The Ontario Securities Commission

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June 13, 2013

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CURRENT PROCEEDINGS

BEFORE

ONTARIO SECURITIES COMMISSION

- - - - - - - - - - - - - - - - - - - -

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Judith N. Robertson	—	JNR
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Charles Wesley Moore (Wes) Scott	—	CWMS

SCHEDULED OSC HEARINGS

June 17 & June 19-21, 2013 9:30 a.m. July 22-26, 2013 10:00 a.m.	**Jowdat Waheed and Bruce Walter** s. 127 J. Lynch in attendance for Staff Panel: CP/SBK/PLK
June 17 & June 19-25, 2013 10:00 a.m.	**David Charles Phillips and John Russell Wilson** s. 127 Y. Chisholm in attendance for Staff Panel: JDC/EPK/CWMS
June 18, 2013 3:30 p.m.	**Blackwood & Rose Inc., Steven Zetchus and Justin Kreller (also known as Justin Kay)** s. 37, 127 and 127.1 C. Rossi in attendance for Staff Panel: EPK
June 19, 2013 11:00 a.m.	**Knowledge First Financial Inc.** s. 127 D. Ferris in attendance for Staff Panel: JEAT
June 24, 2013 10:30 a.m.	**Global Consulting and Financial Services, Crown Capital Management Corporation, Canadian Private Audit Service, Executive Asset Management, Michael Chomica, Peter Siklos known as Peter Kuti), Jan Chomica, and Lorne Banks** s.127 C. Rossi in attendance for Staff Panel: AJL

June 26, 2013 10:00 a.m.	**Pro-Financial Asset Management Inc.** s. 127 D. Ferris in attendance for Staff Panel: JEAT
June 27, 2013 10:00 a.m.	**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: JDC
July 3, 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: VK
July 4, 2013 10:00 a.m.	**Juniper Fund Management Corporation, Juniper Income Fund, Juniper Equity Growth Fund and Roy Brown (a.k.a. Roy Brown-Rodrigues)** s.127 and 127.1 D. Ferris in attendance for Staff Panel: VK
July 10, 2013 10:00 a.m.	**Bunting & Waddington Inc., Arvind Sanmugam and Julie Winget** s. 127 and 127.1 M. Britton/A. Pelletier in attendance for Staff Panel: EPK
July 11, 2013 10:00 a.m.	**Moncasa Capital Corporation and John Frederick Collins** s. 127 T. Center in attendance for Staff Panel: EPK
July 19, 2013 10:00 a.m.	**Children's Education Funds Inc.** s. 127 D. Ferris in attendance for Staff Panel: JEAT
July 19, 2013 11:00 a.m.	**AMTE Services Inc., Osler Energy Corporation, Ranjit Grewal, Phillip Colbert and Edward Ozga** s. 127 C. Rossi in attendance for Staff Panel: JEAT
July 31, 2013 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: MGC
August 1, 2013 10:00 a.m.	**Ronald James Ovenden, New Solutions Capital Inc., New Solutions Financial Corporation and New Solutions Financial (Ii) Corporation** s. 127 Y. Chisholm in attendance for Staff Panel: JEAT
August 14, 2013 10:00 a.m.	**Quadrexx Asset Management Inc., Quadrexx Secured Assets Inc., Offshore Oil Vessel Supply Services LP, Quibik Income Fund and Quibik Opportunities Fund** s. 127 D. Ferris in attendance for Staff Panel: JEAT

August 20, 2013 10:30 a.m.	**Ground Wealth Inc., Michelle Dunk, Adrion Smith, Joel Webster, Douglas DeBoer, Armadillo Energy Inc., Armadillo Energy, Inc., and Armadillo Energy LLC** s. 127 J. Feasby in attendance for Staff Panel: TBA
August 27, 2013 2:30 p.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 Corp., (aka Liquid Gold International Inc.) and Nanotech Industries Inc.** s. 127 J. Feasby/C. Watson in attendance for Staff Panel: JDC
September 4, 2013 11:00 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: EPK
September 5, 2013 10:00 a.m.	**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: EPK
September 5-9 & September 11-13, 2013 10:00 a.m.	**Onix International Inc. and Tyrone Constantine Phipps** s. 127 C. Rossi in attendance for Staff Panel: TBA
September 11, 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: JDC
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October 9, 2013 10:00 a.m.	**Global Consulting and Financial Services, Crown Capital Management Corporation, Canadian Private Audit Service, Executive Asset Management, Michael Chomica, Peter Siklos known as Peter Kuti), Jan Chomica, and Lorne Banks** s.127 C. Rossi in attendance for Staff Panel: TBA
October 15-21, October 23-29, 2013 10:00 a.m.	**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: EPK

November 4 & November 6-18, 2013 10:00 a.m.	**Systematech Solutions Inc., April Vuong and Hao Quach** s. 127 D. Ferris in attendance for Staff Panel: TBA
December 4, 2013 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 13, January 15-27, January 29-February 10, February 12-14 & February 18-21, 2014 10:00 a.m.	**International Strategic Investm International Strategic Investments Inc., Somin Holdings Inc., Nazim Gillani and Ryan J. Driscoll.** s. 127 C. Watson in attendance for Staff Panel: TBA
May 5-May 16 & May 20-June 20, 2014 10:00 a.m.	**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
In writing	**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
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 Panel: TBA
TBA	**Frank Dunn, Douglas Beatty, Michael Gollogly** s.127 Panel: TBA
TBA	**MRS Sciences Inc. (formerly Morningside Capital Corp.), Americo DeRosa, Ronald Sherman, Edward Emmons and Ivan Cavric** s. 127 & 127(1) D. Ferris in attendance for Staff Panel: TBA
TBA	**Gold-Quest International and Sandra Gale** s.127 C. Johnson 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	**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	**Innovative Gifting Inc., Terence Lushington, Z2A Corp., and Christine Hewitt** s. 127 M. Vaillancourt 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	**Beryl Henderson** s. 127 C. Weiler in attendance for Staff Panel: TBA
TBA	**Crown Hill Capital Corporation and Wayne Lawrence Pushka** s. 127 A. Perschy/A. Pelletier in attendance for Staff Panel: TBA
TBA	**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
TBA	**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 & 127.1 D. Campbell in attendance for Staff Panel: TBA
TBA	**Ernst & Young LLP** s. 127 and 127.1 A. Clark in attendance for Staff Panel: TBA
TBA	**Newer Technologies Limited, Ryan Pickering and Rodger Frey** s. 127 and 127.1 B. Shulman in attendance for staff Panel: TBA
TBA	**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: TBA
TBA	**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: TBA

TBA

Fawad Ul Haq Khan and Khan Trading Associates Inc. carrying on business as Money Plus

s. 60 and 60.1 of the *Commodity Futures Act*

T. Center in attendance for Staff

Panel: TBA

TBA

Global RESP Corporation and Global Growth Assets Inc.

s. 127

D. Ferris in attendance for Staff

Panel: TBA

TBA

Issam El-Bouji, Global RESP Corporation, Global Growth Assets Inc., Global Educational Trust Foundation and Margaret Singh

s. 127 and 127.1

P. Foy in attendance for Staff

Panel: TBA

TBA

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) & (5)

A. Heydon/Y. Chisholm in attendance for Staff

Panel : TBA

TBA

Garth H. Drabinsky, Myron I. Gottlieb and Gordon Eckstein

s. 127

A. Clark/J. Friedman in attendance for Staff

Panel: TBA

TBA

Vincent Ciccone and Cabo Catoche Corp. (a.k.a. Medra Corp. and Medra Corporation)

s. 127

M. Vaillancourt in attendance for Staff

Panel: TBA

TBA

Portfolio Capital Inc., David Rogerson and Amy Hanna-Rogerson

s.127

J. Lynch in attendance for Staff

Panel: TBA

TBA

Heritage Management Group and Anna Hrynisak

s.127

C. Rossi in attendance for Staff

Panel: TBA

TBA

Global Consulting and Financial Services, Global Capital Group, Crown Capital Management Corp., Michael Chomica, Jan Chomica and Lorne Banks

s.127

C. Rossi 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

New Hudson Television LLC & Dmitry James Salganov

s. 127

C. Watson in attendance for Staff

Panel: TBA

TBA **Heritage Education Funds Inc.**

s. 127

D. Ferris in attendance for Staff

Panel: TBA

ADJOURNED SINE DIE

Global Privacy Management Trust and Robert Cranston

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 OSC Staff Notice 15-706: Update to OSC Staff Notice 15-704 on Proposed Enforcement Initiatives

OSC STAFF NOTICE 15-706

UPDATE TO OSC STAFF NOTICE 15-704
ON PROPOSED ENFORCEMENT INITIATIVES

In advance of the Enforcement Policy Hearing (the "Policy Hearing") on June 17, 2013, staff (or "we") of the Ontario Securities Commission ("OSC") are providing a brief update on the activities undertaken since OSC Staff Notice 15-704 *Request for Comments on Proposed Enforcement Initiatives* was published on October 21, 2011 (the "Notice"). The four proposed enforcement initiatives set out in the Notice include No-Enforcement Action Agreements, No-Contest Settlements, a Clarified Process for Self-Reporting and Enhanced Public Disclosure of Credit Granted for Cooperation.

We have reviewed the public comments filed with the OSC and thank the many commenters who provided submissions. The comments have been very informative and helpful as staff further consider the proposed enforcement initiatives. We acknowledge that various stakeholders have different points of view on our proposed initiatives and look forward to further submissions from the presenters who will be participating in the upcoming Policy Hearing.

