned by Messrs. Carleson and Tolentino (Ex. 64, Vol. 7, Tab 1, pp. 2-7). The agreement called for LK to invest USD $1,500,000 "as collateral in a matched funds program and private placement transaction". She was required to complete a set of "compliance" documents, apparently to satisfy international banking regulations. She was also required to complete an application for an account with RBC. It was explained to her that her investment would be held by the bank in a separate account controlled by her as collateral for the investment program. Once all the documents were completed to the satisfaction of Messrs. Carleson and Tolentino, LK was passed on to one Brian Smith, located in the United States, and described as the owner of the trading platform. Her communication with Brian Smith was entirely by emails.

[101] Brian Smith explained to Ms. LK that her initial attempt to open an account with RBC was unsuccessful because it should have been sent to Securus. She was assured that she would have access to the account and that she would receive the profit from her investment weekly.

[102] Having sent $1,500,000 to Securus, LK repeatedly asked who her manager was at RBC and who the trader was. She kept getting put off by Brian Smith. Ultimately, she asked to receive a "screenshot" of her account. It was at this point she learned that the trader was Shaun McErlean and that her funds were deposited in the Securus account with RBC. In Ex. 64, Tab 1, pp. 50-52, are three transfer of funds documents evidencing LK's investments in Securus totalling USD $1,500,000 and referring to her RBC Acc. No. 5147894A. As we learned earlier from Mr. Dickson, this account did not exist. At Tab 1, p. 49, there is evidence of a further approximately USD $1 million transferred to Securus, again referencing the same bank account with RBC 5147894A.

[103] LK testified that after she transferred USD $1,500,000, in June of 2010 she was never able to get access to "her account". She received countless excuses from Brian Smith and subsequently from Shaun McErlean. In Ex. 64, Tab 2, are a series of emails from Brian Smith to LK. They confirm LK's evidence that she received nothing but excuses from Mr. Smith as to why it was not possible to have her account with RBC and not have the money under the control of Securus.

[104] In Ex. 64, Tab 9 are 80 emails from LK to Shaun McErlean, running from July 15, 2010 to December 1, 2010. The overall tenor of the emails is LK's demand that she receive confirmation that her funds were secure and under her control. Not until November 6, 2010 did she finally lose patience and threaten legal action.

[105] In Ex. 64, Tab 8 are copies of 76 emails sent by Shaun McErlean to LK. Each email is either designed to reassure LK that her money was in a separate account with RBC, or to explain why the separate account did not materialize.

[106] From July 8, 2010 to September 2, 2010, Shaun McErlean sent 23 emails either promising LK she would receive confirmation of her separate account with RBC, or putting off her inquiries. The Commission's temporary cease-trade order against Securus was issued August 12, 2010. No mention of this was disclosed to LK until September 3, 2010, over three weeks later.

[107] On September 3, 2010 Shaun McErlean emailed LK confirming the existence of the temporary cease-trade order. Since this "had made conducting business extremely difficult", he told LK "I'm looking to move in a different direction". He explained he was looking for a single partner in his business venture, and then offered the opportunity to LK.

[108] From September 3, 2010 to December 1, 2010, Shaun McErlean sent a further 53 emails to LK, promising a resolution of her matter, while still describing the business plan in which he invited her to participate.

[109] We find the emails to be total fabrications on the part of Mr. McErlean designed to explain why the banking problem could not be solved. The various excuses all bear the classic hallmark of a consummate fraudster attempting to put off the inevitable discovery of his scheme.

[110] Ms. LK has not recovered any part of the USD $2,500,000 she transferred to Securus.

III. RESPONDENT WITNESSES

A. Jack Bateman (called out of order on consent of the parties)

[111] Mr. Bateman lives in Newmarket and is a certified electrician. In the Fall of 2008, he incorporated a company called Warrior One MMA Ltd. ("**Warrior One**"), of which he was the sole shareholder and director. The company put on live events for mixed martial arts exhibitions. He staged three such events in 2009 in the province of Québec. He estimated it took $200,000 to $250,000 to put on one such event. He financed the events through himself and through his family.

[112] Mr. Bateman met Mr. McErlean in the fall of 2009. He learned that Mr. McErlean had a business that developed underfunded and understaffed companies such as his. In the early spring of 2010, Mr. Bateman called on Mr. McErlean because he was looking for a partner to help put on the events. This, he said, involved a tremendous amount of work. The work included booking the venues, hiring the fighters, organising television contracts and sponsorships. For the three events in 2009, Warrior One paid the expenses, including those sums paid in advance by way of deposit. Revenue came from ticket sales and merchandise.

[113] Mr. Bateman said that originally a small amount of money came in to Warrior One's account to pay for expenses but the revenue never came into the company. After 2009, Mr. McErlean was funding expenses outside Warrior One and paid them directly to whomever money was owed. The bulk of the revenues did not come to Warrior One, to the effect that everything was being done outside the company.

[114] The first show in 2010 was put on in Montréal. It was not a financial success because, Mr. Bateman said, the promotion of the show was not done correctly. He said Mr. McErlean and his company, Dreams to Reality, had taken over that portion of the responsibilities. There was also a problem with lack of alcohol at the event – alcohol was neither ordered nor delivered.

[115] Mr. Bateman then embarked on a story that has all the earmarks of bad crime-fiction. Following the second show in Halifax, Mr. Bateman picked up a cheque from Halifax Regional Municipality for $27,000 in favour of Warrior One. After he picked up the cheque, a gentleman he believed to be with the Italian mafia drove to his house in Newmarket. Having learned from his father of the man's arrival, Mr. Bateman called some police friends in Newmarket who sent an undercover officer to sit across the street from Mr. Bateman's house. The man from Montréal told Mr. Bateman that he was owed $5,000 and that if he didn't have the money by 12 noon on Friday that he and his colleagues would kill Mr. Bateman.

[116] Mr. Bateman called Mr. McErlean and told him of the threat he received. Mr. McErlean called back the same night and said, "it was dealt with". Mr. Bateman then had a call from the man from Montréal saying that it had not been dealt with. Eventually Mr. McErlean told Mr. Bateman to come and pick up a cheque. The cheque may be found in Vol. 11, Tab 3, pp. 67-68. The cheque is made by Halifax Regional Municipality payable to "Warrior I" for $27,297.01. On the back is Shaun McErlean's signature and an endorsement which reads, "signed over to Right Steps Solutions Inc. by Shaun McErlean, owner of W-1. Loan Repayment". Mr. McErlean told him to take the cheque and cash it and pay the man from Montréal and pay the remainder of the expenses left over from the Halifax show. Mr. Bateman completed his story by saying he set up a sting with the Organized Crime Unit of the York Regional Police so that when the man from Montréal met him at the bank, Mr. Bateman handed over the cash while the crime unit filmed the meeting.

[117] In cross-examination, Mr. McErlean recalled to Mr. Bateman that Mr. Bateman received $100,000 by way of loan from Aquiesce. Mr. McErlean drew his attention to Vol. 1, Tab 29, p. 336, the bank statements for Aquiesce, showing a transfer from Aquiesce for $100,000 on September 1, 2009. He then referred Mr. Bateman Vol. 1, Tab 29, p. 342 showing $100,000 deposited into the TD Canada Trust account of Warrior One. Mr. Bateman said that his original evidence was mistaken and apologized.

B. Shaun McErlean

[118] Shaun McErlean lives in Newmarket, Ontario with his wife, Sarah McErlean. At the beginning of his testimony he told the Panel he was going to include a lot of information which might not seem relevant. He also assured the Panel that at some point it would become relevant. He certainly carried through with his first assurance; he was less successful with his second.

[119] Mr. McErlean described his attendance at the University of Western Ontario where he obtained a degree in administrative and commercial studies. Following university, he took a position with CIBC as a customer service representative in October, 2002. He moved to CIBC Private Banking and became licensed with the Mutual Fund Dealers Association. In October of 2004, he moved to CIBC Wood Gundy and had his Commission certification upgraded to a Registered Representative. Over the next four years, Mr. McErlean "won every investing award that CIBC Wood Gundy had to offer."

[120] In 2008, Mr. McErlean said that the economic downturn caused him to consider his occupation. He couldn't handle watching people in his portfolio lose money based on the recommendations he made. His attendance at work became sporadic; he missed trades and trader reports. Whatever errors he made, he covered from his own money; he did not disclose the majority of those errors that occurred in November and December of 2008.

[121] In January, 2009, CIBC Wood Gundy suspended Mr. McErlean for not disclosing an outside business activity and for what they deemed to be irregular banking activities. In April of 2009, Mr. McErlean learned that Investment Industry Regulatory Organization of Canada ("**IIROC**") wanted to conduct a voluntary interview with him. Mr. McErlean told IIROC that CIBC had all of the answers that they were looking for and more.

[122] Mr. McErlean then described a business plan he chose to pursue, a plan developed by him and his wife. He described in considerable detail the plight of the small business person who had "no clue how to operate the day-to-day aspects of a business." These small business owners found financing difficult and Mr. McErlean, as a business consultant, would help these business owners.

[123] In December, 2008, Mr. McErlean set up a sole proprietorship under the Ontario *Business Names Act* called Aquiesce, mentioned earlier in these Reasons in paragraph 7. Aquiesce would provide financial consulting services and financial resources necessary to allow small-sized companies to become successful. In lieu of a fee, Mr. McErlean was looking for a percentage of those companies. He found that raising money for Aquiesce was difficult. In the end he relied on assistance from his parents, loans from aunts, uncles, family friends and a few former clients from Wood Gundy. He began what he called the "buy in process" of the first of his companies, Radical Rods. That company was owned by his father-in-law and was engaged in renovation and repair of classical cars.

[124] Mr. McErlean described his efforts to obtain capital from a number of investors ending up with CK, who had a network of six to eight individuals with cash-flow. CK introduced them to him in May, 2009. There were three in particular: ALLC, who advanced USD $2 million; Mr. AW who advanced USD $1 million; and a gentleman named JG, who never advanced anything. Mr. McErlean stated he was "astounded" when CK arranged to have USD $ 2 million transferred to the Aquiesce business account at TD Bank. He said he was only looking for $750,000 to $1 million. He used $570,000 to consolidate all of the small loans that he had taken from family and friends and $1.4 million was placed in an account at TD Waterhouse in the name of Aquiesce.

[125] CK arranged for AW to forward USD $1 million into the Aquiesce account. AW chose to have his money sent back to him within a few months. Mr. McErlean said AW was re-paid the USD $1 million plus something for interest earned during the time he controlled those funds. A considerable amount of time was spent in identifying the transfer of funds to AW over a period of several months. Considerable time was spent identifying when the repayments were made. Mr. McErlean later produced a document (Ex. 73) showing AW was re-paid USD $1 million in five payments ending September 14, 2009. The same exhibit shows repayments to ALLC of USD $ 2 million on July 20 and July 28, 2010.

[126] Mr. McErlean completed his evidence on Aquiesce by testifying that everything was informal, there were no written agreements and there was no description of what any bonus or incentives would have been. He acknowledged that his arrangement with these investors wasn't professional and that mistakes were made.

[127] In August, 2009, Mr. and Mrs. McErlean turned their attention from Aquiesce and took their original concept of assisting small business owners "to the next level". Mr. McErlean incorporated Right Step Solutions Inc. ("**Right Step**") and secured a website. There were to be three parts to the website: companies that the McErlean's partnered with whose dreams they were helping to become a reality; people who had done something to achieve their dream and a charitable section where they would help someone else achieve some type of dream. The Panel heard considerable evidence about their efforts carrying out charitable works, evidence which does not assist us. Towards the end of 2009, Mrs. McErlean left her employment to work with Right Step full time.

[128] Mr. McErlean then told us of his first meeting with Dr. Uli Moelkner and DF. They were introduced by KM, someone Mr. McErlean had met earlier. He described Dr. Moelkner and DF as successful businessmen engaged in African projects of a humanitarian nature. Mr. McErlean said it made sense for him to move forward in a working relationship with Dr. Moelkner and DF. To this end, KM signed over 75% of his hedge fund, named Securus Fund, to Dr. Moelkner retaining 25% for himself, DF and Mr. McErlean. Mr. McErlean was asked to incorporate a company in Canada which he did, Securus, wholly-owned by Mr. McErlean. The intention was that Dr. Moelkner would arrange for investors that he knew to transfer funds to Securus. Mr.

McErlean described the plan as one where he would do his business in Canada, Dr. Moelkner, KM and DF would run the African projects and any non-Canadian business, with DF to be responsible for ensuring that the investing clients were happy.

[129] We heard considerable evidence about attempts to carry out projects, humanitarian and otherwise, in Africa. That evidence is of no assistance to us.

[130] On February 1, 2010, the first transfer from the German clients of Dr. Moelkner arrive from someone known as TK. He sent €1 million to Securus. The total received by Securus from four German investors are shown on Ex. 10 (Vol. 13, Tab 1, p. 1) as follows:

TK (three transfers)	$2,129,140
RW (€999,972)	$1,410,560
MT REG (€1 million)	$1,390,700
MVWP (€1 million)	$1,369,400

[131] In March of 2010, Mr. McErlean received a telephone call from one Brian Doherty who warned him about Dr. Moelkner whom he described as having a very bad reputation for walking away with people's funds. He decided to look into Dr. Moelkner's reputation in Europe and drew his concerns to the attention of DF. DF responded with a glowing defence of Dr. Moelkner. To make a long story short, Mr. McErlean, KM and DF finally learned that Dr. Moelkner was indeed dishonest, and had been tried and convicted of fraud.

[132] Mr. McErlean spent day two testifying about the application of funds shown on Ex. 10, (Vol. 13, Tab 1, p. 1), entitled Source and Application of Funds for the Securus bank account number 03342-101-842-3 for the period December 22, 2009 to August 9, 2010. It will be recalled that this document was prepared by Mr. Dhillon.

[133] Mr. McErlean first drew the Panel's attention to evidence supporting the payments to ALLC against the funds advanced by ALLC of USD $2 million. In addition to the $1,049,700 shown on Ex. 10 as paid to the lawyers in trust for ALLC, Mr. McErlean produced evidence, which we accept, showing that all the sums payable to ALLC by way of settlement included an annual interest rate of 10%. Similarly, Mr. McErlean filled in a hole in his earlier testimony that satisfied the Panel that entire sums owing to AW were returned to him. Mr. McErlean then testified as to sums invested in R3 Auto and Finance Inc. and what he expected to recover by way of the monthly payments were the sums loaned to the high-credit risk borrowers. He did not dispute that Securus advanced $717,007 to R3 Auto and Finance as shown on Ex. 10. We find ALLC and AW were repaid with money advanced by subsequent investors in Securus, such as Ms. LK.

[134] Mr. McErlean described his participation in RT Wood Natural Energy Corp ("**RT Wood**"). Mr McErlean disputed the amount of $389,000 advanced to RT Wood as shown on Ex. 10. His evidence satisfied us that Securus advanced $934,000 to RT Wood.