In addition, we have also been actively monitoring developments in the United States, where the use of *"neither admit nor deny settlements"* by the Securities and Exchange Commission (and other federal regulators) have recently been the subject of judicial consideration, legislative inquiry and media comment. In view of the possible effect of these developments on the consideration of staff's proposed "no-contest settlement program", we commissioned a research paper to review and analyze recent U.S. developments. As part of this update, we attach a copy of the paper, *"No-Contest Settlements and the SEC's Recent Experience: Implications for Ontario,"* authored by Philip Anisman.

At the Policy Hearing, Tom Atkinson, Director of Enforcement, will be providing submissions in support of the four proposed enforcement initiatives. Staff remain committed to these initiatives as a way to increase Enforcement's effectiveness in protecting the public interest. These initiatives will allow us to resolve enforcement matters more quickly and issue more protective orders earlier, which would benefit both investors and the capital markets.

Clarification of Eligibility for No-Contest Settlements

In response to the many public comments made about the no-contest settlement program, we would like to clarify, in advance of the hearing, staff's position on the limited circumstances for which this type of settlement agreement would be considered.

First, a no-contest settlement agreement would not be made available to a proposed respondent where the person has engaged in egregious, fraudulent or criminal conduct, or where the person's misconduct has resulted in investor harm which remains unaddressed.

Second, in proposing a no-contest settlement, staff would have to determine a proposed respondent's eligibility for this type of agreement by assessing the following factors:

- the extent to which the proposed respondent provided prompt, detailed and candid cooperation during staff's investigation;
- the degree and timeliness of self-reporting undertaken by the proposed respondent in light of the circumstances of the misconduct;
- the remedial steps taken by the proposed respondent in addressing the misconduct (for example, compensation to investors and/or enhancements to the firm's internal control environment);
- whether the proposed respondent disgorged the amounts obtained or losses avoided.

Lastly, in order to address concerns raised by some commenters, staff now propose that eligibility to participate in a no-contest settlement will not be prohibited by the fact that a person may have previously been the subject of enforcement activity by the OSC or any other agency.

1.1.3 No Contest Settlements and the SEC's Recent Experience: Implications for Ontario

June 4, 2013

NO-CONTEST SETTLEMENTS AND THE SEC'S RECENT EXPERIENCE: IMPLICATIONS FOR ONTARIO

PREPARED AT THE REQUEST OF STAFF OF THE ONTARIO SECURITIES COMMISSION

BY
PHILIP ANISMAN

1. Introduction

On October 21, 2011 the Ontario Securities Commission (the "Commission") published Staff Notice 15-704 (the "Staff Notice"),[1] requesting comments on proposed enforcement initiatives intended to enhance the efficiency of Commission enforcement proceedings. One of these initiatives is a change in current Commission practice that would permit no-contest settlements, that is, settlements in which a respondent is not required to admit facts alleged by enforcement staff ("Staff"), a contravention of the Act or that the alleged conduct is contrary to the public interest. The Staff Notice describes a "no-contest settlement program" that would adopt, in limited circumstances, the practice followed by the U.S. Securities and Exchange Commission ("SEC") for settlement of enforcement proceedings brought by it in U.S. federal courts.[2]

Shortly after publication of the Staff Notice, a U.S. district court judge brought the SEC's no-contest settlement practice into question. On November 28, 2011, Judge Jed S. Rakoff rejected a consent judgment proposed by the SEC to settle a proceeding against Citigroup Global Markets Inc., in large part because it was not supported by an admission or acknowledgement of the truth of the SEC's allegations.[3] This paper has been prepared to assist the Commission by outlining Judge Rakoff's decision, the response to it in the United States, and its implications for the issues raised by the Staff Notice with respect to the Commission's settlement process.

2. SEC Settlement Practice and the *Citigroup* Rejection

(a) SEC No-Contest Settlements

The SEC's original enforcement authority was limited to seeking injunctions to prohibit conduct that contravened the U.S. federal securities laws.[4] Until the 1950s, the SEC generally required admission of a violation or an agreement that the court could find a violation on the basis of the record filed in an injunction proceeding, treating settlements without an admission as exceptional.[5] The SEC reversed this practice in the 1960s, and admissions became the exception.[6] In 1972, to prevent defendants from denying its allegations after a settlement was approved, the SEC adopted a rule declaring its policy against a defendant being allowed to suggest that the conduct alleged in a consent proceeding did not occur and stating that the SEC will treat a refusal to admit the allegations as equivalent to a denial, unless the defendant states that it "neither admits nor denies" them.[7] Since then and until last year, the SEC's enforcement settlements have invariably included this no-contest language, even in circumstances in which a defendant admitted the allegations in other proceedings. The SEC addressed the inconsistency of not admitting facts admitted elsewhere only in 2012, after Judge Rakoff's decision, in an announcement by its Director of Enforcement declaring a policy change under which a defendant who has entered a guilty plea or been convicted in a parallel criminal proceeding will not be allowed to "neither admit nor deny" the facts so admitted or found.[8]

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1 *OSC Staff Notice 15-704: Request for Comments on Proposed Enforcement Initiatives*, (2011) 34 O.S.C.B. 10720 (October 21). The Commission has scheduled a public hearing to be held on June 17, 2013 to receive oral submissions on the Staff Notice; see *Ontario Securities Commission Policy Hearings on Proposed Enforcement Initiatives: OSC Staff Notice 15-704*, (2013) 36 O.S.C.B. 4755 (May 9).

2 See *SEC Rules of Practice and Conduct*, s. 202(5)(e), 17 C.F.R. s. 202.5(e) (defendant cannot refuse to admit allegations, unless states "that he neither admits nor denies" them).

3 See *SEC v. Citigroup Global Markets Inc.*, 827 F. Supp.2d 328 (S.D.N.Y. 2011).

4 See, e.g., *SEC v. Cioffi*, 868 F. Supp.2d 65 (E.D.N.Y. 2012) at 69-70 (summarizing SEC's remedial authority).

5 See L. Loss, J. Seligman and T. Paredes, 10 *Securities Regulation* (4th ed. 2013) at 407 n. 54.

6 *Ibid*.

7 See *Consent Decrees in Judicial or Administrative Proceedings*, Securities Act Rel. No. 33-5337, November 28, 1972, announcing adoption of s. 202.5(e), note 2 above; see also *SEC v. Vitesse Semiconductor Corp.*, 771 F. Supp.2d 304 (S.D.N.Y. 2011) at 308-09 (rule adopted because some defendants publicly denied the SEC's allegations after courts approved settlement, stating they entered into the settlement to avoid litigating with the SEC).

The Commission has a similar policy with respect to settlements of its regulatory proceedings, and it has brought proceedings to enforce it; see, e.g., *In the Matter of David Singh*, (1999) 22 O.S.C.B. 1493 (March 5) and 22 O.S.C.B. 2985 (May 14).

8 See R. Khuzami, "*Public Statement by SEC Staff: Recent Policy Change*," http://www.sec.gov/news/speech/2012/spch010712rsk.htm. The policy also applies to defendants who enter a non-prosecution or deferred prosecution agreement that includes admissions or acknowledgments of criminal conduct. This change will only apply to a minority of the SEC's cases.

(b) The *Citigroup* Decision

Prior to 2011, Judge Rakoff had demonstrated an inclination to review SEC consent judgments carefully. In 2009, he rejected a proposed consent judgment against Bank of America Corporation on the basis of the terms of the settlement.[9] In a subsequent case, he had criticized the SEC's Rule 202.5(e), describing it as resulting in a "stew of confusion and hypocrisy unworthy of such a proud agency" as the SEC, although approving the settlement because the individual defendants had admitted guilt in a parallel criminal proceeding.[10]

These two elements came together in the settlement proceeding against Citigroup, in which the SEC filed its complaint and the proposed consent judgment, without supporting evidence, as appears to be its common practice. Judge Rakoff then required a hearing and ordered that the parties answer nine probing questions relating to approval of the settlement, the first of which was why the Court should order a judgment based on allegations of "serious securities fraud," when the defendant "neither admits nor denies wrongdoing?"[11] The parties responded to these questions without providing additional evidence. Rather, the SEC took the position that the settlement was reasonable in light of the allegations in its complaint, which resulted from its investigation, while counsel for Citigroup "expressly confirmed" that Citigroup did not admit these allegations and was entitled to and would contest them in any parallel civil litigation, leading Judge Rakoff to conclude there was "little real doubt that Citigroup contests" the SEC's factual allegations.[12] The SEC also argued that the court should not consider the public interest, which was within the SEC's exclusive purview.[13]

Judge Rakoff rejected the settlement on the basis that the parties had not provided the Court with sufficient facts to support an order granting the requested injunction and on the merits of the settlement, including the amount to be paid under it by Citigroup.[14] The standard of review applied to the settlement was that the Court had to be satisfied that the settlement was fair, reasonable and adequate and in the public interest. Judge Rakoff found that he was unable to make this determination without evidence of the alleged facts and also addressed other issues relating both to the terms of the proposed consent judgment and to Citigroup's failure to admit or acknowledge the SEC's allegations. In particular, he said that a no-contest settlement deprives investors who are harmed of an ability to use the admissions to prove their case in parallel civil litigation on the basis of collateral estoppel, suggested that the settlement was too soft and may have been influenced by the SEC's desire for a quick headline, and declared that the public had "an overriding public interest in knowing the truth" of the facts on which a consent judgment is based.[15] While recognizing that the SEC's decision to settle was entitled to deference, he emphasized the Court's independence, its role in reviewing a settlement and its responsibilities when issuing an injunction[16] and ordered that the parties proceed to trial in conjunction with the proceeding against Stoker.[17]

The SEC and Citigroup both appealed to the Court of Appeals for the Second Circuit and applied for a stay of Judge Rakoff's decision. A panel of the Court of Appeals granted the stay on the basis that the SEC and Citigroup had demonstrated a likelihood of success on the merits. It found, in effect, that Judge Rakoff had not given adequate deference to the SEC's decision to settle, substituting his own decision for the SEC's, and that requiring an admission of liability would virtually preclude the possibility of the compromise needed for settlements.[18] Underlying its decision was an acceptance of the potential harm to the regulatory process if the SEC were required to take all of its enforcement proceedings to trial.[19] (It is generally accepted that in view of the SEC's limited resources, requiring admissions in all settlements would significantly impede its enforcement capability.[20]) The appeal was heard on February 8, 2013, and is currently under reserve.