[135] Mr. McErlean then turned to the payments shown on Ex. 10 to MD and AD in the amount of $75,000, together with a single payment of $20,000 to RS. These sums, Mr. McErlean explained, were spent to acquire Barrie Core Wellness. Mr. McErlean confirmed that the total paid to MD and AD and RS for the interest in Barrie Core Wellness was $135,000, which purchased a 50% interest in the business for Right Step.

[136] Mr. McErlean then dealt with the purchase of a building in Barrie to be used by his father-in-law's company, Radical Rods, as well as R3 Auto & Finance and a few other companies. We took from Mr. McErlean's evidence and from Ex. 78, filed, that the total amount expended by Securus to acquire the Barrie property for Radical Rods and others was $1,181,000 approximately.

[137] Mr. McErlean introduced Ex. 80 purporting to be a list of expenses incurred by Securus in promoting the Warrior One exhibitions. The expenses total $1,107,000 approximately and Mr. McErlean testified that the income from the exhibitions was $692,000 approximately after making allowances for repayment of HST. Mr. McErlean estimates the loss on the promotion to be in the neighbourhood of $300,000.

[138] It should be borne in mind that these conclusions by the Panel do not begin to adequately describe the fractured, complex and sometimes incomprehensible testimony of Mr. McErlean. This, we find, to be partly explained by the lack of documents setting out the relationships, the obligations and the agreements for loan repayments, etc. that one would expect to find. It may be further explained by Mr. McErlean's unfamiliarity with presenting evidence in a manner of this kind. Nevertheless, we are satisfied on the balance of probabilities given by Mr. McErlean that the figures referred to earlier in the testimony given on day two to be close to accurate.

[139] On March 30, 2012, Mr. McErlean appeared and asked for an adjournment as his father had fallen ill. The matter was adjourned until Monday, April 2, 2012 at 11:00 a.m.

[140] Mr. McErlean appeared with a number of lending agreements and other documents relating to the various companies in which Securus had invested money. They were entered as Exs. 84 – 92. The Panel identified them all as non-arms-length lending agreements and the documents speak for themselves. Nothing further produced or spoken by Mr. McErlean was of any assistance to the Panel. Cross-examination by Mr. Britton started after the lunch recess.

[141] In cross-examination, Mr. Britton, Staff counsel, began by confirming Mr. McErlean's employment with CIBC Wood Gundy. He obtained confirmation that of the $2 million advanced to Aquiesce, $570,000 approximately was used to pay off relatives and former clients who had advanced money to him. He further obtained confirmation that Mr. McErlean transferred about $1.4 million from the sums advanced into a trading account at TD Waterhouse, which he used to trade equity. A further USD $1 million from AW was also transferred into the trading account. Mr. McErlean confirmed that it was clear that AW and ALLC were advancing money to him to invest in enterprises that Mr. McErlean thought would be profitable and that they would be repaid out of the profits earned by his investing.

[142] Mr. Britton took Mr. McErlean through the events leading up to his engagements with Dr. Moelkner, DF and KM. Mr. Britton then embarked upon a long series of questions centered on emails purportedly sent by Mr. McErlean to KM, DF and Dr. Moelkner. The series of questions are found at Tr. Vol. 12, pp. 60-133.

[143] A pattern of the examination was established early on when Mr. McErlean was asked about a certain email, purportedly from him to AM dated October 26, 2009. Mr. McErlean declared it to be a forgery. He explained that the emails originated on DF's computer. It was put to Mr. McErlean that his evidence was to the effect that DF, or someone, composed fraudulent emails and forgeries. Mr. McErlean replied that this was so.

[144] The cross-examination continued with specific references to individual emails. The pattern of response was that emails apparently damaging to Mr. McErlean's defence were declared to be forgeries and those emails either neutral or in his favour were identified as being genuine.

[145] Mr. Britton then turned his questions to the relationship between Mr. McErlean and LK. Mr. McErlean confirmed that his aunt, MI played a part in introducing LK to him, along with BS and KM. Mr. McErlean was asked to look at the agreement between Securus and LK found in Vol. 7, Tab 1, p. 43. The agreement had been provided to Staff by LK. Mr. McErlean's attention was drawn to a clause in the agreement which recited that the funds loaned by LK would remain under the investor's sole control during the period of the agreement. Mr. McErlean testified that the clause was not in the agreement that he prepared and sent to BS. He said either BS or KM changed the agreement he forwarded to them. Mr. McErlean also said the initials at the bottom of each page of the agreement were his, that certain clauses were added, which were not in the original document he forwarded to BS. He concluded by confirming that the document was a forgery. There then followed a series of questions involving LK's attempt to open a bank account with RBC in order to retain control of her funds. Various emails and documents indicating that Mr. McErlean was attempting to get the funds transferred to the Securus account were shown to Mr. McErlean. The same pattern of questions and answers continued; if there was an email or document, which apparently contradicted Mr. McErlean's position in this matter, he declared it a forgery. If a document was neutral or supported his position he acknowledged its authenticity.

[146] Mr. Britton's continued cross-examination of Mr. McErlean centered on the relationship between Ms. LK and Mr. McErlean. Mr. McErlean was referred to numerous emails and telephone records that seemed to indicate that Mr. McErlean was deceiving LK about where her funds were. Mr. McErlean's responses continued to follow the same pattern as the previous days' cross-examination. If her emails alleged misrepresentations by Mr. McErlean that were harmful to his defence, he declared them to be forgeries.

[147] One exchange from this portion of the cross-examination gave the Panel an inkling of how Mr. McErlean approached his relationships with investors:

> Q: You told her I'm wiring you your funds; they'll be there whenever, when you didn't have the money?
>
> A: Officially, no.
>
> Q. Officially? What is officially? You didn't have the money, right?
>
> A. I went to various people looking to raise enough funds, and in October of 2009, there was an investment group in Washington DC which was exceptionally interested in our natural energy company. They were looking to invest funds with us which not only would [LK] have been repaid, everybody would have been repaid. Nothing ever came of that.

> I was told two to three times: Funds are en route; funds are en route. I even provided a copy of the contract for [Mr. F]'s partner to look at the contract to make sure that it was going to be legit, as opposed to doing things like I used to do them, and more official, and the funds never arose despite how many times I was told that they were sent.
>
> And unfortunately, throughout this entire process, if somebody tells me they're going to do this, I believe them, and unfortunately, in many instances, I will turn around and convey that message to somebody else.

[148] This answer is typical of many of Mr. McErlean's responses. His explanation for his seemingly deceitful actions were either his signature was forged, someone changed documents without his knowledge, or his inability to pay was someone else's fault.

[149] Mr. Britton concluded his cross-examination by obtaining confirmation of payments made by Mr. McErlean to a number of relatives and friends from whom he borrowed money, and, in addition, to former clients from CIBC Wood Gundy who loaned him money.

[150] Finally, it was put to Mr. McErlean that IIROC commenced a proceeding against him alleging he personally compensated two of his clients for losses in their accounts without knowledge or approval of his member firm, CIBC Wood Gundy. IIROC further alleged he made discretionary trades in the account of a client without first having the client's written authorization or having the account approved as discretionary by CIBC Wood Gundy. The IIROC Panel found the allegations were established.

[151] In response, Mr. McErlean gave a long explanation why he was unable to mount a proper defence because CIBC Wood Gundy had lost a hard drive. He is currently intending to appeal IIROC's decision.

[152] The matter was adjourned to Thursday, April 5, 2012 for Mr. McErlean's re-examination.

[153] Mr. McErlean began his re-examination of himself by offering an explanation of why it appeared he was misleading LK as to transfer of her funds in Securus to her. He said his intentions were sincere but the timing of the extension of the cease-trade orders that froze the Securus bank account made it seem as if he was misleading LK. He offered an explanation for signing a Securus Fund document indicating he was an officer. He explained that he was excited. He acknowledged he should not have signed it based on some of the wording in the document.

[154] He then referred to Vol. 1, Tab 1, p. 67, a bank account of Aquiesce. The document shows a series of transfers into the account via email. These transfers, Mr. McErlean said, were examples of funds that were deposited by individuals who were providing him some of the capital he needed up front, which he would later be repaying. These investors were mainly family and friends. The information was produced to show that the funds from the sale of a house property by the McErleans were used to pay business expenses. The proceeds of the house sale were ultimately intended to build a swimming pool.

[155] There then followed a series of payments identified by Mr. McErlean in Vol. 3, Tab 3, p. 49 and following, which he described as repayments of loans made to him or investments in the various businesses, most of which were operated by family members. He acknowledged that his business accounts and personal accounts were "co-mingled". This concluded Mr. McErlean's evidence.

C. John Ford

[156] In 2000, Mr. Ford graduated from the International Academy of Design and worked in Toronto building websites.

[157] Following a meeting with Mr. McErlean, Mr. Ford's company, 33rd Design, was formed with Right Step having a partial interest. The new company does all the design for the companies that Right Step has an interest in. While the company was getting off the ground, the McErleans proposed that Mr. Ford live with them in lieu of salary. In addition, he was provided with the necessary equipment to produce print design, video and marketing. Mr. Ford described the work he did for Radical Rods, RT Wood and Warrior One, among others. It was Mr. Ford's opinion that all of the companies that Right Step was involved in were doing well.

[158] In cross-examination, Mr. Britton drew his attention to numerous payments going into his bank account from Securus in varying amounts. Mr. Ford was extremely vague as to the reason for these payments, but he assumed they represented salary and sometimes dividends from Right Step. Mr. Ford's evidence only confirmed what we already knew – that funds from Securus were supporting Mr. McErlean's investment enterprises.

D. Shande Alexi Mizzi

[159] Ms. Mizzi started working with Right Step in February of 2011. Her current responsibilities include the day-to-day operations for R3 Auto and Finance. She also does any day-to-day activities that need to be done as far as administration for Right Step. She estimates she puts in 37 hours a week.

[160] Ms. Mizzi was shown a document that set out all the R3 Auto and Finance clients, their monthly payments, the registration numbers for their liens and the total loans each client maintains. There were approximately 70 loans outstanding.

[161] Ms. Mizzi was asked about Right Step Renovations, which as it turned out, was operated by her boyfriend with whom she has been together for seven years. Evidently, the boyfriend, Allan Rewega, originally worked on the renovations for Radical Rods.

[162] In cross-examination, Mr. Britton asked one question – was Allan Rewega related to Mr. McErlean. She replied that Sarah McErlean, Mr. McErlean's wife, is Allan Rewega's sister. That concluded the cross-examination.

E. Joni Rewega

[163] Ms. Rewega is Mr. McErlean's sister-in-law. She has recently taken on some bookkeeping duties for Right Step. She works with the Barrie Core Wellness Center and has been there for approximately five years. She confirmed previous testimony about Right Step's purchase from MD and AD and Right Step's acquisition of a partial ownership in the wellness centre.

[164] Ms. Rewega also did volunteer work for Warrior One and its attempts to get off the ground.

[165] In cross-examination, Mr. Britton asked if she knew the net revenue of Barrie Core Wellness Center – she replied she did not.

F. Gary Nicholls

[166] Mr. Nicholls is Mr. McErlean's father-in-law and is in charge of Radical Rods. He described in considerable detail the acquisition of the property in Barrie and the renovations and additions undertaken to enlarge the building to 17,000 square feet. An email sent by Mr. McErlean to Mr. Britton with attached photographs dated August 26, 2010 was introduced as Exhibit 98. Mr. Nicholls described the work that was carried out as indicated in the photographs.

[167] Mr. Nicholls attention was drawn to a number of payments to various entities which he described as directly connected with the renovations and equipment required for the operation of Radical Rods.

[168] Mr. Nicholls concluded his evidence by acknowledging that the operation of Radical Rods was "breaking even".

G. Sarah McErlean

[169] Ms. McErlean graduated from Humber College in the fitness and health promotion program and worked in that area until October 2009. She has worked for Right Step and in the latter five months has also been working with Lululemon Athletica. She confirmed Mr. McErlean's evidence that Right Step was intended to help people follow their dreams and to inspire others to do great things with their lives. She said that Right Step was not taking on new clients for the present. Right Step is focusing on the people and its companies in which it currently has an interest.

[170] Ms. McErlean confirmed that Right Step operates out of the McErlean home in Newmarket and that, currently, John Ford and Shande Alexi Mizzi work out of that location. Mr. McErlean also confirmed the agreement whereby Mr. Ford lived in the house for a while and recently moved. Ms. McErlean described her role with Right Step as recruiting staff, managing the day-to-day operations, marketing, event planning and preparing administrative documents. In addition, she prepares the content, writing and copy writing for the websites. She works with Mr. Ford to make sure the marketing strategies are prepared for each of the businesses.

[171] Ms. McErlean described the efforts of Right Step to make a success of Warrior One and testified that when the Commission froze the Securus bank account, the business relationship with Jack Bateman dissolved.

[172] The bulk of Ms. McErlean's evidence confirmed the relationships that Right Step had with the various companies in which it had an interest or tried to promote. Her evidence on this topic was of little or no assistance to the Panel since it merely confirmed what previous witnesses had said. In cross-examination, Mr. Britton questioned her about the personal bank accounts operated by Ms. McErlean and her husband and the source of the funds for those bank accounts. This evidence was not particularly helpful for the Panel, inasmuch as Mr. McErlean already conceded that the source of the funds for the support of the

various businesses, the payments to Mr. Nicholls and Mr. Ford and the payment of the McErlean's personal expenses all came from the Securus bank account.

[173] Staff counsel chose not to call any evidence in reply and that concluded the hearing on the merits.

IV. THE APPLICABLE LAW

A. Standard of Proof

[174] The standard of proof in this proceeding is the civil standard of proof of the balance of probabilities. The Panel must scrutinize the evidence with care and be satisfied whether it is more likely than not that the allegations occurred (*F.H. v. McDougall*, [2008] 3 S.C.R. 4, at para. 40).

B. The Use of Hearsay Evidence

[175] Some of the evidence introduced during the merits hearing was hearsay evidence. Subsection 15(1) of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22, as amended (the "SPPA") allows for the admission of hearsay evidence in Commission proceedings. Subsection 15(1) of the SPPA provides:

> *What is admissible in evidence at a hearing*
>
> 15.(1) Subject to subsections (2) and (3), a tribunal may admit as evidence at a hearing, whether or not given or proven under oath or affirmation or admissible as evidence in a court,
>
> (a) any oral testimony; and
>
> (b) any document or other thing,
>
> relevant to the subject matter of the proceeding and may act on such evidence, but the tribunal may exclude anything unduly repetitious.