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9 *SEC v. Bank of America Corp*., 653 F. Supp.2d 507 (S.D.N.Y. 2009). This settlement was subsequently approved by Judge Rakoff, albeit "reluctantly," after the SEC presented a 35 page statement of facts and a 13 page supplementary statement, both based on extensive discovery that followed the initial rejection, and the Bank of America informed the judge that it did not contest the accuracy of the facts contained in the two statements. Counsel for the Bank of America also affirmed, at Judge Rakoff's request, that it had no material quarrel with these facts and agreed that they could be considered with respect to approval of the settlement; *SEC v. Bank of America Corp*., 09 Civ. 6829; 10 Civ. 0215 (S.D.N.Y. February 22, 2010).

10 *SEC v. Vitesse Semiconductor Corp.*, 771 F. Supp.2d 304 (S.D.N.Y. 2011) at 309-10.

11 Order, *SEC v. Citigroup Global Markets Inc*., 11 Civ. 7387 (S.D.N.Y. October 27, 2011).

12 *SEC v. Citigroup Global Markets Inc*., 827 F. Supp.2d 328 (S.D.N.Y. 2011) at 332-33.

13 *Ibid*. at 330-31.

14 The decision on the merits was also based on a failure to explain a seemingly inconsistent pleading with respect to Citigroup's knowledge contained in the complaint in a parallel proceeding against a Citigroup officer; see *SEC v. Stoker*, 865 F. Supp.2d 457 (S.D.N.Y. June 6, 2012) (motion to dismiss rejected); 873 F. Supp.2d 605 (S.D.N.Y. July 9, 2012) (motion for summary judgment rejected). The proceeding against Mr. Stoker was subsequently dismissed following a jury verdict; see G. McCool, "SEC loses civil fraud case against ex-Citigroup manager," Thompson Reuters News and Insight, July 31, 2012.

15 *SEC v. Citigroup Global Markets Inc*., note 12, above.

16 A similar conclusion has been reached in a recent Australian decision concerning monetary penalties to be imposed by the Court, following a settlement between a defendant and the Australian Securities and Investments Commission, on the basis of an agreed statement of admitted facts; see *ASIC v. Ingleby*, [2013] VSCA 49 (March 19, 2013).

17 *SEC v. Citigroup Global Markets Inc.,* note 12 above, at 335 (consolidating the two cases).

18 *SEC v. Citigroup Global Markets Inc*., 673 F.3d 158 (2d Cir. 2012).

19 It has been estimated that approximately 90 per cent of the proceedings brought by the SEC and by other U.S. federal agencies are settled without going to trial.

20 See, e.g., L. Loss, J. Seligman and T. Paredes, note 5 above, at 723 n. 82 (SEC "does not have adequate resources to fully investigate and litigate all potential matters").

(c) The Aftermath

Judge Rakoff's decision has been characterized by the leading text on securities regulation in the United States as "deeply concerning."[21] Not surprisingly, the decision has received public and judicial attention in view of the fact that all U.S. federal agencies usually enter no-consent settlements. [22] (In fact, while all such agencies agree to settlements without admissions, not all of them prohibit subsequent denial of the allegations by a defendant or respondent.[23]) As a result, the Financial Services Committee of the U.S. House of Representatives held a hearing on May 17, 2012 to consider Judge Rakoff's *Citigroup* decision.

The Committee received testimony from the SEC's Director of Enforcement, senior officials of three other federal financial agencies, a senior state securities regulator and two securities law academics. [24] Six of these witnesses agreed that settling on a no-contest basis is desirable, that requiring admissions of liability or wrongdoing would adversely affect the enforcement capabilities of federal regulators and that the courts should not intensively review settlement decisions made by the SEC. These were also generally the views of the seventh witness, William F. Galvin, the securities regulator in Massachusetts, who objected to no-contest settlements as a matter of principle, but viewed admissions as a negotiable term that might be used to achieve desirable outcomes like the payment of restitution to harmed investors.[25] The majority of the members of the Committee agreed that courts should defer to the decisions of regulators not to require admissions.

While Judge Rakoff's *Citigroup* decision appears to have had some influence on judicial practice, its influence appears not to have been significant and it has not generally impeded the SEC's enforcement activity, presumably in light of the Court of Appeals' stay decision and its impending decision on the appeal.[26] After the District Court's decision, the SEC continued to follow its prior practice with respect to consent judgments filed with a complaint.[27] A few courts have requested additional information in written submissions and approved the settlement after receiving them.[28] One judge has rejected a proposed settlement on the grounds that the defendants made no admissions, stating that he refuses "to approve penalties against a defendant who remains defiantly mute as to the veracity of the allegations against him" and that "a defendant's options in this regard are binary: he may admit the allegations or he may go to trial."[29] Another has approved a settlement requiring the defendants, together, to pay approximately $600,000,000, but conditioned his approval on the decision of the Court of Appeals in *Citigroup*, holding that the settlement satisfied the standard in Judge Rakoff's earlier decisions, except for the fact that the defendants neither admitted nor denied the allegations[30] and emphasizing the importance of this issue, the value of admissions to plaintiffs in a parallel civil action, and the public's interest in knowing the truth.[31] In one case involving allegations of the payment of bribes to foreign government officials, the Court, after raising objections to the settlement, rescheduled the proceeding to a date to be determined.[32]

Citigroup has also not prevented approval of settlements in false advertising and antitrust proceedings. It has, however, resulted in more intensive review in light of the failure by the federal agencies to require admissions. In a proceeding by the Federal Trade Commission ("FTC"), the Court applied the standard of review in *Citigroup* and requested additional legal and

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21 *Ibid*.; see also *ibid.* at 806 n. 4 (consent decrees " by far the SEC's most important enforcement device").

22 See, e.g., Statement of Robert Khuzami, SEC Director of Enforcement, in Committee on Financial Services, U.S. House of Representatives, *Hearing: Examining the Settlement Practices of U.S. Financial Regulators*, May 17, 2012, at 80-82 (summarizing practices of securities, antitrust, environmental, consumer protection, public health and civil rights enforcement).

23 See, e.g., *Federal Trade Commission v. Circa Direct LLC*, 2012 WL 3987610 (D.N.J.) at 6 n. 3 (FTC suggested it will no longer permit denials, but may follow SEC practice).

24 See *Hearing*, note 22 above.

25 Statement of the Honorable William F. Galvin, Secretary, Commonwealth of Massachusetts, *ibid*. at 66-73 (written statement) (of 52 settlements since 2002, over 40 per cent involved admissions; almost 50 per cent where no restitution, at 71); see also *ibid*. at 44-46 and 53.

26 See, e.g., SEC*, Fiscal Year 2012 Agency Financial Report* (November 2012) at 13 (SEC brought 734 enforcement actions in year ending September 30, 2012, down from 735 in 2011); and see *ibid*., at 125-44 (major enforcement cases), http://www.sec.gov/about/secafr2012.shtml. In fiscal year 2012, the percentage of enforcement actions that were resolved on consent and otherwise fell from 93 per cent in the preceding year to 89 per cent; SEC, *FY 2014 Congressional Budget Justification, FY 2014 Annual Performance Plan and FY 2012 Annual Performance Report* at 31, http://www.sec.gov/about/reports/secfy14congbudgjust.pdf. The number of settlements rose from 670 in 2011 to 714 in 2012, the highest number since 2007, and the Citigroup settlement had the highest value of all settlements in the year; E. Buckberg, J. Overdahl and J. Baez, *SEC Settlement Trends: 2H12 Update* (NERA January 14, 2013) at 1-2.

27 See, e.g., Letter, *SEC v. Koss Corp., 2*:11-cv-00991(E.D. Wisc. December 20, 2011) (SEC filed complaint, consent documents of defendants and proposed final judgments without supporting evidence); *SEC v. Cioffi*, 868 F. Supp.2d 65 (S.D.N.Y. 2012) at 66 (terms of settlement presented for Court's approval in open court before trial).

28 See *SEC v. Cioffi*, *ibid*.; *SEC v. Koss*, note 27 above (letter submissions); see also Letter, *ibid.,* February 1, 2012.

29 Order Denying Entry of Final Judgments, *SEC v. Bridge Premium Finance, LLC*, Civil Action No. 1:12-cv-02131 (D. Colo. January 17, 2013).

30 *SEC v. CR Intrinsic Investors, LLC*, 2013 WL 1614999 (S.D.N.Y. April 16, 2013).

31 *Ibid*. at 10-12. The Court referred to a companion case, *SEC v. Sigma Capital Management, LLC*, 13 Civ. 1740 (S.D.N.Y. March 15, 2013) in which a settlement involving an affiliate of CR Intrinsic and some of the other defendants for approximately $14,000,000 was approved without comment.