[176] In *The Law of Evidence*, it is stated that:

> In proceeding before most administrative tribunals and labour arbitration boards, hearsay evidence is freely admissible and its weight is a matter for the tribunal or board to decide, unless the receipt would amount to a clear denial of natural justice. So long as hearsay evidence is relevant it can serve as the basis for the decision, whether or not it is supported by other evidence which would be admissible in a court of law.
>
> (John Sopinka, Sidney N. Lederman & Alan W. Bryant, *The Law of Evidence Canada*, 2d ed. (Markham, Ont: LexisNexis Butterworths, 1999) at p. 308)

[177] In *Rex Diamond*, the Divisional Court dismissed an appeal of a Commission decision based on the ground that the panel's decision relied upon unreliable hearsay. In dismissing the appeal, Nordheimer J. observed that:

> (i) the Commission is expressly entitled by statute to consider hearsay evidence;
>
> (ii) hearsay evidence is not, in law, necessarily less reliable than direct evidence...
>
> (*Rex Diamond Mining v. (Ontario Securities Commission)*, [2010] O.J. No. 3422 ("***Rex Diamond***") at para. 4)

[178] Although hearsay is admissible pursuant to subsection 15(1) of the SPPA, the Panel must determine the appropriate weight to be given to the evidence. The Panel must take a careful approach and avoid undue reliance upon uncorroborated evidence that lacks sufficient indicia of reliability (*Re Maple Leaf Investment Corp.* (2011), 34 O.S.C.B 11551 at para. 46).

C. Securities Act Fraud

[179] Subsection 126.1(b) of the *Act* prohibits conduct relating to securities that a person or company knows or reasonably ought to know would perpetrate a fraud. Subsection 126.1(b) of the *Act* states:

> **126.1 Fraud and Market Manipulation** – A person or company shall not, directly or indirectly, engage or participate in any act, practice or course of conduct relating to securities […] that the person or company knows or reasonably ought to know […]
>
> (b) perpetrates a fraud on any person or company.

[180] In previous decisions, this Commission has adopted the interpretation of the fraud provision in provincial securities legislation as set out by the British Columbia Court of Appeal in the *Anderson* decision. In *Anderson*, the British Columbia Court of Appeal held that the fraud provision in the British Columbia *Securities Act*, which is similar to the Ontario provision, requires proof of the same elements of fraud as in a prosecution under the *Criminal Code*. The fraud provision in the *Act* merely broadens the ambit of liability to those who knew or reasonably ought to have known that a person or company engaged in conduct that perpetrated a fraud. The words "knows or reasonably ought to know" do not diminish the requirement of Staff to prove subjective knowledge of the facts concerning the dishonest act by someone accused of fraud. As McKenzie J. stated at para. 26:

> …I find that it is clear that s. 57(b) [the fraud provision in the British Columbia *Securities Act*] does not dispense with proof of fraud, including proof a guilty mind. *Derry v. Peak* (1889), 14 A.C. 337 (H.L.) confirmed that a dishonest intent is required for fraud. Section 57(b) simply widens the prohibition against those who know or ought to know that a fraud is being perpetrated by others, as well as those who participate in perpetrating the fraud. It does not eliminate proof of fraud, including proof of subjective knowledge of the facts concerning the dishonest act by someone involved in the transaction.
>
> (*Anderson v. British Columbia (Securities Commission)* (2004), 192 B.C.C.A. 7 at para. 26; leave to appeal to the Supreme Court of Canada denied [2004], S.C.C.A. No. 81 (S.C.C.))

[181] In previous decisions, this Commission has also referred to the legal test for fraud set out in the leading case of *Théroux*. In this decision, McLachlin J. (as she then was) summarized he elements of fraud:

> … the *actus reus* of the offence of fraud will be established by proof of:
>
> 1. the prohibited act be it an act of deceit, a falsehood or some other fraudulent means; and
>
> 2. deprivation caused by the prohibited act, which may consist in actual loss or putting of the victim's pecuniary interests at risk.
>
> Correspondingly, the *mens rea* of fraud is established by proof of:
>
> 1. subjective knowledge of the prohibited act; and
>
> 2. subjective knowledge that the prohibited act could have as a consequence the deprivation of another (which deprivation may consist of knowledge that the victim's pecuniary interest are put at risk).
>
> (*R v. Théroux*, [1993] 2 S.C.R. 5 (S.C.C.) ("***Théroux***") at para. 27)

[182] The act of fraud is established by two elements: a dishonest act and deprivation. The dishonest act is established by proof of deceit, falsehood or other fraudulent means. Deprivation is established by proof of detriment, prejudice or risk of prejudice to the economic interests of the victims caused by the dishonest act.

[183] A dishonest act may be established by proof of "other fraudulent means." Other fraudulent means encompasses all other means other than deceit or falsehood which can properly be characterized as dishonest. The courts have included within the meaning of "other fraudulent means" the unauthorized diversion of funds and the unauthorized arrogation of funds or property. The use of investors' funds in an unauthorized manner has been determined to be "other fraudulent means" (*R. v. Currie*, [1984] O.J. No. 147 (Ont. CA) pp. 3-4).

[184] The second element of the actus reus of fraud is deprivation. *Act*ual economic loss suffered by the victim may establish deprivation but it is not required. Prejudice or risk of prejudice to an economic interest is sufficient.

[185] The mental element of fraud is established by proof of subjective knowledge of the prohibited act and subjective knowledge that the prohibited act would have the deprivation of another as a consequence. The subjective knowledge can be inferred from the totality of the evidence (*Théroux*, above, at para. 27).

D. Trading Without Registration

[186] Between January 22, 2009 and September 28, 2009, subsection 25(1)(a) of the *Act* prohibited trading in securities without being registered with the Commission. Subsection 25(1)(a) of the *Act* provided:

> No person or company shall,
>
> (a) trade in a security […] unless the person or company is registered as a dealer, or is registered as a salesperson or as a partner or as an officer of a registered dealer and is acting on behalf of the dealer,
>
> […]
>
> and the registration has been made in accordance with Ontario securities law […]

[187] On September 28, 2009, subsection 25(1)(a) of the *Act* was repealed and was replaced by subsection 25(1) which provides that:

> Unless a person or company is exempt under Ontario securities law from the requirement to comply with this subsection, the person or company shall not engage in or hold himself, herself or itself out as engaging in the business of trading in securities unless the person or company
>
> (a) is registered in accordance with Ontario securities law as a dealer; or
>
> (b) is a representative registered in accordance with Ontario securities law as a dealing representative of a registered dealer and is acting on behalf of the registered dealer.

(a) Trade in Security

[188] With respect to the phrase "trade in a security" used in s. 25(1)(a) and s. 53(1) of the *Act* or "trading in securities" used in s. 25(1) of the *Act*, the definition of "trade" or "trading" under subsection 1(1) of the *Act* provides for a broad definition that includes any sale or disposition of a security for valuable consideration, including any act, advertisement, solicitation, conduct or negotiation directly or indirectly in furtherance of such a sale or disposition.

(b) Acts in Furtherance of Trade

[189] The jurisprudence in this area reflects a contextual approach to determine whether non-registered individuals or companies have engaged in acts in furtherance of a trade. A contextual approach examines the totality of the conduct and the setting in which the acts have occurred, as well as the proximity of the acts to an actual or potential trade in securities. The primary consideration of the contextual approach is the effect the acts had on those to whom they were directed (*Re Momentas Corp.* (2006), 29 O.S.C.B. 7408 at para. 77).

[190] The Ontario Court of Justice stressed the broadly-framed definition of "trade" stating that "the legislature has chosen to define the term and they have chosen to define it broadly in order to encompass almost every conceivable transaction in securities" (*R. v. Sussman*, [1993] O.J. No. 4359, at paras. 46-48).

[191] In addition, taking steps to facilitate the mechanical, or logistical, aspects of trading has also been found by the Commission to be an act in furtherance of a trade. In *Re Lett*, investors transferred, deposited or caused to be deposited funds into the accounts of the corporate respondents, which had been opened by an individual respondent. The Commission found that the investors' funds were deposited into the accounts and accepted by the respondents for the purpose of selling securities. By accepting investors' funds which were to be invested, the Commission held that all of the respondents had carried out acts in furtherance of trades (*Re Lett* (2004), 27 O.S.C.B. 3215 at para. 60).

(c) Not Necessary to Complete Trade

[192] The respondent does not have to have direct contact or make a direct solicitation of an investor for an act to constitute an act in furtherance of a trade. An act in furtherance of a trade does not require that an investment contract be completed or that an actual trade otherwise occur. Any claim that an actual trade must occur for there to be an act in furtherance of a trade would necessarily limit the effectiveness and negate the purpose of the *Act*, which is to regulate those who trade, or who purport to trade, in securities (*Re First Federal Capital (Canada) Corp.* (2004), 27 O.S.C.B. 1603 at paras. 46-47 and 51).

(d) Definition of Security

[193] The definition of a security provided for in subsection 1(1)(n) of the *Act* includes any investment contract. "Investment contract" is not a term defined in the *Act* but its interpretation has been the subject of a long line of established jurisprudence.

[194] In the leading case, *Pacific Coast Coin*, the Supreme Court of Canada considered and reviewed the test established by the United States Supreme Court in *Howey*: "Does the scheme involve an investment of money in a common enterprise, with

profits to come solely from the efforts of others?" (*Pacific Coast Coin Exchange of Canada v. Ontario (Securities Commission)*, [1978] 2 S.C.R. 112 ("***Pacific Coast Coin***") at pp. 10-11; (*Securities and Exchange Commission v. W.J. Howey Co.*, 328 U.S. 293 (1946) ("***Howey***") at pp. 289-299).

[195] In deciding *Pacific Coast Coin*, *supra*, the Supreme Court of Canada relied upon a decision of the Supreme Court of Hawaii to craft a risk capital approach to defining an investment contract. The Hawaiian Court stated that:

> [T]he salient feature of securities sales is the public solicitation of venture capital to be used in a business enterprise … This subjection of the investor's money to the risks of an enterprise over which he exercises no managerial control is the basic economic reality of a security transaction.
>
> (*State of Hawaii, Commissioner of Securities v. Hawaii Market Center, Inc.* 485 P. 2d 105 (1971) at p. 3)

[196] As formulated by the Supreme Court of Canada, the test for the existence of an "investment contract" thus requires:

(1) an investment of money;

(2) with an intention or expectation of profit;

(3) in a common enterprise, in which the fortunes of the investor are interwoven with and dependent upon the efforts and success of those seeking the investment or of third parties; and

(4) where the efforts made by those other than the investor are undeniably significant ones, those essential managerial efforts which affect the failure or success of the enterprise.

(*Pacific Coast Coin*, above, at p. 11 (Q.L.))

[197] The application of the investment contract test formulated by the Supreme Court of Canada in *Pacific Coast Coin* must be consonant with the important public policy goals and mandate of the Commission. To achieve the purposes of the *Act*, the definition of "investment contract" must embody a flexible rather than a static principle, one that adapts to the countless investment schemes devised by those who seek to use others' money on the promise of profits (*Pacific Coast Coin*, above, at p. 10 (Q.L.)).

(e) Meaning of Distribution of Securities

[198] Subection 53 (1) of the *Act* provides that no person or company shall trade in a security if the trade would be a distribution of the security unless a preliminary prospectus and a prospectus have been filed and receipted by the Director.

[199] A distribution is defined in subsection 1(1)(a) of the *Act* to mean a "trade in securities of an issuer that have not been previously issued."

[200] The meaning of distribution flows from the policy of the *Act* which is to provide full disclosure relating to a security to an investor before the security is purchased:

> Distributions are trades in securities in which the information asymmetry between the buyer and the seller is likely to be at its greatest, with the buyers having the greatest risk of being taken advantage of. If a trade constitutes a distribution, the issuer is required to assemble, publicly file and distribute to all buyers an informational document known as a prospectus.
>
> (Jeffrey G. MacIntosh and Christopher C. Nichols, *Securities Law* (Toronto, Ontario: Irwin Law, 2002) at p. 59)

(f) Advising Without Registration

[201] Between January 22, 2009 and September 28, 2009, subsection 25(1)(c) of the *Act* provided that:

> No person or company shall,
>
> (c) act as an adviser unless the person or company is registered as an adviser, …
>
> … and the registration has been made in accordance with Ontario securities law. …

[202] On September 28, 2009, the *Act* was amended. Subsection 25(1)(c) was repealed and replaced with subsection 25(3). It provides:

> Unless a person or company is exempt under Ontario securities law from the requirement to comply with this subsection, the person or company shall not engage in the business of, or hold himself, herself or itself out as engaging in the business of advising anyone with respect to investing in, buying or selling securities unless the person or company,
>
> (a) is registered in accordance with Ontario securities law as an adviser; …

[203] In *Doulis*, the Commission set out the law respecting advising in a Staff application for a Temporary Order:

> A person is acting as an adviser if the person (i) offers an opinion about an issuer or its securities, or makes a recommendation about an investment in an issuer or its securities, and (ii) if the opinion or recommendation is offered in a manner that reflects a business purpose[….]
>
> … As the Commission stated in *Costello, Re* (2003), 26 O.S.C.B. 1617 (Ont. Sec. Comm.), [t]he trigger for registration as an adviser is not doing one or more acts that constitute the giving of advice, but engaging in the business of "advising"[…]
>
> It is because advising involves offering an opinion or recommendation to others that the Act requires advisers to be registered with the Commission and to meet certain conditions as to their education and experience. In *Gregory & Co. v. Quebec Sec. Commission* (1961), 28 D.L.R. (2d) 721 (S.C.C.), at p. 725, the Supreme Court of Canada held that:
>
> The paramount object of the Act is to ensure that persons who, in the province, carry on the business of trading in securities or acting as investment counsel, shall be honest and of good repute and, in this way, to protect the public, in the Province or elsewhere, from being defrauded as a result of certain activities initiated in the Province by persons therein carrying on such a business.
>
> (*Re Doulis* (2011), 24 O.S.C.B. 9597 at paras. 28-30)

V. ANALYSIS

(a) The Fraud Allegation

[204] Mr. McErlean's fraudulent activities flow from his interaction with three sets of investors – the Aquiesce investors, the German investors and Ms. LK. We find that Mr. McErlean represented to all the investors that their money would be segregated in a separate account and would be used as collateral for investments in guaranteed, high-return trading. None of the money from the three sets of investors was used for that purpose. None of the money was kept separate and apart from the Securus bank account as was represented to the investors. Steps were taken by Mr. McErlean through the use of fake screenshots and fake bank account numbers to deceive investors into thinking their funds were separate and secure. All of the investor funds were used by Mr. McErlean to pay personal expenses, to repay previous investors and to invest in private companies in which he or his family members had a financial interest.

[205] These dishonest acts caused investors' funds to be placed at risk or lost entirely. Funds were used to pay off personal expenses and repay previous investors. Other funds were used to make capital contributions into high-risk enterprises. It matters not whether these investments were successful, which they were not. His actions exposed the investors to risk. These actions constitute the *actus reus* of fraud.

[206] We infer from the totality of the evidence and find that Mr. McErlean's dishonest acts were deliberate and intentional. His actions were designed to deceive investors and were carried out with the knowledge that his dishonest acts could have the consequences of depriving the investors.

[207] We find Mr. McErlean to be an unreliable and untrustworthy witness. We agree with Staff's submission that he had to be aware of the terms upon which investors advanced their funds. Our ordinary life experience and common sense tells us that the investors would not surrender their funds to Mr. McErlean for the purposes to which they were put. Overseas investors, whether from the United States, Germany or Dubai, are highly unlikely to forward vast sums to someone whom they do not know without having been provided with the varied guarantees that Mr. McErlean dishonestly provided to them.

[208] We find no evidence of the viability of any of the businesses in which Mr. McErlean invested. Gary Nicholls said Radical Rods was breaking even. Warrior One folded due to the freeze order. No financial statements for any of the "viable

businesses" were produced. As Staff points out, even if the businesses were flourishing, the acts of fraud took place by putting the investors' funds at risk and in deceiving investors by saying their funds were in a segregated account.

[209] In his written submissions, Mr. McErlean submits that the amounts he received from investors were loans. We reject this submission. None of the normal indicia of a loan can be found in the evidence. All Mr. McErlean's efforts were directed to persuading the investors their funds were safely segregated in a separate account to which only they had access.

[210] We reject entirely Mr. McErlean's evidence that the German intermediaries concocted fake evidence and forged his signature to implicate him in wrongdoing. We find he attempted to deceive the Panel. Nothing in the documentary evidence supports his claim that he is the victim of fraudulent conduct. We find the mental element of fraud to have been established.

(b) Trading Allegations

[211] We find that Mr. McErlean engaged in trading securities. The agreements between Aquiesce and investors and Securus and investors were investment contracts which are included in the definition of a security under the *Act*. Investors advanced the funds with the intention or expectation of profit. Fortunes of the investors depended upon the efforts of Mr. McErlean. His efforts affected the success or failure of those investments.

[212] Mr. McErlean traded in securities, including the agreements involving Ms. LK and ED, which amounted to a direct act of trading. He also acted in furtherance of a trade by controlling the accounts into which investor funds were deposited. He forwarded the account opening documentation to the intermediaries for investors to complete. He provided the necessary instructions to arrange for the transfer of funds to the bank accounts under his control, while generating fictitious sub-account numbers for the investors. He was not registered to trade securities nor was he exempted from the dealer registration requirement. He acted contrary to s. 25(1)(a) of the *Act* (pre-September 28, 2009) and s. 25(1) (on and post-September 28, 2009). We find Securus acted contrary to s. 25(1) of the *Act* on and post-September 28, 2009. We find the Respondents engaged in or held themselves out to be engaged in, the business of advising with respect to investing in buying or selling securities. Mr. McErlean did so, while not registered, nor exempt in accordance with Ontario securities law, contrary to s. 25(1)(c) of the *Act* (pre-September 28, 2009) and to s. 25(3) (on and post-September 28, 2009).

(c) Advising Allegations

[213] Mr. McErlean held himself out to be engaged in the investment business, invited investors to advance money to Aquiesce and Securus on the understanding that the money would be pooled and used to enable him to trade securities. Investors advanced funds to him which Mr. McErlean pooled and made investment decisions on behalf of those investors. Part of the funds invested in Aquiesce were transferred to the TD Waterhouse trading account 72YJ94 where he engaged in discretionary equities trading. Part of the Securus funds were invested in private companies following a discretionary investment decision made by Mr. McErlean.

(d) Trading without Prospectus Allegations

[214] The trades with investors were in securities which had not previously been issued. There was a distribution of securities, contrary to s. 53 of the *Act*.. Investors were entitled to know that their funds were going to be used to pay Mr. McErlean's relatives, his personal expenses, repay previous investors and invest in private companies in which Mr. McErlean or his family members had a financial interest. This knowledge would have possibly affected their investment decisions. Securus was obliged to file a prospectus with the Commission providing investors full, true and plain disclosure of all material facts relating to the securities. We find Securus held itself out to be engaged in the business of advising with respect to investing in buying or selling securities contrary to s. 25(3) (on and post-September 28, 2009).

(e) Securus Liability

[215] Mr. McErlean was the directing mind of Securus, thus rendering Securus in breach of trading and advising allegations. In addition, Mr. McErlean's direction of Securus rendered him in breach of trading and advising allegations as well.

VI. CONCLUSION

[216] We find that:

(a) the Respondents engaged in or participated in an act, practice or course of conduct relating to securities that the Respondents knew, or reasonably ought to have known, perpetrated a fraud on any person or company, contrary to s. 126.1(b) of the *Act*;

(b) Mr. McErlean traded securities without being registered to trade securities and without an exemption from the dealer registration requirement, contrary to s. 25(1)(a) of the *Act*;

(c) between September 29, 2009 and August 12, 2010, without an exemption from the dealer registration requirement, the Respondents engaged in or held themselves out to be engaged in the business of trading securities without being registered in accordance with Ontario securities law, contrary to s. 25(1) of the *Act*;

(d) Mr. McErlean acted as an adviser without registration and without an exemption from the adviser registration requirement, contrary to s. 25(1)(c) of the *Act*;

(e) the Respondents, without an exemption from the adviser registration requirement, engaged in the business of, or held themselves out as engaging in the business of, advising with respect to investing in, buying or selling securities without being registered in accordance with Ontario securities law, contrary to s. 25(3) of the *Act*;

(f) the Respondents traded securities which was a distribution of securities without having filed a preliminary prospectus or a prospectus with the Director or having an exemption from the prospectus requirement, contrary to s. 53(1) of the *Act*;

(g) Mr. McErlean, as a director of Securus authorized, permitted or acquiesced in the conduct of Securus contrary to s. 129.2 of the *Act* and Ontario securities law.

Dated at Toronto this 19th day of July, 2012.

"Vern Krishna"
Vern Krishna, Q.C.

"James D. Carnwath"
James D. Carnwath, Q.C.

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Chapter 4

Cease Trading Orders

4.1.1 Temporary, Permanent & Rescinding Issuer Cease Trading Orders

Company Name	Date of Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/Revoke
Aptilon Corporation	09 Jul 12	20 Jul 12	20 Jul 12	
Hotline to HR Inc.	09 Jul 12	20 Jul 12	20 Jul 12	
Tranzeo Wireless Technologies Inc.	18 Apr 12	30 Apr 12	30 Apr 12	24 Jul 12

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

THERE ARE NO ITEMS FOR THIS WEEK.

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Chapter 6

Request for Comments

6.1.1 Proposed Consequential Amendments to Registration, Prospectus and Continuous Disclosure Rules Related to NI 25-101 Designated Rating Organizations

CSA NOTICE AND REQUEST FOR COMMENTS

PROPOSED CONSEQUENTIAL AMENDMENTS TO REGISTRATION, PROSPECTUS AND CONTINUOUS DISCLOSURE RULES

RELATED TO NATIONAL INSTRUMENT 25-101 DESIGNATED RATING ORGANIZATIONS

1. Introduction

We, the Canadian Securities Administrators (**CSA**) are publishing for a 90 day comment period proposed amendments to:

- Companion Policy 21-101CP *Marketplace Operation* (**21-101CP**)
- National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**)
- Form 31-103F1 *Calculation of Excess Working Capital* (**31-103F1**)
- Form 33-109F6 *Firm Registration* (**33-109F6**)
- National Instrument 41-101 *General Prospectus Requirements* (**NI 41-101**)
- National Instrument 44-101 *Short Form Prospectus Distributions* (**NI 44-101**)
- Form 44-101F1 *Short Form Prospectus* (**44-101F1**)
- Companion Policy 44-101CP *Short Form Prospectus Distributions* (**44-101CP**)
- National Instrument 44-102 *Shelf Distributions* (**NI 44-102**)
- Companion Policy 44-102CP *Shelf Distributions* (**44-102CP**)
- National Instrument 45-106 *Prospectus and Registration Exemptions* (**NI 45-106**)
- National Instrument 51-102 *Continuous Disclosure Obligations* (**NI 51-102**)
- National Policy 51-201 *Disclosure Standards* (**NP 51-201**)
- National Instrument 81-101 *Mutual Fund Prospectus Disclosure* (**NI 81-101**)
- National Instrument 81-102 *Mutual Funds* (**NI 81-102**)
- Companion Policy 81-102CP *Mutual Funds* (**81-102CP**)
- National Instrument 81-106 *Investment Fund Continuous Disclosure* (**NI 81-106**)

(collectively, the **DRO Consequential Amendments**).

The DRO Consequential Amendments are set out in the following appendices to this Notice:

- Appendix A – 21-101CP
- Appendix B – NI 31-103 and 31-103F1
- Appendix C – 33-109F6
- Appendix D – NI 41-101
- Appendix E – NI 44-101, 44-101F1 and 44-101CP
- Appendix F – NI 44-102 and 44-102CP
- Appendix G – NI 45-106
- Appendix H – NI 51-102
- Appendix I – NP 51-201
- Appendix J – NI 81-101
- Appendix K – NI 81-102 and 81-102CP
- Appendix L – NI 81-106

2. Background

On January 27, 2012, the CSA published a notice (the **January Notice**) regarding the adoption of National Instrument 25-101 *Designated Rating Organizations* (**NI 25-101**), related consequential amendments and National Policy 11-205 *Process for Designation of Credit Rating Organizations in Multiple Jurisdictions*, which came into effect on April 20, 2012. NI 25-101 imposes requirements on those credit rating agencies or organizations (**CROs**) that wish to have their credit ratings eligible for use in securities legislation by requiring them to apply to become a "designated rating organization" (**DRO**) and adhere to rules concerning conflicts of interest, governance, conduct, compliance and required filings (the **DRO Regime**). This regulatory framework is consistent with international regimes applicable to CROs.

In the January Notice, the CSA indicated that, following the implementation of NI 25-101 and the application for designation by interested CROs, the CSA would propose to make the DRO Consequential Amendments in order to implement the DRO Regime.

On April 30, 2012, the CSA announced the designation of DBRS Limited, Fitch, Inc., Moody's Canada Inc., and Standard & Poor's Rating Services (Canada) as DROs under applicable securities legislation, as contemplated under NI 25-101 (the **April Designation Orders**). The four rating agencies granted DRO status are in compliance in all material respects with U.S. federal securities laws applicable to a nationally recognized statistical rating organization (NRSRO). The April Designation Orders make each of the DROs subject to regulation under applicable Canadian securities legislation and provide a six month transition period to fully implement all requirements set out in NI 25-101. Once they have done so, the CSA expect to issue and announce amended and restated designation orders under the terms of NI 25-101.

3. Substance and Purpose of the DRO Consequential Amendments

Many investors and intermediaries rely on credit ratings when making investment decisions about debt securities and other structured products. Canadian securities legislation also includes a number of references to credit ratings. Some of these provisions permit different treatment based on the credit rating. For example, highly rated short-term debt securities can be distributed under an exemption from registration and prospectus requirements[1], can be distributed by short-form prospectus[2], are "qualified securities"[3] for mutual funds and are eligible investments for money-market funds[4]. These provisions currently include references to "approved rating", "approved credit rating", "approved rating organization" and "approved credit rating organization".

1 See section 2.35 of NI 45-106.
2 See sections 2.3, 2.4 and 2.6 of NI 44-101.
3 See the definition of "qualified security" in section 1.1 of NI 81-102.
4 See the definition of "money market fund" in section 1.1 of NI 81-102.

The DRO Consequential Amendments will replace these existing references to "approved rating organization", and "approved credit rating organization" with "designated rating organization". Similarly, the terms "approved rating" and "approved credit rating" will be replaced with "designated rating" and amended to include a rating provided by a DRO affiliate, another defined term in NI 25-101.

We are also publishing for comment a related consequential amendment to Item 7.9 of Form 44-101F1 *Short Form Prospectus* to clarify that the disclosure of an issuer's relationship with a CRO is limited to the securities being distributed under a short form prospectus.

4. Local Notices and Amendments

Certain jurisdictions are publishing other information required by local securities legislation in Appendix M to this notice.

5. Comments

We request your comments on the DRO Consequential Amendments. Please provide your comments in writing by **October 24, 2012**. If you are not sending your comments by email, an electronic file containing the submissions should also be provided (Windows format, Word).

Please address your submission to the following Canadian securities regulatory authorities:

British Columbia Securities Commission
Alberta Securities Commission
Saskatchewan Financial Services Commission
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
New Brunswick Securities Commission
Superintendent of Securities, Prince Edward Island
Nova Scotia Securities Commission
Securities Commission of Newfoundland and Labrador
Superintendent of Securities, Yukon Territory
Superintendent of Securities, Northwest Territories
Superintendent of Securities, Nunavut

Please deliver your comments **only** to the addresses that follow. Your comments will be distributed to the other participating CSA member jurisdictions.

The Secretary
Ontario Securities Commission
20 Queen Street West
Suite 1900, Box 55
Toronto, Ontario M5H 3S8
Fax: (416) 593-2318
E-mail: comments@osc.gov.on.ca

M^{e} Anne-Marie Beaudoin
Corporate Secretary
Autorité des marchés financiers
800, square Victoria, 22^{e} étage
C.P. 246, tour de la Bourse
Montréal (Québec) H4Z 1G3
Fax: 514-864-6381
E-mail: consultation-en-cours@lautorite.qc.ca

Please note that comments received will be made publicly available and posted at www.osc.gov.on.ca and on the websites of certain other securities regulatory authorities. We cannot keep submissions confidential because securities legislation in certain provinces requires that a summary of the written comments received during the comment period be published.