32 See Docket, *SEC v. International Business Machines Corp*., 1:11-cv-00563 (D. D.C. February 17, 2013); T. Schoenberg and A. Zajac, "IBM Judge Questions SEC on Foreign Bribe Settlement," Bloomberg.com, December 21, 2012.

factual submissions from the FTC.[33] In approving the settlement after receiving responses to some of its questions, the Court noted that a private right of action is not available for a breach of federal trade legislation. Addressing concerns about the public's access to true facts concerning the defendants' conduct, the Court conditioned its approval on the FTC creating a web page and publishing detailed summaries of its allegations, the evidence submitted to the Court, with links to documentary and expert evidence, and a notice from the Court stating that the Court has approved a settlement and that while the defendants do not admit to the allegations, they submitted no evidence to the contrary.[34]

Finally, in approving the settlement of an antitrust claim, one Court referred to the Court of Appeals' stay decision and the fact the applicable legislation did not create a private right of action and precluded use of consent judgments not based on testimony against a defendant in private litigation, while expressing concern about the amount of disgorgement and the risk that the defendant viewed the settlement merely as a cost of doing business. [35]

3. Implications for Commission Settlements

While the experience with no-contest settlements in the United States highlights some issues that are relevant to the Commission's consideration of the Staff Notice, it must be viewed carefully to take into account institutional, legal and cultural differences between the U.S. and Canada. Much of the debate about the *Citigroup* decision relates to the role of U.S. courts in approving settlements and granting injunctions. As a result, much of the discussion, particularly in the briefs in the Citigroup appeal, is premised on the dichotomy between the courts acting as a "rubber stamp" in performing a judicial review function on the one hand and the appropriate degree of deference to the expertise and regulatory policy role of, in this case, the SEC on the other. These issues, framed in terms of the independence of courts, their constitutional position as against executive agencies, their jurisdiction to review agency policy decisions and the intensity of any such review may be important for a resolution of the SEC's settlement practice, but they are not relevant to the Commission's determination of how to treat no-contest settlements.

A number of issues raised by the *Citigroup* decision are relevant to the Staff's proposal to allow no-contest settlements, for example, whether and how settlements that do not contain an admission by a respondent can satisfy public interest standards, but in the Canadian context, these issues are exclusively regulatory. They are closer to decisions made by the SEC when it determines to adopt a rule of practice like Rule 202.5(e) or to approve the settlement of a court proceeding.[36] In fact, it has been suggested that the issues raised by the *Citigroup* decision can be overcome if the SEC brings its enforcement actions as administrative proceedings.[37] This suggestion, if adopted, would bring SEC enforcement practice closer to the Commission's.

Under the Commission's Rules of Procedure, a settlement agreement between Staff and a respondent must be approved by the Commission in a public hearing.[38] This hearing follows a confidential settlement conference with a Commission hearing panel to provide "guidance on whether the terms of" a proposed settlement would be in the public interest.[39] As a result, there is no

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33 See *Federal Trade Commission v. Circa Direct LLC*, 2012 WL 2178705 (D.N.J.). The Court also received a letter from one FTC Commissioner arguing that that the settlement should not be approved without an admission or demonstration of the FTC's likelihood to succeed in litigation; *ibid.* at 3.

34 See *Federal Trade Commission v. Circa Direct LLC*, 2012 WL 3987610 (D.N.J.) at 7. The FTC invited the Court to rely on documentary and expert evidence, presented to it on an earlier motion for a preliminary injunction, for the truth of the allegations in its complaint, when considering the public interest; *ibid.* at 3.

35 See *U.S. v. Morgan Stanley*, 881 F. Supp.2d 563 (S.D.N.Y. 2012) at 568-69.

36 It should be noted that all of the settlements discussed above, and considered by U.S. courts, had to be approved by the SEC, as the initiation and settlement of every enforcement proceeding is approved by the full Commission. The SEC's settlement approval practice is described more fully in the *amicus* brief filed on behalf of Harvey Pitt, a former General Counsel and Chairman of the SEC; see *Brief of Amicus Curiae Former Securities and Exchange Commission General Counsel and Chairman, Harvey Pitt in Support of Affirmance of District Court's Ruling*, August 21, 2012, filed in *SEC v. Citigroup Global Markets Inc*., 11-5227-cv, U.S.C.A., 2d Cir., at 9-14.

37 See, e.g., *Brief of Amici Curiae Securities Law Scholars for Affirmance in Support of the District Court's Order and Against Appellant and Appellee,* August 16, 2012, filed in *SEC v. Citigroup Global Markets Inc.*, 11-5227-cv, U.S.C.A., 2d Cir., at 22.

Prior to 2010, the SEC had authority to seek a cease and desist order and an accounting and disgorgement in an administrative proceeding against a person who contravened securities laws; see, e.g., *Securities Exchange Act of 1934,* ss. 21C(a) and (e), 15 USC ss. 78u-3(a) and (e). It could also bring an administrative proceeding for a limited monetary penalty against a registrant; *ibid.,* s. 21B, 15 USC s. 78u-2. In July, 2010, the *Dodd–Frank Wall Street Reform and Consumer Protection Act* granted it authority to seek such monetary penalties in administrative cease and desist proceedings against other persons; *ibid*., s. 21B(a)(2), 15 USC s. 78u-2(a)(2). Although the SEC has made little use of these provisions, it has been suggested that this is likely to change; see J. McKown, "Administrative Proceeding against Rajat Gupta Marks a Turning Point in SEC Enforcement Actions," (2011) 5 *Bloomberg Law Reports – Securities Law*, No. 3. On November 28, 2011, the same day as the *Citigroup* decision, the Chair of the SEC requested amendments to U.S. securities laws that would increase the monetary penalties available in both court and SEC proceedings; see Letter from Mary L. Schapiro to the Honorable Jack Reed, November 28, 2011, reproduced in *Hearing*, note 22 above, at 127. See also L. Skinner, "In Rakoff's wake, SEC may settle matters out of court," Investment News, December 1, 2011.

38 See *OSC Rules of Procedure*, Rule 12.

39 *Ibid*., Rules 12.1-12.5. The hearing panel that considers approval of the settlement in a public hearing is comprised of the same panel members who presided at the preceding settlement conference.

relevant issue of deference. The matters to be addressed in connection with the Staff Notice and no-contest settlements thus relate only to the Commission's determination of the public interest with respect to its own regulatory proceedings.[40]

(a) Commission Settlement Practice

As settlement agreements must be approved by the Commission and must provide for a Commission order, their acceptability requires a determination by the Commission that a settlement and the orders it contemplates are in the public interest.[41] The Commission currently takes the position that a determination that an order is in the public interest must be based on admitted facts or findings of fact and, accordingly, requires a respondent who enters a settlement agreement to admit the allegations of fact and a contravention of Ontario securities law or conduct contrary to the public interest. The Commission has, however, occasionally approved settlements without such admissions.

In 1990, for example, the Commission approved a settlement with Price Waterhouse and one of its audit partners relating to their audit of financial statements of National Business Systems Inc. ("NBS"), which Staff alleged contravened the Act and regulations under it.[42] The settlement agreement did not contain admissions of wrongdoing by the respondents. It provided that Staff would recommend the resolution of the proceedings and that Staff's position was that the facts set out in the settlement agreement were accurate based on its investigation of NBS and expert advice from an independent outside accounting firm. The settlement agreement stated that Staff's position, based on its work and its adviser's report, was that "the conclusions set out herein are reasonable, and supported by the evidence therein."[43]

The settlement agreement provided that the respondents "neither admit nor deny the accuracy of the facts, allegations or conclusions of the Staff" set out in it and that they entered into the agreement "solely for the purpose of resolving the outstanding issues" described in it.[44] In fact, the respondents denied culpability; in describing the respondents' positions, the settlement agreement provided that they, as well as the public, were deliberately deceived and misled by NBS, its senior officers and others.[45] The settlement agreement also provided that in giving effect to the settlement, the respondents agreed to "neither oppose nor consent to the disposition of this proceeding in the manner requested by the Staff" and to comply with the order sought by Staff and made on that basis.[46]

The Commission concluded that it was in the public interest to approve the settlement agreement. In making the agreed orders, it expressly recognized that the respondents had "neither opposed nor consented to the issuance of this Order."[47]

The Commission again approved a no-contest settlement in 1993.[48] In this proceeding, the settlement agreement provided that the respondents agreed to a settlement to resolve the allegations and the proceedings and consented to the making of the agreed orders against them.[49] This settlement agreement also contained the positions of Staff and the respondents. Staff's position was, in effect, that the respondents engaged in insider trading and other contraventions of the Act and regulations.[50] The respondents' position was that not all of them were aware of all of the facts set out in the settlement agreement, and each of them denied having material undisclosed information at any relevant time, that is, denied having engaged in insider trading or otherwise acting contrary to Ontario securities law.[51] The Commission's order recited the fact of the agreement and the respondents' consent to the order and declared that approval of agreement and the orders contemplated in it was in the public interest.[52]

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40 Additional considerations may arise with respect to settlements entered into by the Commission's Executive Director which although also involving only regulatory determinations are, as a matter of law, subject to review by the Commission; *Securities Act*, R.S.O. 1990, c. S.5, s. 8(1), as amended (hereinafter the "Act").

41 See Act, s. 127(1); see also *OSC Rules of Procedure*, Rule 12.7(2)(a).

42 *In the Matter of Price Waterhouse and Owen F. Smith*, (1990) 13 O.S.C.B. 1473 (April 20).

43 Settlement Agreement, *ibid.*, (1990) 13 O.S.C.B. 1475, paras. 3 and 4.

44 *Ibid.*, paras. 5 and 34.

45 *Ibid.*, paras. 18-21. Staff's position was that Staff did "not necessarily accept the position of" the respondents and had concluded that the respondents failed to carry out an audit in accordance with generally accepted auditing standards and that the respondents' conduct resulted in breaches of the Act and regulations under it, described in some detail in the agreement; *ibid.,* paras. 22-33.

46 *Ibid.*, para. 34.

47 *Ibid.*, Order, 13 O.S.C.B. at 1473.

48 See *In the Matter of Seakist Overseas Limited*, (1993) 16 O.S.C.B. 1959 (April 30).

49 *Ibid.*, Settlement Agreement, paras. 2-3.