6. Questions

If you have any questions, please refer them to any of the following:

Frédéric Duguay
Legal Counsel, Corporate Finance
Ontario Securities Commission
416-593-3677
fduguay@osc.gov.on.ca

Katie DeBartolo
Accountant, Corporate Finance
Ontario Securities Commission
416-593-2166
kdebartolo@osc.gov.on.ca

Lucie J. Roy
Senior Policy Advisor
Service de la réglementation
Surintendance aux marchés des valeurs
Autorité des marchés financiers
514-395-0337, ext 4464
lucie.roy@lautorite.qc.ca

Ashlyn D'Aoust
Legal Counsel, Corporate Finance
Alberta Securities Commission
403-355-4347
ashlyn.daoust@asc.ca

Sheryl Thomson
Acting Manager, Legal Services
Corporate Finance
British Columbia Securities Commission
604-899-6778
sthomson@bcsc.bc.ca

July 26, 2012

APPENDIX A

PROPOSED CHANGES TO COMPANION POLICY 21-101CP *MARKETPLACE OPERATION*

1. The changes proposed to Companion Policy 21-101CP Marketplace Operation are set out in this Appendix.

2. Subsection 10.1(6) is replaced with the following:

An "investment grade corporate debt security" is a corporate debt security that is rated by a designated rating organization, or its DRO affiliate, that is at or above one of the following rating categories or that is at or above a category that preceded or replaces one of the following rating categories:

Designated Rating Organization	**Long Term Debt**	**Short Term Debt**
DBRS Limited	BBB	R-2
Fitch, Inc.	BBB	F3
Moody's Canada Inc.	Baa	Prime-3
Standard & Poor's Ratings Services (Canada)	BBB	A-3

3. The changes become effective on ●, 2012.

APPPENDIX B

PROPOSED AMENDMENTS TO NATIONAL INSTRUMENT 31-103
REGISTRATION REQUIREMENTS, EXEMPTIONS AND ONGOING REGISTRANT OBLIGATIONS

1. National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations is amended by this Instrument.

2. Section 8.21 is amended

(a) in subsection (1), by

(i) replacing "approved credit rating***" with "***designated rating***",***

(ii) replacing "approved credit rating organization***" with "***designated rating organization***",***

(iii) after the definition of "designated rating organization***", by adding the following definition:***

"DRO affiliate" has the same meaning as in section 1 of National Instrument 25-101 *Designated Rating Organizations*;***, and***

(b) in subparagraph (2)(b), by

(i) replacing "an approved credit rating***" with "***a designated rating***", and***

(ii) replacing "an approved credit rating organization***" with "***a designated rating organization or its DRO affiliate***".***

3. Schedule 1 of Form 31-103F1 Calculation of Excess Working Capital (calculating line 9 [market risk]) is amended by replacing "Moody's Investors Service, Inc. or Standard & Poor's Corporation***" with "***Moody's Canada Inc. or its DRO affiliate or Standard & Poor's Rating Services (Canada) or its DRO affiliate***".***

4. This Instrument comes into force on ●, 2012.

APPENDIX C

PROPOSED AMENDMENTS TO NATIONAL INSTRUMENT 33-109 *REGISTRATION INFORMATION*

1. National Instrument 33-109 Registration Information is amended by this Instrument.

2. Form 33-109F6 Firm Registration is amended by replacing, in Schedule 1 of Form 31-103F1 Calculation of Excess Working Capital (calculating line 9 [market risk]), "Moody's Investors Service, Inc. or Standard & Poor's Corporation***" with "***Moody's Canada Inc. or its DRO affiliate or Standard & Poor's Rating Services (Canada) or its DRO affiliate***".***

3. These amendments come into force on ●, 2012.

APPENDIX D

PROPOSED AMENDMENTS TO NATIONAL INSTRUMENT 41-101
GENERAL PROSPECTUS REQUIREMENTS

1. National Instrument 41-101 General Prospectus Requirements is amended by this Instrument.

2. Section 1.1 is amended

(a) by replacing "approved rating organization***" with "***designated rating organization***",***

(b) after the definition of "designated foreign jurisdiction***", by adding the following definition:***

"DRO affiliate" has the same meaning as in section 1 of NI 25-101;***, and***

(c) after the definition of "NI 14-101***", by adding the following definition:***

"NI 25-101" means National Instrument 25-101 *Designated Rating Organizations*;***.***

3. Subsection 7.2(2) is amended by replacing "approved rating organization***" with "***designated rating organization or its DRO affiliate***", and***

4. Subsection 10.1(4) is amended by replacing "an approved rating organization***" with "***a designated rating organization or its DRO affiliate***".***

5. This Instrument comes into force on ●, 2012.

APPENDIX E

PROPOSED AMENDMENTS TO NATIONAL INSTRUMENT 44-101
***SHORT FORM PROPSECTUS DISTRIBUTIONS* AND COMPANION POLICY**

Schedule E-1

Proposed Amendments to
National Instrument 44-101 *Short Form Prospectus Distributions*

1. National Instrument 44-101 Short Form Prospectus Distributions is amended by this Instrument.

2. Section 1.1 is amended

(a) by replacing the definition of "approved rating***" with the following:***

"designated rating" means, for a security, a rating issued by a designated rating organization, or its DRO affiliate, that is at or above one of the following rating categories or that is at or above a category that replaces one of the following rating categories:

Designated Rating Organization	Long Term Debt	Short Term Debt	Preferred Shares
DBRS Limited	BBB	R-2	Pfd-3
Fitch, Inc.	BBB	F3	BBB
Moody's Canada Inc.	Baa	Prime-3	"baaa"
Standard & Poor's Ratings Services (Canada)	BBB	A-3	P-3

(b) in the definition of "cash equivalent***", by***

(i) replacing "an approved rating***" wherever it occurs with "***a designated rating***", and***

(ii) replacing "approved rating organization***" with "***designated rating organization or its DRO affiliate***", and***

(c) after the definition of "current annual financial statements***", by adding the following definition:***

"DRO affiliate" has the same meaning as in section 1 of National Instrument 25-101 *Designated Rating Organizations*;***.***

3. Section 2.3 is amended

(a) in the title, by replacing "Approved Rating***" with "***Designated Rating***",***

(b) in paragraph (1)(e), by

(i) replacing "an approved rating***" wherever it occurs with "***a designated rating***",***

(ii) in subparagraph (e)(ii),

(A) replacing "an approved rating organization***" with "***a designated rating organization or its DRO affiliate***",***

(B) replacing "approved rating***" with "***designated rating***", and***

(iii) in subparagraph (e)(iii), replacing "approved rating organization***" with "***designated rating organization or its DRO affiliate***".***

4. Subsection 2.4(1) is amended by

(a) replacing "an approved rating***" wherever it occurs with "***a designated rating***",***

(b) replacing "an approved rating organization***" wherever it occurs with "***a designated rating organization or its DRO affiliate***",***

(c) replacing "any approved rating organization***" wherever it occurs with "***any designated rating organization or its DRO affiliate***",***

(d) in clause (c)(i)(B), replacing "approved rating***" with "***designated rating***", and***

(e) in clause(c)(ii)(B), replacing "approved rating***" with "***designated rating***".***

5. Subsection 2.6(1) is amended by

(a) replacing "an approved rating***" wherever it occurs with "***a designated rating***",***

(b) in subparagraph (c)(ii),

(i) replacing "an approved rating organization***" with "***a designated rating organization or its DRO affiliate***",***

(ii) replacing "approved rating***" with "***designated rating***", and***

(c) in subparagraph (c)(iii), replacing "approved rating organization***" with "***designated rating organization or its DRO affiliate***".***

6. Item 7.9 of Form 44-101F1 is amended by replacing "securities of the issuer that are outstanding, or will be outstanding,***" with "***the securities being distributed***".***

7. This Instrument comes into force on ●, 2012.

Schedule E-2

Proposed Changes to
Companion Policy 44-101CP *Short Form Prospectus Distributions*

1. The changes proposed to Companion Policy 44-101CP Short Form Prospectus Distributions are set out in this Schedule.

2. Subsection 1.7(1) is changed

(a) in the title, by replacing "Approved rating***" with "***Designated rating***",***

(b) by replacing "an approved rating***" wherever it occurs with "***a designated rating***", and***

(c) by replacing "rating agency***" wherever it occurs with "***designated rating organization or its DRO affiliate***".***

3. Section 2.2 is changed by replacing "approved rating***" with "***designated rating***".***

4. Section 2.4 is changed by

(a) replacing "an approved rating***" wherever it occurs with "***a designated rating***", and***

(b) replacing "approved rating organization***" with "***designated rating organization or its DRO affiliate***".***

5. The changes become effective on ●, 2012.

APPENDIX F

PROPOSED AMENDMENTS TO NATIONAL INSTRUMENT 44-102 *SHELF DISTRIBUTIONS* AND COMPANION POLICY

Schedule F-1

Proposed Amendments to National Instrument 44-102 *Shelf Distributions*

1. National Instrument 44-102 Shelf Distributions is amended by this Instrument.

2. Section 2.3 is amended

(a) in subsection (1), by

(i) replacing "approved rating non-convertible securities***" with "***designated rating non-convertible securities***",***

(ii) replacing "an approved rating***" wherever it occurs with "***a designated rating***", and***

(iii) replacing "approved rating organization***" with "***designated rating organization or its DRO affiliate***".***

(b) in subsection (2), by

(i) replacing "an approved rating***" wherever it occurs with "***a designated rating***", and***

(ii) replacing "approved rating organization***" with "***designated rating organization or its DRO affiliate***".***

(c) in subsection (3), by

(i) replacing "approved rating***" wherever it occurs with "***designated rating***",***

(ii) replacing "an approved rating***" wherever it occurs with "***a designated rating***",***

(iii) in clause (b)(iv)(B), replacing "an approved rating organization***" wherever it occurs with "***a designated rating organization or its DRO affiliate***", and***

(iv) in clause (b)(iv)(C), replacing "approved rating organization***" wherever it occurs with "***designated rating organization or its DRO affiliate***".***

3. Subsection 2.4(3) is amended by

(a) replacing "approved rating***" wherever it occurs with "***designated rating***",***

(b) replacing "an approved rating***" wherever it occurs with "***a designated rating***",***

(c) replacing "an approved rating organization***" wherever it occurs with "***a designated rating organization or its DRO affiliate***", and***

(d) replacing "any approved rating organization***" wherever it occurs with "***any designated rating organization or its DRO affiliate***".***

4. Section 2.6 is amended by

(a) replacing "approved rating***" wherever it occurs with "***designated rating***",***

(b) replacing "an approved rating***" wherever it occurs with "***a designated rating***",***

(c) replacing "an approved rating organization***" wherever it occurs with "***a designated rating organization or its DRO affiliate***", and***

(d) ***replacing "***any approved rating organization***" wherever it occurs with "***any designated rating organization or its DRO affiliate***".***

5. This Instrument comes into force on ●, 2012.

Schedule F-2

Proposed Changes to
Companion Policy 44-102CP *Shelf Distributions*

1. The changes proposed to Companion Policy 44-102CP Shelf Distributions are set out in this Schedule.

2. Subsection 2.6(2) is changed by replacing "approved rating organizations***" with "***designated rating organizations or their DRO affiliates***".***

3. The changes become effective on ●, 2012.

APPENDIX G

PROPOSED AMENDMENTS TO NATIONAL INSTRUMENT 45-106
PROSPECTUS AND REGISTRATION EXEMPTIONS

1. National Instrument 45-106 Prospectus and Registration Exemptions is amended by this Instrument.

2. Section 1.1 is amended

(a) by replacing "approved credit rating***" with "***designated rating***",***

(b) by replacing "approved credit rating organization***" with "***designated rating organization***", and***

(c) after the definition of "director***", by adding the following definition:***

"DRO affiliate" has the same meaning as in section 1 of National Instrument 25-101 *Designated Rating Organizations*;***.***

3. Paragraph 2.34(2)(b) is amended

(a) by replacing "an approved credit rating***" with "***a designated rating***", and***

(b) by replacing "an approved credit rating organization**" with "**a designated rating organization or its DRO affiliate***".***

4. Subsection 2.35(b) is amended

(a) by replacing "an approved credit rating***" with "***a designated rating***", and***

(b) by replacing "an approved credit rating organization***" with "***a designated rating organization or its DRO affiliate***".***

5. Paragraph 3.34(2)(b) is amended

(a) by replacing "an approved credit rating***" with "***a designated rating***", and***

(b) by replacing "an approved credit rating organization**" with "**a designated rating organization or its DRO affiliate***".***

6. Subsection 3.35(b) is amended

(a) by replacing "an approved credit rating***" with "***a designated rating***", and***

(b) by replacing "an approved credit rating organization***" with "***a designated rating organization or its DRO affiliate***".***

7. This Instrument comes into force on ●, 2012.

APPENDIX H

PROPOSED AMENDMENTS TO NATIONAL INSTRUMENT 51-102 *CONTINUOUS DISCLOSURE OBLIGATIONS*

1. National Instrument 51-102 Continuous Disclosure Obligations is amended by this Instrument.

2. Section 1.1 is amended

(a) by replacing the definition of "approved rating organization***" with the following:***

"designated rating organization" means

(a) each of DBRS Limited, Fitch, Inc., Moody's Canada Inc., and Standard & Poor's Ratings Services (Canada), including their DRO affiliates; or

(b) any other credit rating organization that has been designated under securities legislation;***, and***

(b) after the definition of "date of transition***", by adding the following definition:***

"DRO affiliate" has the same meaning as in section 1 of National Instrument 25-101 *Designated Rating Organizations*;***.***

3. This Instrument comes into force on ●, 2012.

APPENDIX I

PROPOSED CHANGES TO NATIONAL POLICY 51-201
DISCLOSURE STANDARDS

1. The changes proposed to National Policy 51-201 Disclosure Standards are set out in this Appendix.

2. Subsection 3.3(7) is changed by replacing "approved rating agencies***" with "***designated rating organizations***".***

3. Footnote 19 is changed by replacing "approved rating***" with "***designated rating***".***

4. The changes become effective on ●, 2012.

APPENDIX J

PROPOSED AMENDMENTS TO NATIONAL INSTRUMENT 81-101
MUTUAL FUND PROSPECTUS DISCLOSURE

1. National Instrument 81-101 Mutual Fund Prospectus Disclosure is amended by this Instrument.

2. Subsection 2.6(4) is amended by replacing "an approved rating organization***" with "***a designated rating organization or its DRO affiliate***".***

3. This Instrument comes into force on ●, 2012.

APPENDIX K

PROPOSED AMENDMENTS TO NATIONAL INSTRUMENT 81-102 *MUTUAL FUNDS* AND COMPANION POLICY

Schedule K-1

Proposed Amendments to National Instrument 81-102 *Mutual Funds*

1. National Instrument 81-102 Mutual Funds is amended by this Instrument.

2. Section 1.1 is amended

(a) by replacing the definition of "approved credit rating***" with the following:***

"designated rating" means, for a security or instrument, a rating issued by a designated rating organization, or its DRO affiliate, that is at or above one of the following rating categories, or that is at or above a category that replaces one of the following rating categories, if

(a) there has been no announcement by the designated rating organization or its DRO affiliate of which the mutual fund or its manager is or reasonably should be aware that the rating of the security or instrument to which the designated rating was given may be down-graded to a rating category that would not be a designated rating, and

(b) no designated rating organization or any of its DRO affiliates has rated the security or instrument in a rating category that is not a designated rating:

Designated Rating Organization	Commercial Paper/ Short Term Debt	Long Term Debt
DBRS Limited	R-1 (low)	A
Fitch, Inc.	F1	A
Moody's Canada Inc.	P-1	A2
Standard & Poor's Ratings Services (Canada)	A-1 (Low)	A

,

(b) by replacing the definition of "approved credit rating organization***" with the following:***

"designated rating organization" means

(a) each of DBRS Limited, Fitch, Inc., Moody's Canada Inc., and Standard & Poor's Ratings Services (Canada), including their DRO affiliates; or

(b) any other credit rating organization that has been designated under securities legislation;**,**

(c) in the definition of "cash cover***", by replacing "***an approved credit rating***" with "***a designated rating***",***

(d) in the definition of "cash equivalent***", by***

(i) replacing "an approved credit rating***" wherever it occurs with "***a designated rating***", and***

(ii) replacing "an approved credit rating organization***" with "***a designated rating organization or its DRO affiliate***",***

(e) ***after the definition of "***delta***", by adding the following definition:***

"DRO affiliate" has the same meaning as in section 1 of National Instrument 25-101 Designated Rating Organizations;**,**

(f) ***in the definition of "***floating rate evidence of indebtedness***", by replacing "***an approved credit rating***" wherever it occurs with "***a designated rating***",***

(g) ***in the definition of "***money market fund***", by replacing "***an approved credit rating***" with "***a designated rating***",***

(h) ***in the definition of "***qualified security***", by***

(i) ***replacing "***an approved credit rating***" wherever it occurs with "***a designated rating***", and***

(ii) ***replacing "***an approved credit rating organization***" with "***a designated rating organization or its DRO affiliate***".***

3. ***Section 2.7 is amended***

(a) ***in subsection (1), by replacing "***an approved credit rating***" wherever it occurs with "***a designated rating***", and***

(b) ***in subsection (2), by replacing "***approved credit rating***" with "***designated rating***".***

4. ***Subparagraph 2.12(1)6.(d) is amended***

(a) ***by replacing "***an approved credit rating organization***" with "***a designated rating organization or its DRO affiliate***", and***

(b) ***by replacing "***an approved credit rating***" with "***a designated rating***".***

5. ***Subparagraph 2.18(1)(a)(iii) is amended by replacing "***an approved credit rating***" with "***a designated rating***".***

6. ***Paragraph 4.1(4)(b) is amended***

(a) ***by replacing "***an approved rating***" with "***a designated rating***", and***

(b) ***by replacing "***an approved credit rating organization***" with "***a designated rating organization or its DRO affiliate***".***

7. ***Subsection 4.1(4.1) is amended by replacing "***approved rating***" with "***designated rating***".***

8. ***Subsection 15.3(5) is amended***

(a) ***in paragraph (a), by replacing "***an approved credit rating organization***" with "***a designated rating organization or its DRO affiliate***", and***

(b) ***in paragraphs (b) and (c), by replacing "***approved credit rating organization***" with "***designated rating organization or any of its DRO affiliates***".***

9. ***This Instrument comes into force on ●, 2012.***

Schedule K-2

Proposed Changes to
Companion Policy 81-102CP *Mutual Funds*

1. The changes proposed to Companion Policy 81-102CP Mutual Funds are set out in this Schedule.

2. Subsection 3.1(4) is changed by

(a) replacing "approved credit rating organizations***" wherever it appears with "***designated rating organizations or their DRO affiliates***" and,***

(b) replacing "Standard & Poor's***" wherever it appears with "***Standard & Poor's Rating Services (Canada) or its DRO affiliate***".***

(3) The changes become effective on ●, 2012.

APPENDIX L

PROPOSED AMENDMENTS TO NATIONAL INSTRUMENT 81-106
INVESTMENT FUND CONTINOUS DISCLOSURE

1. National Instrument 81-106 Investment Fund Continuous Disclosure is amended by this Instrument.

2. Paragraph 3.5(6)(d) is amended by replacing "approved credit rating***" with "***designated rating***".***

3. This Instrument comes into force on ●, 2012.

APPENDIX M

ADDITIONAL INFORMATION REQUIRED IN ONTARIO AND LOCAL CONSEQUENTIAL AMENDMENTS

1. Anticipated Costs and Benefits

The DRO Consequential Amendments are proposed in order to fully implement the DRO Regime contemplated in NI 25-101 that came into force on April 20, 2012.

We believe that the overall benefits of the DRO Consequential Amendments will substantially outweigh any costs. The DRO Consequential Amendments will benefit major stakeholders and industry participants, including issuers and CROs that operate in Canada and wish to have their ratings eligible for use in securities legislation. For example, references to “approved rating” and “approved credit rating” are found under the current short form prospectus qualification criteria and the short-term debt prospectus exemption.

2. Alternatives Considered

As indicated in the CSA Notice and Request for Comment, the DRO Consequential Amendments will permit members of the CSA to fully implement the DRO Regime set out in NI 25-101 that came into force on April 20, 2012. In proposing the DRO Consequential Amendments, we did not consider any other alternative.

3. Unpublished materials

In proposing the DRO Consequential Amendments, we have not relied on any significant unpublished study, report, or other written materials.

4. Authority

The following provisions of the *Securities Act* (Ontario) (the **Act**) provide the Ontario Securities Commission (the **OSC**) with authority to adopt the DRO Consequential Amendments, as described in the CSA Notice and Request for Comment.

- Paragraph 143(1)8 authorizes the OSC to prescribe any matter referred to in Part XII (Exemptions form Registration Requirements) as required by the regulations or prescribed by or in the regulations.
- Paragraph 143(1)16 authorizes the OSC to regulate in respect of the distribution of securities or the issuing of receipts.
- Paragraph 143(1)20 authorizes the OSC to prescribe any matter referred to in Part XVII (Exemptions form Prospectus Requirements) as required by the regulations or prescribed by or in the regulations.
- Paragraph 143(1)24 authorizes the OSC to require issuers to comply with Part XVIII of the Act relating to continuous disclosure or to rules made under Paragraph 143(1)22.
- Paragraph 143(1)31 authorizes the OSC to regulate investment funds and the distribution and trading of the securities of investment funds, including prescribing permitted investment policy and investment practices for investment funds and prohibiting or restricting certain investments or investment practices for investment funds.

July 26, 2012

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Chapter 7

Insider Reporting

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

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

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

Chapter 8

Notice of Exempt Financings

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

Transaction Date	No. of Purchasers	Issuer/Security	Total Purchase Price ($)	No. of Securities Distributed
07/03/2012	1	Aura Silver Resources Inc. - Units	100,000.00	2,000,000.00
07/01/1429	1	Avivagen Inc. - Common Shares	100,030.00	1,429,000.00
07/13/2012	1	Bank of Montreal - Note	5,000,000.00	1.00
06/22/2012	12	Barker Minerals Ltd. - Units	172,000.00	3,440,000.00
06/15/2012	2	Brambles Limited - Common Shares	1,448,537.90	232,409.00
07/05/2012	5	Cadman Resources Inc. - Units	99,000.00	660,000.00
07/12/2012	5	Caledonian Royalty Corporation - Units	875,000.00	87,500.00
06/27/2012	29	Canadian Spirit Resources Inc. - Common Shares	4,293,000.00	14,310,000.00
07/09/2012	12	Cantex Mines Development Corp. - Units	1,761,000.00	35,220,000.00
07/09/2012	1	CGX Energy Inc. - Units	30,000.00	85,714,285.00
06/22/2012	4	Choice Hotels International, Inc. - Notes	9,490,500.00	9,250.00
06/22/2012	3	CNRP Mining Inc. - Common Shares	7,300,000.00	29,200,000.00
07/05/2012	6	Comstock Metals Ltd. - Flow-Through Units	125,000.00	625,000.00
07/05/2012	6	Comstock Metals Ltd. - Non Flow-Through Shares	175,500.00	1,166,666.67
06/25/2012	3	Corsa Coal Corp. - Common Shares	0.00	5,281,690.00
06/19/2012	9	CounterPath Corporation - Units	3,662,500.00	1,465,000.00
07/12/2012	36	Cross Roads Park Plaza Income Trust - Trust Units	1,328,100.00	1,328.10
06/13/2012	1	CWT Canada II Limited Partnership - Limited Partnership Interest	2,150,000.00	2,150,000.00
04/07/2012	2	Entourage Metals Ltd. - Common Shares	57,000.00	20,000.00
05/30/2012	35	Explorex Resources Inc. - Units	283,500.00	1,417,500.00
06/26/2012	11	First Point Minerals Corp. - Common Shares	1,610,959.80	2,684,933.00
06/29/2012	55	Foundation Resources Inc. - Units	690,450.00	13,809,000.00
06/21/2012	24	Glass Earth Gold Limited - Units	2,357,150.00	11,785,750.00
07/06/2012	1	Gold Canyon Resources Inc. - Common Shares	27,000.00	100,000.00
06/28/2012	19	Golden Cross Resources Inc. - Common Shares	439,921.00	3,142,292.00
07/03/2012	8	Golden Raven Resources Ltd. - Units	90,000.00	1,800,000.00

Transaction Date	No. of Purchasers	Issuer/Security	Total Purchase Price ($)	No. of Securities Distributed
06/13/2012	70	Golden Raven Resources Ltd. - Units	1,228,000.00	24,560,000.00
07/12/2012	51	Golden Reign Resources Ltd. - Units	3,156,798.80	4,711,640.00
06/15/2012	14	Goldstrike Resources Ltd. - Units	1,477,875.30	3,365,358.00
06/28/2012 to 07/06/2012	16	Gowest Gold Ltd. - Units	805,000.00	8,050,000.00
06/27/2012	2	IHS Inc. - Common Shares	5,364,411.00	52,300.00
06/27/2012	13	Lake Shore Gold Corp. - Common Shares	4,400,000.00	5,000,000.00
06/29/2012	21	Mainstream Minerals Corporation - Units	435,000.00	8,700,000.00
06/28/2012	31	Microbix Biosystems Inc. - Units	541,900.00	1,806,332.00
07/13/2012	2	Micromem Technologies Inc. - Units	100,000.00	500,000.00
07/02/2012	3	MicroPlanet Technology Corp. - Notes	800,000.00	800.00
06/15/2012	2	MicroVision, Inc. - Common Shares	2,048,800.00	800,000.00
07/06/2012	17	Mineral Mountain Resources Ltd. - Units	303,000.00	1,515,000.00
06/30/2012	3	Mitomics Inc. - Units	86,398.35	25,043.00
06/30/2012	1	MOAG Copper Gold Resources Inc. - Units	100,000.00	2,000,000.00
06/22/2012	2	Oak Ridge Resources Ltd. - Common Shares	65,000.00	650,000.00
06/27/2012	2	Oasis Petroleum Inc. - Notes	3,077,100.00	2.00
06/26/2012	1	Odebrecht Finance Ltd. - Note	512,018.15	1.00
07/09/2012	6	Organic Potash Corporation - Debentures	270,000.00	27.00
06/29/2012	12	Puma Exploration Inc. - Units	100,650.00	335,500.00
06/28/2012	91	Puma Exploration Inc. - Units	888,179.90	2,960,599.00
06/28/2012 to 07/05/2012	27	Questfire Energy Corp. - Units	1,510,000.00	302.00
06/27/2012	1	QVC, Inc. - Notes	512,850.00	500.00
07/12/2012	2	Rainy River Resources Ltd. - Common Shares	100,000.00	22,878.00
07/12/2012	6	Rainy River Resources Ltd. - Common Shares	1,092,752.50	250,000.00
06/26/2012	2	Return On Innovation Capital Ltd - Units	312,454.00	312,545.00
06/27/2011	2	Return On Innovation Capital Ltd - Units	708,000.00	708,000.00
06/14/2012	1	Return On Innovation Capital Ltd - Units	546,872.00	546,872.00
06/26/2012	1	Return On Innovation Capital Ltd - Units	555,390.22	555,390.22
06/28/2012	1	Return On Innovation Capital Ltd - Units	310,753.92	310,753.92
06/20/2012	1	Return On Innovation Capital Ltd - Units	37,327.12	37,327.12

Transaction Date	No. of Purchasers	Issuer/Security	Total Purchase Price ($)	No. of Securities Distributed
06/26/2012	2	Return On Innovation Capital Ltd - Units	1,236,148.00	1,236,148.00
06/20/2012	10	RoyalGold, Inc. - Notes	3,058,200.00	10.00
06/26/2012 to 06/27/2012	60	Sabina Gold & Silver Corp. - Common Shares	35,100,176.10	12,103,485.00
06/20/2012	2	Sappi Papier Holding GmbH - Notes	2,548,500.00	2.00
06/28/2012	10	Slater Mining Corporation - Common Shares	900,000.06	2,571,429.00
06/25/2012	1	Sonic Automotive, Inc. - Notes	1,030,300.00	1,009.00
06/14/2012	14	SQI Diagnostics Inc. - Units	753,747.75	430,713.00
07/09/2012	3	Superior Copper Corporation - Common Shares	37,500.00	750,000.00
07/10/2012	1	Superior Copper Corporation - Common Shares	105,000.00	2,100,000.00
06/29/2012	8	Sustainable Energy Technologies Ltd. - Debentures	700,000.00	700.00
07/05/2012	9	Tawsho Mining Inc. - Flow-Through Units	557,375.00	2,229,500.00
06/29/2012	12	Texada software Inc. - Common Shares	4,500,000.00	22,500,000.00
06/18/2012	1	The Fresh Market, Inc. - Common Shares	259,216.50	5,000.00
06/21/2012	1	The Goldman Sachs Group, Inc. - Notes	153,765.00	150.00
07/12/2012	3	Tyhee Gold Corp. - Units	360,000.00	4,000,000.00
07/03/2012 to 07/06/2012	28	UBS AG, Jersey Branch - Certificates	19,193,704.57	28.00
06/26/2012 to 06/29/2012	30	UBS AG, Jersey Branch - Certificates	15,954,553.01	30.00
06/11/2012 to 06/22/2012	63	UBS AG, Jersey Branch - Certificates	28,354,842.47	63.00
06/12/2012 to 06/14/2012	4	UBS AG, Zurich - Certificates	1,027,701.18	4.00
06/18/2012	1	United Technologies Corporation - Units	12,832,500.00	250,000.00
06/25/2012	1	Valterra Resource Corporation - Common Shares	400,000.00	8,000,000.00
07/11/2012	1	Victory Gold Mines Inc. - Common Shares	60,000.00	600,000.00
06/28/2012	2	Zayo Escrow Corporation - Notes	3,616,550.00	2.00

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Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:
Branco Resources Ltd.
Principal Regulator - British Columbia
Type and Date:
Preliminary CPC Prospectus dated July 18, 2012
NP 11-202 Receipt dated July 19, 2012
Offering Price and Description:
$300 000.00 – 3,000,000 Common Shares Price: $0.10 per Common Share
Underwriter(s) or Distributor(s):
Jordan Capital Markets Inc.
Promoter(s):
Sokhie Puar
Project #1933625

Issuer Name:
Birchcliff Energy Ltd.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated July 23, 2012
NP 11-202 Receipt dated July23, 2012
Offering Price and Description:
$50,000,000.00 - 2,000,000 Preferred Units Price: $25.00 per Preferred Unit
Minimum Subscription: $2,500 (100 Preferred Units)
Underwriter(s) or Distributor(s):
GMP Securities LP
Cormark Securities Inc.
National Bank Financial Inc.
Macquarie Capital Markets Canada Ltd.
Peters & Co. Limited
Raymond James Ltd.
Promoter(s):
-
Project #1934556

Issuer Name:
Temple Real Estate Investment Trust
Principal Regulator - Manitoba
Type and Date:
Preliminary Short Form Prospectus dated July 23, 2012
NP 11-202 Receipt dated July 23, 2012
Offering Price and Description:
$40,000,000.00 - 5 YEAR 7.25% SERIES E CONVERTIBLE REDEEMABLE UNSECURED SUBORDINATED DEBENTURES Price: $1,000.00 per Debenture
Underwriter(s) or Distributor(s):
NATIONAL BANK FINANCIAL INC.
LAURENTIAN BANK SECURITIES INC.
RAYMOND JAMES LTD.
DUNDEE SECURITIES LTD.
MACKIE RESEARCH CAPITAL CORPORATION
DESJARDINS SECURITIES INC.
MACQUARIE CAPITAL MARKETS CANADA LTD.
Promoter(s):
-
Project #1934555