50 *Ibid.*, paras. 25-27.

51 *Ibid.*, paras 24 and 28-31.

52 *Ibid.*, Order, at 1960. See also *Re Ryckman*, (1996) 5 ASCS 519 (February 16) (approving settlement in which the respondents acknowledged the allegations and neither admitted nor denied them, but did not contest them for purposes of the Alberta Commission's proceeding).

(b) No-Contest Settlements

(i) Commission Jurisdiction

The issue before the Commission with respect to the Staff Notice is whether these decisions should continue to be treated as anomalies and not accepted as within Commission practice or whether no-contest settlements may be in the public interest, either generally or in specific circumstances. As this is a regulatory question, like other questions of the public interest, it should be viewed within the framework of the Act and the Commission's public interest jurisdiction with respect to enforcement matters.

It is trite, but useful, to repeat that the purpose of Commission enforcement proceedings, and sanctions imposed by the Commission, is to protect the securities market's integrity and to prevent repetition of undesirable conduct by specifically deterring respondents and generally deterring others who may be inclined to engage in similar conduct.[53] Determinations of such matters are intended to implement the purposes of the Act, namely, to provide protection to investors from unfair, improper or fraudulent practices and to foster fair and efficient capital markets and confidence in them.[54] These purposes are to be implemented with regard to six fundamental principles, the most relevant of which for current purposes is that effective and responsive securities regulation "requires timely, open and efficient administration and enforcement" of the Act.[55] These purposes and principles provide a basis on which the Commission may determine the relevance of the issues raised by the *Citigroup* decision in the U.S. for its determination of the public interest with respect to settlement of enforcement proceedings under the Act.

The arguments of the SEC and others with respect to the benefits of no-contest settlements in permitting an efficient resolution of proceedings, resulting in more effective allocation of its resources to other investigations and proceedings and immediate benefits to investors, are obviously relevant to the protection of investors and the efficient administration and enforcement of the Act. But a determination of the potential benefits from permitting no-contest settlements must be based primarily on the Commission's own experience with enforcement matters in light of its enforcement and other priorities.[56] Suffice it to say, in light of the Act's purposes and principles, it is open to the Commission to consider the advantages of no-contest settlements as being relevant to its public interest determinations, both with respect to the principle of no-contest settlements and the approval of any settlements brought before it.

Section 127 of the Act does not preclude such settlements. It authorizes the Commission to make orders, if in the Commission's opinion it is in the public interest to do so. Apart from an order imposing an administrative penalty or requiring disgorgement, for which a contravention of Ontario securities law is a prerequisite, admissions by a respondent are not necessary for an order agreed to in a settlement agreement to be made. The only requirement is that the Commission be of the opinion that the settlement and an order approving it and the orders it contemplates are in the public interest. It may so conclude, without an admission from a respondent, on the basis of facts in a settlement agreement that are declared by Staff to be true and not denied by the respondent, the respondent's acceptance of the settlement agreement as a basis for resolving the proceeding, the agreed sanctions in light of the conduct described in the settlement agreement, and the other factors that the Commission currently considers on settlement approval hearings.[57] With respect to the principle of no-contest settlements, the Commission might also consider the potential for Staff to negotiate restitution or compensation for harmed investors or a stronger sanction by accepting a proposed settlement agreement without admissions.[58]

(ii) Civil Actions by Investors

In the U.S. these factors have been balanced, by Judge Rakoff and others, against two dominant countervailing considerations. The first relates to the ability of investors to utilize admissions in a settlement to prove their case in a civil proceeding seeking compensation from the defendants, as the defendants will be estopped from denying these admissions in a collateral

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53 See, e.g., *Committee for Equal Treatment of Asbestos Minority Shareholders v. Ontario Securities Commission*, [2001] 2 S.C.R. 132; *Re Cartaway Resources Corp.*, [2004] 1 S.C.R. 672.

54 Act, s. 1.1.

55 Act, s. 2.1(3). A complementary principle is that restricting fraudulent and unfair market practices and procedures is a primary means to achieve the Act's purposes; see s. 2.1(2)(ii).

56 See *Notice 11-768 – Statement of Priorities: Request for Comments regarding 2013-2014 Statement of Priorities*, (2013) 36 O.S.C.B. 3423 (April 4) (Draft for Comment at 12-13).

57 See, e.g., *In the Matter of Price Waterhouse and Owen F. Smith*, (1990) 13 O.S.C.B. 1473 (April 20); *cf.* note 9 above. This would not prevent a respondent from agreeing to disgorge funds or pay funds to the Commission, as a settlement agreement may provide for a "sanction" that the Commission lacks authority to impose; see, e.g., *In the Matter of Research in Motion Ltd.,* (2009) 32 O.S.C.B. 1421 (February 13) at 1428 (Settlement Agreement, paras. 61-62) (undertaking to compensate corporation); 32 O.S.C.B. 4434 (May 29) at 4436 (Reasons, para. 23); *In the Matter of HSBC Bank Canada,* (2010) 33 O.S.C.B. 63 (January 8); *In the Matter of Canadian Imperial Bank of Commerce and CIBC World Markets Inc.,* (2010) 33 O.S.C.B. 73 (January 8) (funds paid to Commission); see also *In the Matter of Coventree Inc.,* (2012) 35 O.S.C.B. 119 (January 6) at 130 (para. 79).

58 See above, text accompanying note 25 (testimony of William F. Galvin).

proceeding; a settlement without admissions enables the defendants to deny the alleged facts in a parallel civil action.[59] As the same legal principles apply to admissions made in settlements with the Commission, this is a relevant consideration.[60]

Compensation of investors, however, must be viewed in the context of the Act, rather than the legislation considered by U.S. courts. Although Commission settlements have frequently required a respondent to compensate or otherwise remediate harm to investors,[61]and the Commission has on occasion distributed settlement funds to harmed investors,[62] the primary focus of Commission enforcement is not compensation but protection of the integrity of capital markets and investors generally, as was recently held by the Ontario Court of Appeal.[63] In other words, Commission enforcement proceedings are first and foremost regulatory.[64]

The secondary market liability regimes under which investors bring civil actions based on disclosure violations by issuers may also be relevant to this issue. In the U.S., investors must prove not only a misrepresentation made by a defendant, but knowledge, intent or recklessness on the defendant's part, and must pass a high pleading threshold implemented by the *Private Securities Litigation Reform Act of 1995*.[65] The burden on plaintiff investors under the secondary market liability regime in the Act is not as stringent, as they need only prove a misrepresentation, after which the burden shifts to the defendant to demonstrate due diligence.[66] In addition, although leave of a court to bring an action is required by the Act, it is arguable that a settlement agreement may, even without admissions, assist a plaintiff-investor in obtaining leave to bring such an action.[67] This is not to suggest that consideration of potential benefit to investors seeking compensation is not relevant to the Commission's consideration of the public interest, but only that it is not determinative.

(iii) Public's Right to Know

The second major countervailing factor in the U.S. decisions is the concept that the public is entitled to and will benefit from an admission or finding that provides them with the truth of the SEC's allegations.[68] This issue arises most dramatically when the SEC, or another agency, files only a complaint and a consent order. This is not the practice before the Commission. Settlement agreements entered into by Staff almost always contain facts that Staff obtained in an investigation and declare to be true. This was the case with the two settlements outlined above, which the commission approved even though the respondents did not make admissions.[69] As long as the respondents are not permitted to deny the facts asserted as true by Staff in a settlement agreement to which the respondents are parties, accompanied by an appropriate sanction, this objection may be, in large part, addressed.[70]

(iv) Deterrence

The U.S. discussion of the *Citigroup* decision recognizes that both requiring an acknowledgement of wrongdoing through admissions and quicker resolution of proceedings involving serious sanctions may deter improper market conduct. These considerations are relevant to the Commission's ability to accomplish its protective and preventive goals through no-contest settlements. The considerations to be balanced relate to the deterrence obtained by requiring an admission as against the general deterrence that is likely to result from achieving more frequent enforcement results more quickly.

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59 See, e.g., *SEC v. Citigroup Global Markets Inc.*, 827 F. Supp.2d 328 (S.D.N.Y. 2011) at 333-34 (collateral estoppel).

60 Admissions in a securities regulatory settlement agreement have generally been held to be admissible against the settling parties in subsequent civil actions by investors; see, e.g., *Hill v. Gordon-Daly Grenadier Securities*, (2001) 56 O.R. (3d) 379 (S.C.J.), affirmed (2001) 56 O.R. (3d) 388 (Div. Ct.); *BDO Dunwoody Ltd. v. Miller Bernstein*, (2008) 91 O.R. (3d) 207 (S.C.J.); *National Bank Financial Ltd. v. Potter*, 2012 NSSC 76 (CanLII).

61 See, e.g., *In the Matter of AGF Funds Inc.*, (2005) 28 O.S.C.B. 73 (January 7); 28 O.S.C.B. 881 (January 21); *In the Matter of Franklin Templeton Investments Corp.*, (2005) 28 O.S.C.B. 2408 (March 11) (compensation); *In the Matter of Fulcrum Financial Group Inc.*, (2006) 29 O.S.C.B. 2068, 2069, 2096 and 2103 (March 10) (rescission offer).

62 See, e.g., *ibid.*; and see *News Release: OSC and IIROC Announce Distribution Plans for ABCP Settlement Funds*, (2012) 35 O.S.C.B. 3901 (April 20).

63 See *Fischer v. IG Investment Management Ltd.*, 2012 ONCA 47. An appeal of this decision to the Supreme Court of Canada was heard on April 18, 2013 and judgment was reserved.

64 *Ibid.*, paras. 46, 52 and 80. The Court of Appeal held that a Commission proceeding in which compensation was obtained for investors under a settlement agreement was not a "preferable procedure" for resolution of their claims, and did not warrant a refusal to certify a parallel class action based on the facts admitted in the settlement, because Commission proceedings under section 127 serve a "purely regulatory function" and are not intended to provide compensation or other relief to investors, and investors are not entitled to participate in them.

65 See, e.g., *Tellabs, Inc. v. Makor Issues & Rights, Ltd.*. 551 U.S. 308 (2007); and see generally J. Coffee and H. Sale, *Securities Regulation: Cases and Materials* (12th ed. 2012) at 1042-48 and 1057-59.

66 See Act, ss. 138.3-138.4.

67 See Act, s. 138.8.

68 See, e.g., *SEC v. Vitesse Semiconductor Corp.*, 771 F. Supp.2d 304 (S.D.N.Y.) at 309-10; *SEC v. Citigroup Global Markets Inc.*, 827 F. Supp.2d 328 (S.D.N.Y. 2011) at 335; *Federal Trade Commission v. Circa Direct LLC*, 2012 WL 3987610 (D.N.J.) at 6-7.

69 See, e.g., Settlement Agreement, *In the Matter of Price Waterhouse*, (1990) 13 O.S.C.B. 1473 at 1476 and 1484-94 (paras. 4 and 22-33).

70 See, e.g., *SEC v. CR Intrinsic Investors, LLC*, 2013 WL 1614999 (S.D.N.Y.) at 8 (settlement for over $600 million; incongruous not to admit allegations); see also *In the Matter of Seakist Overseas Limited*, (1993) 16 O.S.C.B. 1959 (payment of $23 million by respondents).

4. Conclusion

As stated above, these considerations are relevant to the Commission's determination of the acceptability of no-contest settlements as a matter of principle and of specific settlements that may be brought before a Commission hearing panel. As the Staff Notice does not propose an all-or-nothing policy, if no-contest settlements are permitted, the lack of an admission would be one element of a settlement to be weighed in light of other relevant factors with respect to the respondent, the likelihood of success, potential outcomes and the timing and cost of proceeding to a hearing, on the basis of the standards that the Commission currently applies when considering approval of proposed settlements.[71]

[71] See, e.g., *In the Matter of Koonar*, (2002) 25 O.S.C.B. 2691 (May 10) at 2692; *In the Matter of M.C.J.C. Holdings and Michael Cowpland,* (2003) 26 O.S.C.B. 8206 (December 19); *In the Matter of Rankin,* (2008) 31 O.S.C.B. 3303 (March 21) at 18-22; *In the Matter of Mega-C Power Corp*., (2011) 34 O.S.C.B. 1279 (February 4), para. 31.

1.1.4 OSC Staff Notice 51-721 – Ontario Securities Commission Forward Looking Disclosure

OSC Staff Notice 51-721 – *Ontario Securities Commission Forward Looking Disclosure* is reproduced on the following internally numbered pages. Bulletin pagination resumes at the end of the Staff Notice.

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ONTARIO SECURITIES COMMISSION

Ontario Securities Commission
Forward-Looking Information Disclosure

OSC Staff Notice 51-721

Publication date: June 13, 2013

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1. Executive Summary

Forward-looking information ("FLI") is a key area of interest for investors. Investors want transparent and clear disclosure about present and future corporate operations and performance. When prepared properly, FLI can be used to enhance transparency and provide opportunities to increase an investor's understanding of a reporting issuer's business and future prospects. Staff of the Ontario Securities Commission ("we") recognize that FLI is a challenging area. Reporting issuers need to address investors' demands by providing reliable and relevant information. Disclosure must be both useful and understandable. Disclosure should include the most relevant information in a format that investors can understand.

FLI requirements have been in place for several years with the most recent changes coming into effect on December 31, 2007. We note that most reporting issuers include some FLI in either a continuous disclosure ("CD") document, a news release or on their website. We conducted FLI reviews (the "Review") of Ontario reporting issuers from several industries and the issues identified were consistent across all industries. Despite the fact that more than five years have passed since the most recent changes to the requirements, we note that for many reporting issuers there continues to be a need for improvement relating to the quality of the required FLI disclosure.

Our Review identified four common areas where improvement is needed:

- clear identification of FLI
- disclosure of the material factors or assumptions used to develop FLI
- updating previously disclosed FLI
- comparison of actual results to the future oriented financial information (FOFI) or financial outlook previously disclosed

The purpose of the Review was to assess the overall quality of FLI disclosure. This notice provides guidance and examples to assist reporting issuers in preparing FLI.

2. Introduction

FLI is a key area of interest for investors. Investors want transparent and clear disclosure about present and future corporate operations and performance. When prepared properly, FLI can be used to enhance transparency and provide opportunities to increase the investor's understanding of a reporting issuer's business and future prospects. Reporting issuers need to address investors' demands by providing reliable and relevant information in a format that investors can understand.

FLI should provide valuable insight about a reporting issuer's business and how that reporting issuer intends to attain its corporate objectives and targets. Clear, specific and relevant information allows investors to better understand the performance of a reporting issuer, enabling investors to make effective and efficient decisions in the capital markets.

Many reporting issuers find incorporating key performance indicators ("KPIs") into FLI disclosure provides investors with valuable and meaningful information about their company. Ongoing disclosure of KPIs demonstrates how a reporting issuer is progressing toward its objectives and targets. KPIs should be relevant and meaningful. Examples of KPIs include:

- customer retention
- capital expenditures
- same store sales
- exploration success rate

The purpose of this publication is to assist reporting issuers and management in understanding FLI securities requirements so that they provide more effective and relevant disclosure to investors. This notice:

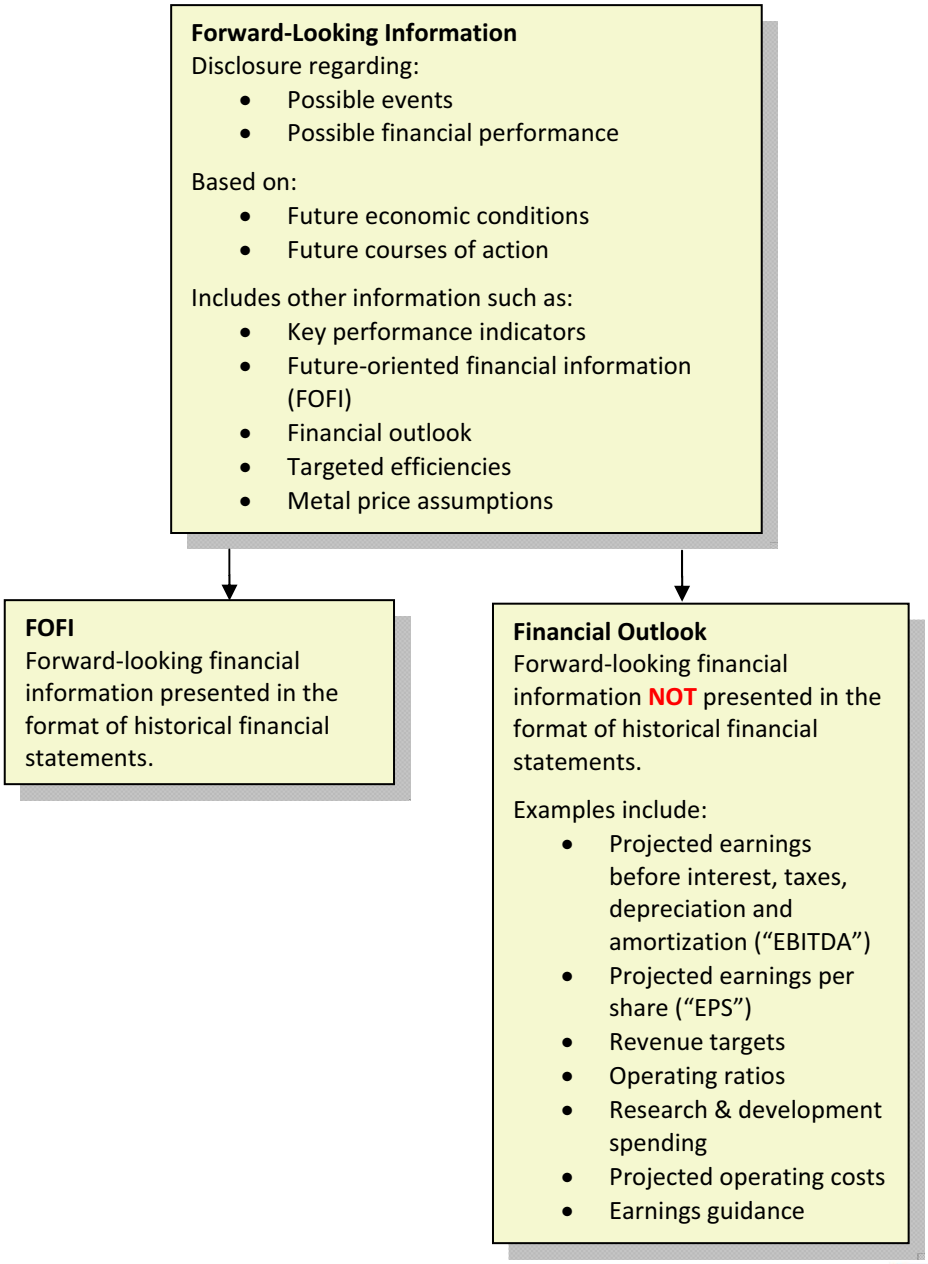
- clarifies the disclosure requirements related to FLI, including FOFI and financial outlook
- provides disclosure examples
- highlights common areas of non-compliance

We reviewed the disclosure and presentation of FLI for 60 issuers, including FOFI and financial outlook, with a focus on the following main areas:

- clear identification of FLI
- disclosure of material factors and assumptions
- updating previously disclosed FLI (including expected differences)
- comparison of actual results to previously disclosed FOFI or financial outlook

What is Forward-Looking Information?