Issuer Name:
ONE Financial All-Weather Profit Canada Fund
ONE Financial All-Weather Profit Commodities Fund
ONE Financial All-Weather Profit Conservative Growth 2022 Protected Portfolio
ONE Financial All-Weather Profit Emerging Markets Fund
ONE Financial All-Weather Profit Europe & Asia Fund
ONE Financial All-Weather Profit Global Diversified Fund
ONE Financial All-Weather Profit Global Diversified Growth Fund
ONE Financial All-Weather Profit Growth & Income Balanced Fund
ONE Financial All-Weather Profit Monthly ROC Income 2022 Protected Portfolio
ONE Financial All-Weather Profit Monthly Tax-Efficient Bond Fund
ONE Financial All-Weather Profit Tax-Efficient Short-term Savings Fund
ONE Financial All-Weather Profit U.S. Fund
Principal Regulator - Ontario
Type and Date:
Amended and Restated Preliminary Long Form Prospectus dated July 13, 2012
NP 11-202 Receipt dated July 17, 2012
Offering Price and Description:
Series A, F, I, O, Embedded-Wrap, and Flex-Wrap Shares. Series T6(ROC), T9(ROC), F6(ROC), F9(ROC), Embedded-Wrap, T6(ROC), Embedded-Wrap T9(ROC), Flex-Wrap T6 (ROC), and Flex-Wrap T9(ROC) Shares. Series A, F, O and Flex-Wrap Shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
One Financial Corporation
Project #1845211

Issuer Name:
Renaissance Canadian Bond Fund
Renaissance Corporate Bond Capital Yield Fund
Renaissance Short-Term Income Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectuses dated July 20, 2012
NP 11-202 Receipt dated July 23, 2012
Offering Price and Description:
Class F-Premium units
Underwriter(s) or Distributor(s):
CIBC Asset Management Inc.
Promoter(s):
CIBC Asset Management Inc.
Project #1934293

Issuer Name:
Spara Acquisition One Corp.
Type and Date:
Preliminary Long Form Non-Offering Prospectus dated July 16, 2012
Receipted on July 17, 2012
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
Jason Sparaga
Project #1932835

Issuer Name:
Black Diamond Group Limited
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated July 18, 2012
NP 11-202 Receipt dated July 18, 2012
Offering Price and Description:
$55,375,000.00 - 2,500,000 Common Shares Price: $22.15 per Common Share
Underwriter(s) or Distributor(s):
RAYMOND JAMES LTD.
BMO NESBITT BURNS INC.
CIBC WORLD MARKETS INC.
ACUMEN CAPITAL FINANCE PARTNERS LIMITED
GMP SECURITIES L.P.
FIRSTENERGY CAPITAL CORP.
CORMARK SECURITIES INC.
PETERS & CO. LIMITED
Promoter(s):
-
Project #1931723

Issuer Name:
Dynamic Power Managed Growth Class
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated May 30, 2012 to the Simplified Prospectus and Annual Information Form dated April 12, 2012
NP 11-202 Receipt dated July 17, 2012
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
GCIC Ltd.
GCIC Ltd.
Promoter(s):
GCIC Ltd.
Project #1875875

Issuer Name:
EnerCare Solutions Inc. (formerly The Consumers' Waterheater Operating Trust)
Principal Regulator - Ontario
Type and Date:
Final Base Shelf Prospectus dated July 20, 2012
NP 11-202 Receipt dated July 20, 2012
Offering Price and Description:
$600,000,000.00 - Debt Securities
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1931628

Issuer Name:
Energy Fuels Inc.
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated July 18, 2012
NP 11-202 Receipt dated July 19, 2012
Offering Price and Description:
$22,000,000.00 - Floating-Rate Convertible Unsecured Subordinated Debentures
Underwriter(s) or Distributor(s):
DUNDEE SECURITIES LTD.
SCOTIA CAPITAL INC.
NATIONAL BANK FINANCIAL INC.
HAYWOOD SECURITIES INC.
VERSANT PARTNERS INC.
Promoter(s):
-
Project #1929726

Issuer Name:
Manulife Financial Corporation
Principal Regulator - Ontario
Type and Date:
Final Base Shelf Prospectus dated July 18, 2012
NP 11-202 Receipt dated July 18, 2012
Offering Price and Description:
$10,000,000,000.00 -Debt Securities, Class A Shares, Class B Shares, Class 1 Shares, Common Shares, Subscription Receipts, Warrants, Share Purchase Contracts, Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1932005

Issuer Name:
Tricon Capital Group Inc.
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated July 23, 2012
NP 11-202 Receipt dated July 23, 2012
Offering Price and Description:
$45,000,000.00 - 6.375% Convertible Unsecured Subordinated Debentures Price: $1,000 per Debenture
Underwriter(s) or Distributor(s):
GMP Securities L.P.
RBC Dominion Securities Inc.
CIBC World Markets Inc.
Canaccord Genuity Corp.
Raymond James Ltd.
Promoter(s):
-
Project #1932684

Issuer Name:
Lazard Global Convertibles Plus Corp.
Principal Jurisdiction - Ontario
Type and Date:
Preliminary Long Form Prospectus dated June 8, 2012
Withdrawn on July 17, 2012
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
Marquest Asset Management Inc.
Project #1921338

Issuer Name:
Lazard Global Convertibles Plus Fund
Principal Jurisdiction - Ontario
Type and Date:
Preliminary Long Form Prospectus dated May 31, 2012
Withdrawn on July 17, 2012
Offering Price and Description:
$* (* Units) Maximum $10.00 per Unit
Underwriter(s) or Distributor(s):
TD SECURITIES INC.
CIBC WORLD MARKETS INC.
BMO NESBITT BURNS INC.
SCOTIA CAPITAL INC.
CANACCORD GENUITY CORP.
GMP SECURITIES L.P.
MACQUARIE PRIVATE WEALTH INC.
RAYMOND JAMES LTD.
DESJARDINS SECURITIES INC.
MACKIE RESEARCH CAPITAL CORPORATION
MANULIFE SECURITIES INCORPORATED
MGI SECURITIES INC.
Promoter(s):
MARQUEST ASSET MANAGEMENT INC.
Project #1918686

Issuer Name:
Lazard Global Convertibles Plus Fund
Principal Jurisdiction - Ontario
Type and Date:
Preliminary Long Form Prospectus dated May 31, 2012
Amended and Restated Preliminary Long Form Prospectus dated June 7, 2012
Withdrawn on July 17, 2012
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
TD SECURITIES INC.
CIBC WORLD MARKETS INC.
BMO NESBITT BURNS INC.
SCOTIA CAPITAL INC.
CANACCORD GENUITY CORP.
GMP SECURITIES L.P.
MACQUARIE PRIVATE WEALTH INC.
RAYMOND JAMES LTD.
DESJARDINS SECURITIES INC.
MACKIE RESEARCH CAPITAL CORPORATION
MANULIFE SECURITIES INCORPORATED
MGI SECURITIES INC.
Promoter(s):
MARQUEST ASSET MANAGEMENT INC.
Project #1918686

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Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
Name Change	From: Jovportfolio Management Inc. To: Fit Private Investment Counsel Inc.	Investment Fund Manager, Portfolio Manager and Exempt Market Dealer	July 17, 2012
Change in Registration Category	Brompton Funds Limited	From: Exempt Market Dealer, Portfolio Manager and Investment Fund Manager To: Exempt Market Dealer, Portfolio Manager, Investment Fund Manager and Commodity Trading Manager	July 19, 2012
New Registration	BNP Paribas Prime Brokerage, Inc.	Restricted Dealer	July 20, 2012
Change in Registration Category	Stornoway Portfolio Management Inc.	From: Exempt Market Dealer and Portfolio Manager To: Exempt Market Dealer, Portfolio Manager and Investment Fund Manager	July 20, 2012
Voluntary Surrender of Registration	Brompton Funds Management Limited	Investment Fund Manager, Exempt Market Dealer and Portfolio Manager	July 23, 2012

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Chapter 13

SROs, Marketplaces and Clearing Agencies

13.2 Marketplaces

13.2.1 Alpha Exchange Inc. – Request for Comments on Public Interest Rule Amendments to Alpha Exchange Trading Policies and Housekeeping Rule Amendments to Alpha Exchange Trading Policies

ALPHA EXCHANGE INC.

REQUEST FOR COMMENTS ON PUBLIC INTEREST RULE AMENDMENTS TO ALPHA EXCHANGE TRADING POLICIES

AND

HOUSEKEEPING RULE AMENDMENTS TO ALPHA EXCHANGE TRADING POLICIES

PROPOSED PUBLIC INTEREST RULE AMENDMENTS – REQUEST FOR COMMENTS

Proposed public interest rule amendments are being published for comment in Alpha Exchange Inc.'s Notice below (Notice) in accordance with the "Process for the Review and Approval of Rules and the Information Contained in Form 21-101F1 and the Exhibits Thereto". Feedback on the proposed public interest rule amendments outlined in Part I of the Notice is requested in writing by August 27, 2012 to the parties listed in the Notice below.

HOUSEKEEPING RULE AMENDMENTS

In addition, in accordance with the "Process for the Review and Approval of Rules and the Information Contained in Form 21-101F1 and the Exhibits Thereto" housekeeping rule amendments are published for information in Appendix A of the Notice. A brief summary of the housekeeping rule amendments and the rationale for them are found in Part II of the Notice. The housekeeping rule amendments will become effective as of the dates designated in the Notice.

ALPHA EXCHANGE INC.
NOTICE OF PROPOSED CHANGES AND REQUEST FOR FEEDBACK

The Board of Directors of Alpha Exchange Inc. ("Alpha") has approved amendments ("Amendments") to the Alpha Exchange Trading Policies ("Trading Policies"). The Amendments, shown as blacklined text, are attached as Appendix "A".

Alpha is publishing this Notice of Proposed Changes ("Notice") in accordance with the requirements set out in the rule protocol attached to its Recognition Order. Market participants are invited to provide the Commission with feedback on the proposed Public Interest Rule Changes. Notice is also being provided, as required, regarding Housekeeping changes. In accordance with regulatory requirements feedback is not being requested on the Housekeeping Rule changes.

Feedback on the proposed amendments should be in writing and submitted by August 27, 2012 to:

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

And to:
Randee Pavalow
Alpha Exchange Inc.
70 York Street, Suite 1501
Toronto, Ontario M5J 1S9
Fax: (416) 642-2120
e-mail: randee.pavalow@alpha-group.ca

Feedback received will be made public on the OSC website. Upon completion of the review by OSC staff, and in the absence of any regulatory concerns, notice will be published to confirm the completion of Commission staff's review and to outline the intended implementation date of the changes.

Terms not defined in this Notice are defined in the Alpha Exchange Inc. Trading Policies.

I. PUBLIC INTEREST RULE CHANGE – INTRASPREAD

DESCRIPTION OF THE PROPOSED CHANGES

Alpha is proposing to amend the IntraSpread™ functionality as follows:

- Remove Dark orders that provide price improvement of 10% over the NBBO.
- Introduce Dark orders that can trade at the NBBO with
    - SDL™ orders with volume over 50 board lots or value greater than $100,000 (Large SDL orders), after any visible and reserve volume on Alpha at the same price level has been exhausted, and
    - All other SDL™ orders(Small SDL orders) after any visible and reserve volume on Alpha at the same price level has been exhausted, but only when no visible volume is available on other markets at the same price, so that the NBBO at the time of entry of the order would, at the time of execution, provide price improvement in relationship to the market conditions at execution.
- Allow SDL™ orders to trade with eligible Dark orders as well as with lit orders booked in the Alpha CLOB, while not trading through better priced orders on other markets.

EXPECTED DATE OF IMPLEMENTATION

October 15, 2012

RATIONALE AND RELEVANT SUPPORTING ANALYSIS

The proposed changes are being made in order to bring IntraSpread™ functionality in compliance with UMIR provisions respecting dark liquidity effective October 15, 2012. In addition, the changes are designed to maximize opportunities for price improvement and increased trade size for active SDL™ orders. SDL orders will now also trade against visible liquidity in the Alpha CLOB, increasing the pool of liquidity available for SDL™ order matching.

EXPECTED IMPACT ON MARKET STRUCTURE, MEMBERS, INVESTORS, ISSUERS AND THE CAPITAL MARKETS

With the removal of 10% Dark orders, the expectation is that the volumes of SDL™ order executions against dark liquidity will decrease, as the economic benefit for liquidity providers is being reduced. The introduction of Dark orders that can trade with SDL™ orders at the NBBO is intended to provide a service that can offset the decrease in liquidity that is likely to occur after the implementation of the new requirements regarding dark pools. With typically larger sizes, it is expected that these Dark orders will continue to improve average trade prices for retail orders as compared to opportunities in the lit markets, since more volume can be executed at the best price level with no or minimal market impact. In addition, it is expected that overall fill rates for active retail flow routed to IntraSpread™ will increase due to additional matching with visible orders in Alpha CLOB.

IMPACT ON EXCHANGE'S COMPLIANCE WITH THE SECURITIES LAW, ESPECIALLY FAIR ACCESS AND MAINTENANCE OF FAIR AND ORDERLY MARKETS

Proposed changes will bring IntraSpread™ functionality in line with UMIR provisions respecting dark liquidity effective October 15 2012. These changes are also in compliance with securities law including the requirements regarding fair access and maintenance of fair and orderly markets.

CONSULTATION

Proposed changes were developed in response to new regulatory environment, while trying to preserve benefits of the current IntraSpread™ implementation. Feedback was received from a number of existing IntraSpread™ customers.

TECHNOLOGY IMPLEMENTATION IMPACT ON MEMBERS AND SERVICE VENDORS

Proposed changes are designed to minimize impact on Members and Service Vendors. There are no required changes for parties entering SDL orders. Dark liquidity providers are expected to cease use of 10% Dark orders and to incorporate 0% Dark orders in their trading strategies.

EXISTENCE OF COMPARABLE RULES IN OTHER MARKETS OR JURISDICTIONS

Midpoint dark orders are supported by MatchNow, TMX and ChiX.

Dark order at the NBBO is equivalent to limit dark orders supported by TMX and ChiX.

TMX and ChiX allow active orders to interact with both dark and lit liquidity.

II. HOUSEKEEPING RULE CHANGES

Please note that these changes are not being published for comment.

Changes to the Inside Match Order, Effective October 15, 2012

Prices other than 50% of the NBBO spread are being removed for the Inside Match order. With this amendment, an Inside Match order trading against a Price Improvement Iceberg order will receive a price improvement of at least one trading increment, or half a trading increment if NBBO spread is one trading increment.

These changes are housekeeping changes because they are being made in response to Securities law and UMIR provisions respecting dark liquidity effective October 15, 2012.

Changes to the Short Sell Order – Effective October 15, 2012

The following changes are made to short selling functionality:

- Short Sell orders are no longer re-priced to NLSP
- Short Sell Exempt marker will no longer be accepted after the transition.
- Short-marking Exempt marker is added to buy, sell and cross orders
- Short-marking Exempt order cannot be designated as Short Sell
- Short-marking Exempt marker is added to all odd-lot auto-executed trades, as these are executed in Market Making capacity.
- Market Maker information is added to symbol information query to support vendor implementations of functionality specific to Market Makers and Short-marking exempt requirements.