FLI is disclosure about possible events, conditions or financial performance that is based on assumptions about future economic conditions and courses of action. FLI includes two subcategories dealing with financial information: (a) FOFI and (b) financial outlook. Both FOFI and financial outlook are FLI about prospective financial performance, financial position or cash flows, based on assumptions about future economic conditions and courses of action. The difference between FOFI and financial outlook is the format in which the financial information is presented. In the case of FOFI, the information is presented in the format of a historical financial statement. Examples are provided in the chart below.



3. Requirements

Disclosure of FLI is not mandatory for reporting issuers. However, we recognize that many reporting issuers provide FLI, generally, in news releases, management's discussion and analysis ("MD&A"), annual information forms, marketing materials or on their website. FLI is by definition likely to be less reliable than historical information because it is based on management's best judgment and assumptions on how future trends will impact their business. As such, it is important that FLI be clearly identified so that readers understand the limitation of this information, are not confused and don't treat FLI as historical information. Further, it is critical that readers understand the basis on which the FLI was determined. This basis must be reasonable. In addition, material risk factors and related assumptions used to develop the FLI must accompany the disclosure. In determining what constitutes a "reasonable basis" for FLI, a reporting issuer should consider the reasonableness of the assumptions underlying the FLI and the process followed in preparing and reviewing the FLI. Updates on FLI help investors understand how actual results are reasonably likely to differ materially from previously disclosed FLI and how the reporting issuer is progressing towards the achievement of its disclosed targets and objectives.

The disclosure of FLI is subject to securities requirements under National Instrument 51-102 *Continuous Disclosure Obligations* (NI 51-102)[1], irrespective of where FLI is located within a document or the nature of the document where FLI is disclosed. Therefore, the rules apply regardless of whether FLI is on a website, in a news release or in the MD&A. The requirements can be divided in two parts: (a) requirements relating to the initial disclosure of FLI, and (b) requirements relating to the ongoing obligations to update, compare to actual results and, if appropriate, withdraw previously disclosed FLI. We have summarized these requirements in Appendix A *Requirements*.

Exceptions

Oral statements

The rules do not apply to FLI presented orally. However, if oral statements containing FLI are transcribed, for example, if the issuer transcribes the quarterly conference call with analysts where management of a reporting issuer discusses their results, these statements would be subject to the requirements under NI 51-102.

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[1] Part 4A -*Forward-Looking Information*, Part 4B – *FOFI and Financial Outlook* and Section 5.8 – *Disclosure Relating to Previously Disclosed Material Forward-Looking Information.*

Disclosure for Oil and Gas Activities or for Mineral Projects

Part 4B and section 5.8 of NI 51-102 do not apply to disclosure of FOFI or financial outlook subject to requirements in National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities* or National Instrument 43-101 *Standards of Disclosure for Mineral Projects*. This disclosure is still subject to the requirements under Part 4A of NI 51-102, including identifying FLI, stating material factors and assumptions used, and providing the required disclaimers and cautionary language. We note that frequently, scientific and technical information about a mineral project includes or is based on FLI. Examples of FLI include metal price assumptions, cash flow forecasts, projected capital and operating costs, metal or mineral recoveries, mine life and production rates, and other assumptions used in preliminary economic assessments, pre-feasibility studies, and feasibility studies.

Update and withdrawal

Updating or notification that FLI is being withdrawn must be included in the MD&A or in a news release. Section 5.8 of NI 51-102 provides flexibility to allow the updated information to be included in a news release as long as it is filed prior to the MD&A. In this case, the MD&A must refer to the news release to satisfy the requirements. The disclosure and discussion of material differences between actual results and previously disclosed FOFI or financial outlook must be included in the MD&A; including this information in a news release instead of the MD&A is not permitted.

Audit Committee and Board of Directors

Section 5.5 of NI 51-102 requires the annual and interim MD&A to be approved by the board of directors before being filed[2] and National Instrument 52-110 *Audit Committees* requires that an audit committee review an issuer's financial statements, MD&A, and interim and annual profit or loss press releases before a reporting issuer publicly discloses this information. This includes FLI included in the MD&A or in a press release.

The audit committee and board of directors' role in the oversight of FLI helps ensure the dissemination of timely and transparent information to investors. As such, the audit committee and board of directors should consider reviewing and approving the initial FLI disclosure, determining whether updates are required, questioning management on the assumptions being used to develop FLI, and approving the targets before they are disclosed publicly.

[2] The approval of the interim MD&A by the board of directors may be delegated to the audit committee.

4. What We Found

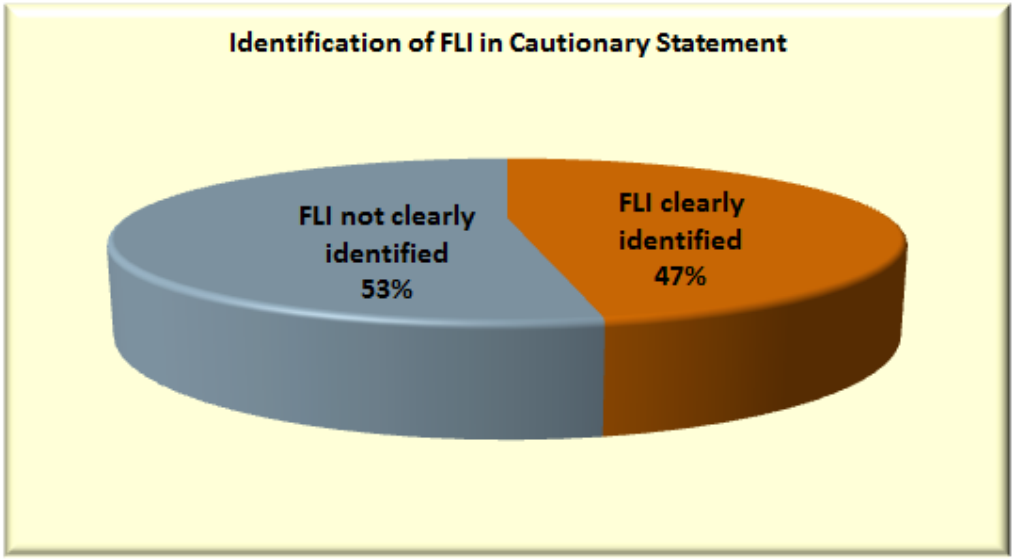
In our review of 60 reporting issuers we identified four common areas where improvement is needed:

- clear identification of FLI
- material factors and assumptions
- updating previously disclosed FLI
- comparison of actual results to previously disclosed FOFI or financial outlook

To help reporting issuers improve their disclosure, in this section we provide examples of frequently identified boilerplate/non-compliant disclosure, along with suggestions to improve disclosure with entity-specific compliant FLI.

1. Identification of FLI

Section 4A.3 of NI 51-102 requires reporting issuers to clearly identify material FLI. All but one reporting issuer that we reviewed included cautionary language which identified the existence of FLI in their financial reporting document. However, our review revealed that only 47% of reporting issuers clearly identified entity-specific FLI.



As indicated previously in this notice, it is important that FLI be clearly identified so that readers are not confused and treat it as historical information. The identification of material FLI in a generic and boilerplate manner does not allow users of the financial information to specifically identify and understand that a forward-looking statement is being provided by the reporting issuer in a document or website.

FLI not clearly identified

Example #1a – Boilerplate disclosure

This document may contain forward-looking statements. Forward-looking statements are often but not always, identified by words such as "believes", "may", "likely", "plans" or similar words.

Entity-specific FLI identified

Example #1a – Entity-specific disclosure

This document contains forward-looking statements about expected future events and financial and operating performance of Company ABC…. ***Annual targets for fiscal 2013 and related assumptions are described in Part 5 "Performance scorecard for fiscal 2012" and Part 6 "Operating and Financial targets for fiscal 2013" of this MD&A.***

FLI not clearly identified

Example 1b – Boilerplate disclosure

All statements, other than statements of historical fact, that address activities, events, or developments that the Company expects or anticipates will or may occur in the future are forward-looking statements.

Entity-specific FLI identified

Example #1b – Entity-specific disclosure

This MD&A includes, but is not limited to, forward-looking statements regarding: the ***potential of the Company's properties to contain economic precious and base metals deposits; the Company's ability to meet its working capital needs for the twelve-month period ending December 31, 2013; the plans, costs, timing and capital for future exploration and development of the Company's property interests in Zimbabwe and South Africa****, including the costs and potential impact of complying with existing and proposed laws and regulations.*

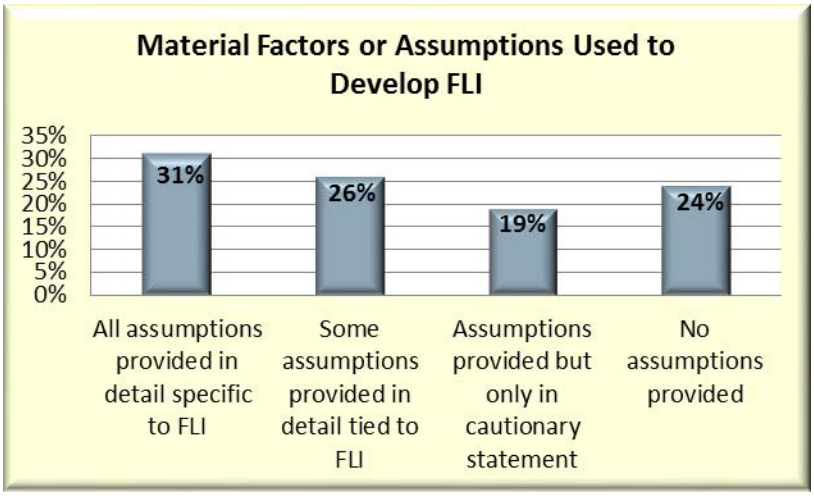
The boilerplate disclosure in the two examples above does not contain details that clearly identify the FLI relating to the issuer's business. As illustrated in the entity-specific examples, FLI is clearly identified allowing a user of the information to understand that it is FLI that is being disclosed and not historical information.