These changes are housekeeping changes because they are being made in response to UMIR short selling provisions effective October 15, 2012.

Alpha will continue to accept Short Sell Exempt marker during the transition period, until March 29, 2013 or as scheduled by IIROC.

Changes to Order Router – Effective September 3, 2012

After review and analysis, the consolidated order book depth used by Alpha Order Router is being reduced from 10 levels to 5. Data analysis indicates that less than 0.003% of orders routed through Alpha Order Router can interact with more than 5 price levels.

This change is a configuration change being made to reduce data processing and storage capacity and is a housekeeping change because it is a change in the routine processes or administration of the marketplace and is a minor system change.

APPENDIX A

The following sets out the proposed black lined amendments to the Alpha Exchange Inc. Trading Policies. A complete version of the black lined Trading Policies can be found at www.alpha-group.ca

2.1 DEFINITIONS

Dark Order	A fully hidden order used to manage passive interest within the IntraSpread™ Facility. It includes the Touch Dark order and Midpoint Dark order.
IntraSpread™ Facility	An optional facility which allows a Member to seek order matches with ~~guaranteed~~ price improvement for active orders, without pre-trade transparency.
Large order	An order with a volume over 50 Board lots or a value greater than $100,000. It may be combined with a specific type of order such as an SDL order (Large SDL order) to indicate that the SDL Order has a volume over 50 Board lots or a value of greater than $100,000.
Small Order	An order with a volume less than or equal to 50 Board lots or a value less than or equal to $100,000. It may be combined with a specific type of order such as an SDL order (Large SDL order) to indicate that the SDL Order has a volume less than or equal to 50 Board lots or a value of less than or equal to $100,000.

DIVISION 2 — ORDER ENTRY

5.10 Order Types

Inside Match (IM)	Order with a limit price ~~within the~~ at 50% of the NBBO ~~specified by a percentage (between 10% and 90% increments of 10%) of the spread~~ that trades with PII orders immediately on entry. Any unfilled balance of an IM order is cancelled. Trades may occur at smaller price increments than the minimum quotation increments contained in UMIR.
Passive Only (PO)	The PO order is cancelled at the time of entry if any portion of the order is immediately tradable. PO orders are also cancelled if the order becomes active due to a price change (i.e., a price amendment ~~or short sale price re-pegging~~). Passive Only is also available for TTM orders.
Seek Dark Liquidity™ (SDL™)	A Fill or Kill order that trades ~~only~~ with eligible IntraSpread Dark orders and CLOB orders to the extent possible and any residual is cancelled.
Short Sell	An order to sell a security that the seller does not own (either directly, or through an agent or trustee) at the time of the order. ~~Short Sell orders may only be executed at a price equal to, or above the NLSP.~~
~~**Short Sell "exempt"**~~	~~A Short Sell order that is exempt from the "last sale" pricing restrictions in UMIR. Members are responsible for identifying these orders.~~

5.10.6 SHORT SALE ORDERS

A Short Sell order is an order to sell a security that the seller does not own. ~~To facilitate compliance with the short sale rule, the system generally pegs the price of short sell orders to the NLSP. However in the Pre-Open phase, short sale order prices are adjusted to the closing price of the principal market.~~

> **Commentary**: Members are responsible for the identification and designation of short sell and short-marking exempt orders.

~~A Short Sell "exempt" order is a Short Sell order that is exempt from the "last sale" pricing restrictions in UMIR. Members are responsible for identifying these orders~~

5.12 CROSSES

(5) Bypass Crosses are only allowed on a regular Alpha cross (no BBO check), and are not allowed on SPC Contingent Cross, Internal Cross, National Cross and SST Cross. A bypass Cross is exempt from cross interference, ~~is short sell and short exempt supported~~, is only allowed on round lots and mixed lots and does not update NLSP

5.14 BYPASS ORDER

> ~~Example 2: - Bypass Short Sell order pegged to NLSP~~
> ~~National Last Sale Price is $1.90~~
> ~~XYZ Security~~

Non-disclosed/Reserve Volume	Buy Volume	Bid	Offer	Sell Volume
1000 shares	500 shares	$2.00	$2.50	500 shares
	400 shares	$1.80		

Dealer A sent short sell Bypass Order for 900 at 1.80.
Order is booked as Short Sell with limit price 1.90. (Pegged to National Last Sale Price)
Alpha executes trade as 500 at 2.00
Outstanding volume of 400 is killed.
Alpha Last Sale Price updates to 2.00

Post-Trade Order Book
XYZ Security

Non-disclosed/Reserve Volume	Buy Volume	Bid	Offer	Sell Volume
500 shares	500 shares	$2.00	$2.50	500 shares
	400 shares	$1.80		

Example 3: Bypass Short Sell Exempt Order
XYZ Security

Reserve Volume	Buy Volume	Bid	Offer	Sell Volume
1000 shares	500 shares	$2.20	$2.50	500 shares
	400 shares	$2.00		

5.23 ALPHA INTRASPREAD™ FACILITY

(1) Scope

(a) Alpha IntraSpread™ facility allows Members to seek order matches without pre-trade transparency. It can also provide, with guaranteed price improvement for active orders.

(b) The IntraSpread™ facility is available to all Members and for all symbols traded on Alpha ATS.

(c) Order types in the Alpha IntraSpread™ facility include Dark orders and Seek Dark Liquidity™ (SDL™) orders.

(2) Dark Orders

(a) The Dark order is a fully hidden order with no pre-trade transparency.

Commentary: Dark orders have no pre-trade transparency as information on Dark orders is not disseminated on any public feeds.

(b) Dark orders can trade with other Dark orders or with SDL™ orders, but do not trade with CLOB orders.

(c) Based on the COMP attribute, the Dark order can trade as follows:

(i) only with incoming SDL™ orders, or

(ii) only with other Dark orders, or

(iii) with both SDL™ and Dark orders.

(d) The price of a Dark order is calculated as an offset of the NBBO by adding the price offset to the national best bid for a buy order and subtracting it from the national best offer for a sell order.

(i) The price offset is calculated as a percentage of the NBBO:

(1) A Touch Dark Order" will be calculated at 0% of the NBBO (at the BB for a sell order and at the BO for a buy order)), or 50% (with no tick cap"

(2) A Midpoint Dark Order will be calculated at 50% of the NBBO.")); however, Dark orders with a COMP attribute that supports trading with other Dark orders can only have the 50% price offset value.

(ii) The price of the Dark order can be optionally capped.

If either relevant side of the NBBO is not set, or the NBBO is locked or crossed, Dark orders will not trade.

(e) Touch Dark orders:

trade with incoming Large SDL orders after all visible and iceberg reserve volume in the CLOB at the same price has been exhausted;

(i) trade with incoming Small SDL orders after all visible and iceberg reserve volume in the CLOB at the same price has been exhausted and if no visible volume at the same price is available on other markets;

(ii) do not trade with other Dark orders.

(f) Midpoint Dark orders trade with:

(i) all incoming SDL orders, regardless of SDL order size;

(ii) other Midpoint Dark orders, if COMP attribute of both Dark Orders supports trading against Dark orders.

(g) Dark orders must be for a board lot quantity and are day only orders.

(h) Dark orders cannot be Iceberg, On-Stop, Inside Match, FOK, FAK, MOO, LOO, MOC, Special Terms, Bypass, Passive Only, TTM or ROC.

(i) Dark orders can be amended for quantity, price offset and price cap, in addition to other standard amendable order attributes.

(j) Dark order marked with the MAQ attribute may specify the minimum acceptable number of shares that it will trade against when trading with another Dark order. The MAQ condition does not apply to trades against SDL orders.

(k) Dark orders marked with the STM attribute will not trade with a matching STM marked Dark order from the same Member account.

(3) Seek Dark Liquidity™ (SDL™) Orders

(a) SDL™ orders trade only with eligible Dark orders from any Alpha Member and do not interact with otherstransparent orders in the Alpha CLOB while not trading through price levels on other marketplaces.

(b) SDL™ Orders can only be entered on behalf of Retail Customers.

Commentary: It is expected that Members have policies and procedures in place in regards to identifying which accounts qualify and supervisory procedures to monitor ongoing compliance. If Alpha deems that a firm is entering SDL™ orders from non-retail clients, it may take appropriate action against the firm in question (i.e. access to IntraSpread).

(c) SDL™ orders can be market or limit orders but are treated as FOK – they trade with eligible Dark orders to the extent possible, and any residual is cancelled.

(d) SDL™ orders must be for a board lot quantity.

(e) SDL™ orders cannot be Iceberg, On-Stop, Inside Match, FAK, MOO, LOO, MOC, Special Terms, Bypass, Passive Only, TTM or ROC.

(4) Eligible Trading Sessions

(a) Dark orders are accepted in Pre-Open and Continuous Trading sessions (from 7:00am to 4:00pm).

(b) Dark orders trade in the Continuous Trading Session but do not participate in opening or closing auctions.

(c) SDL™ orders are accepted only during the Continuous Trading Session (from 9:30am to 4:00pm)

(5) Post-trade Transparency

(a) IntraSpread™ trades are disseminated on the public data feed in real-time. These trades set the Alpha last sale price (ALSP) and/or the NLSP.

(b) Trade prices may have up to three decimal places for prices above $0.50 and up to four decimal places for prices below $0.50.

(6) IntraSpread™ Matching

(a) Incoming SDL™ orders trade with eligible resting Dark and CLOB orders in price priority.

(b) Within a price level, transparent and Iceberg reserve CLOB volume has priority over Dark orders.

(c) Subject to Section 5.23(6)(a) and (b), r~~R~~esting Dark ~~- IntraSpread~~ orders are matched with incoming Dark orders and SDL™ orders according to the following allocation priority:

~~(i) Price priority: Dark orders with better price (higher price offset) have priority, then~~

(i) Broker preferencing: Dark orders from the same Member have priority, then

(ii) Smart size priority: Dark orders with sufficient size to fully fill the incoming order have priority, then

(iii) Round-robin priority: Dark orders take turns interacting with the incoming order. Each time a Dark order is inserted, it ~~is placed at the bottom of the queue. Each time a Dark Order~~ trades, or its ~~quantity is increased~~ priority is changed through amendment, the order is placed at the bottom of the round-robin priority queue.

Commentary*:* Unlike in the CLOB, Broker p~~P~~referencing is observed ~~for matching SDL orders and Dark orders~~ regardless of whether the ~~the~~ order on either side is marked anonymous. In addition, SDL Orders designated as Jitney are subject to broker preferencing.

Resting CLOB orders are matched with incoming SDL™ orders according to CLOB allocation priority.

~~**6.12 MIXED LOT SHORT SALE ORDERS**~~

~~(6) Mixed lot Short Sale orders will be pegged to the NLSP up to the order's limit price and then executed according to 6.9, 6.10 and 6.11.~~

8.5 TTM SERVICE

(7) TTM Routing Strategy

(a) The TTM Service simultaneously routes portions of the order to all Other Marketplaces with better priced orders ~~(up to 10 price levels)~~, up to the original order's limit price. Any residual is sent to Alpha.

Commentary: The TTM Service receives information on the depth of book up to 5 price levels

(a) The TTM Service will:

(i) Receive the depth of book ~~(to 10 price levels)~~ made available by each marketplace, then

Chapter 25

Other Information

25.1 Consents

25.1.1 Advanced Primary Minerals Corporation – s. 4(b) of the Regulation

Headnote

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

Statutes Cited

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

Regulations Cited

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

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

AND

IN THE MATTER OF
ADVANCED PRIMARY MINERALS CORPORATION

CONSENT
(Subsection 4(b) of the Regulation)

UPON the application of Advanced Primary Minerals Corporation (the "Applicant") to the Ontario Securities Commission (the "Commission") requesting consent (the "Application") from the Commission for the Applicant to continue in another jurisdiction, as required by subsection 4(b) of the Regulation;

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

AND UPON the Applicant having represented to the Commission that:

1. The Applicant was incorporated under the OBCA on September 27, 2002. Its registered office is located at 65 Harbour Square, Suite 1108, Toronto, Ontario M5J 2L4.

2. The Applicant, with a view to relocate its registered office to Nova Scotia for administrative convenience, intends to apply to the Director under the OBCA for authorization to continue under the *Canada Business Corporations Act* ("CBCA"). Pursuant to subsection 4(b) of the Regulation, where a corporation is an offering corporation, its Application for continuance as a corporation under the CBCA must be accompanied by a consent from the Ontario Securities Commission. The Applicant intends to apply for continuation under the CBCA as soon as it receives consent from the Commission.

3. The Applicant is an offering corporation under the OBCA and is and intends to remain a reporting issuer under the *Securities Act* (the "Act"). The Applicant is also a reporting issuer in British Columbia, Alberta and Nova Scotia and intends to remain a reporting issuer in each of these jurisdictions following the proposed continuance as a corporation under the CBCA.

4. The common shares of the Applicant are currently listed and posted for trading in TSX Venture Exchange under the trading symbol "APD:TSXV" and the Applicant intents to continue trading of its common shares on the TSX Venture Exchange after the proposed continuance.

5. The Applicant is not in default of any of the provisions of the OBCA, the Act or the regulations or rules made thereunder and any rules, regulations or policies of the TSX Venture Exchange or any securities legislation of any province in Canada.

6. The Applicant is not a party to any proceeding or, to the best of its knowledge, information and belief, any pending proceeding under the Act or the OBCA.

7. The material rights, duties and obligations of a corporation governed by the CBCA are substantially similar to those of a corporation governed by the OBCA. The Applicant's management information circular, dated May 31, 2012 and filed on SEDAR on June 5, 2012 which was provided to all shareholders of the Applicant for its June 29, 2012 annual and special meeting (the "Meeting"), included (i) full disclosure of the continuance approval process, the proposed articles of continuance, the effect of the proposed continuance, the amendments required to By-Law Number One and (ii) full disclosure to the shareholders with respect to their dissent rights in connection with the continuance pursuant to section 185 of the OBCA.

8. At the Meeting, a special resolution authorizing the continuance under the CBCA was approved by 99.91% of the votes cast by shareholders of the Applicant. None of the shareholders of the Applicant exercised dissent right pursuant to section of 185 of the OBCA.

9. The Applicant intends to relocate its registered office to Nova Scotia in conjunction with its continuance as a corporation under the CBCA. The Nova Scotia Securities Commission is currently the Applicant's principal regulator and the Applicant intends to continue to have the Nova Scotia Securities Commission as its principal regulator after the proposed continuance.

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

THE COMMISSION HEREBY CONSENTS to the continuance of the Applicant as a corporation under the CBCA.

DATED at Toronto, Ontario this 17th day of July, 2012.

"Kevin J. Kelly"
Commissioner
Ontario Securities Commission

"Vern Krishna"
Commissioner
Ontario Securities Commission

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