2. Material Factors and Assumptions

Disclosure of specific relevant material factors or assumptions including material risk factors underlying the FLI is necessary for investors to understand how actual results may vary from FLI. Based on our review, 24% of reporting issuers did not disclose any material factors or assumptions used to develop their FLI. In addition, 19% of reporting issuers only provided generic factors and assumptions within the cautionary statement. Reporting issuers should carefully analyze the assumptions that underlie FLI. Assumptions should be reasonable, supportable and entity-specific. Whenever possible, assumptions should be quantified as this provides valuable information for investors.

Material factors and assumptions must be:

- reasonable
- supportable
- entity-specific
- tied to FLI
- disclosed



The majority of issuers reviewed did not quantify their assumptions. Reporting issuers continue to provide general boilerplate disclosure that does not adequately describe the key assumptions used and how primary risks may impact future performance. Assumptions disclosed are not specific to the reporting issuers' business and do not tie directly to the disclosure being provided. Example 2a below, is a common example where assumptions supporting the sales target were not provided.

No assumptions provided

Example #2a – Boilerplate disclosure

In fiscal 2013, the Company anticipates meeting the following target:

- *Total sales to increase by 5.0% to 6.0%*

A description of key specific risks and uncertainties that may impact a reporting issuer's future performance will assist an investor's understanding of an issuer's business and will lead to better reporting. This is illustrated in the entity-specific example below. General risk factors and assumptions provide investors with limited information and do not provide insight on how they relate to and impact the FLI being disclosed.

Identification of FLI

Specific assumptions

Example #2a – Entity-specific disclosure

The following represents forward-looking information and users are cautioned that actual results may vary. *In fiscal 2013, the Company expects total sales to increase by 5.0% to 6.0%. This expectation is based on* ***same-store sales growth of between 3.0% and 4.0% and the introduction of new brands to our city centre stores. It is expected that new brands will contribute to the increase in sales and will be offset by increased competition from U.S. retailers. Key performance indicator for the Company includes retail sales per square foot; this target assumes an average sale per square foot of $45. An increase of 25 basis points in interest rates may cause the sales target to decrease by 1-2%.***

In example 2b (boilerplate disclosure), the reporting issuer has provided targets for the fiscal year but has not provided assumptions that support the FLI provided. The statement about the issuer achieving synergies does not help an investor understand how these synergies will help the issuer attain EBITDA of $125 million for segment #1.

No assumptions provided

Example #2b – Boilerplate disclosure

The entity expects EBITDA for segment #1 to reach $125 million by 2014. We expect synergies from the acquisition of EFG Corp.

The entity-specific example below is an illustration of how a reporting issuer can clearly identify FLI statements and disclose relevant and specific material risk factors and assumptions.

Identification of FLI

Specific assumptions

Material risk factors provided

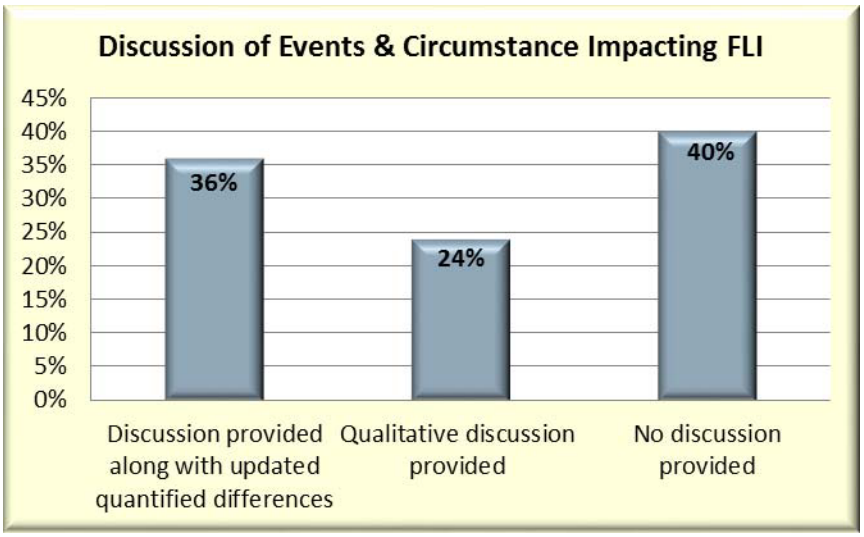
Example #2b – Entity-specific disclosure

Certain statements and other information included in this MD&A constitute "forward-looking information" within the meaning of applicable Canadian securities legislation. Forward-looking statements are typically identified by the words "believe", "expect", "anticipate", "project", "intend", "estimate", "outlook", "focus", "potential", "will", "should", "would", "could" and other similar expressions. … ***The following table outlines certain significant forward-looking statements contained in this MD&A*** *and provides the material assumptions used to develop such forward-looking statements and material risk factors that could cause actual results to differ materially from the forward looking statements.*

FLI statements	*Assumptions*	*Risk Factors*
Synergies to be achieved on the EFG acquisition	ABC's ability to successfully integrate the business of EFG as planned within expected time frames and costs.	ABC's ability to achieve enhanced purchasing efficiencies, expansion in product offerings and a reduction in overhead expenses.
Segment #1 EBITDA to reach $125 million by 2014	Retail business conditions are assumed to be within normal parameters with respect to prices, margins, product availability, and supplier agreements for our major products. ABC's ability to identify suitable candidates for acquisitions and negotiate acceptable terms. ABC's ability to implement its standards, controls, procedures and policies at the acquired business to realize the expected synergies.	Retail business conditions are assumed to be within normal parameters with respect to prices, margins, product availability, and supplier agreements for our major products. ABC's ability to integrate acquisitions, including its ability to achieve efficiencies as planned.

3. Updating previously disclosed FLI

A reporting issuer is required under Section 5.8 of NI 51-102 to discuss in the MD&A or in a press release, events and circumstances that are reasonably likely to cause actual results to differ materially from previously disclosed FLI. The expected differences must also be disclosed. For example, economic and market events may cause actual results to differ materially from previously disclosed material FLI.



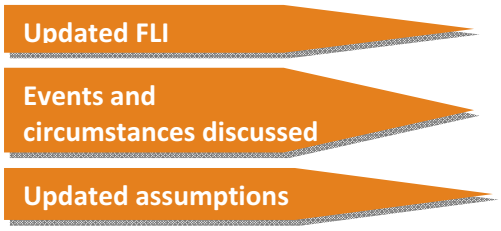
Forty percent of reporting issuers reviewed did not disclose the events and circumstances impacting their previously reported FLI that occurred during the period. Overall, only 36% of reporting issuers included a quantified discussion of events and circumstances that are reasonably likely to cause actual results to differ materially from previously reported FLI. Failure to provide disclosure of material differences in events and circumstances prevents investors from assessing how well the reporting issuer is progressing towards the achievement of its disclosed targets and objectives. For example, updated quantified data that relates to factors and assumptions that may impact the future performance of the issuer will clarify how and why these changes may impact future performance; this will lead to a clearer understanding of events and circumstances that occurred in the business environment in which the reporting issuer operates.

No events or circumstances discussed

Example #3a – Boilerplate disclosure

Gold production target for 2013 has been increased to 70,000 to 80,000 gold ounces.

In example 3a (boilerplate disclosure), the reporting issuer did not disclose events or circumstances that occurred during the period and how they impact previously disclosed FLI. Simply providing an update of previously disclosed FLI without the data that relates to the underlying factors and assumptions provides no insight on why and how the target has changed.



Example #3a – Entity-specific disclosure
Gold production was originally anticipated to be in the range of 40,000 to 50,000 gold ounces for 2013. ***Given the recent developments in Q2, the target for 2013 has increased to 70,000 to 80,000 gold ounces. The expansion and development of ABC mine was completed at the end of Q2 and will be contributing to the increased production. It is expected that weekly production will increase by approximately 1,400 ounces. The Company is in the process of hiring additional engineering staff to support the increased production. If we are unable to hire qualified personnel, the target may only increase to 60,000 to 70,000 gold ounces.***

In the example above, the reporting issuer provides a discussion of the event that occurred during the period and the impact it has on the original target. Updated assumptions and risks are also included, which provides investors greater insight on the issuer's future performance.

Finally, we have included two examples on the following pages illustrating different approaches on how reporting issuers can clearly identify FLI and update previously disclosed FLI by explaining why the original assumptions changed with supporting numbers. Using tables is an effective approach to clearly communicate FLI and update the information.

Example #3b – Entity-specific disclosure

2013 Second-Quarter Guidance Update

The discussion in this section is qualified in its entirety by the cautionary language regarding forward-looking statements found in section 1 of the MD&A.

The Company's 2013 targets and assumptions were originally announced on February 28, 2013, in the Company's annual 2012 financial results news release and accompanying investor conference call and webcast. The Company has revised its guidance for the full year as follows:

Identification of FLI

FLI updated

	Revised guidance for 2013 and expected change from 2012 results	Original targets for 2013 and expected change from 2012 results	Guidance change
Consolidated			
Revenues	$5.4 to $5.55 billion	$5.35 to $5.5 billion	Increase top and bottom of range by $50 million
	2 to 5%	2 to 5%	
EBITDA	$1.95 to $2.03 billion	$1.9 to $2.0 billion	Increase top of range by $30 million and bottom of range by $50 million
	2 to 6%	1 to 6%	
EPS – basic	$2.75 to $3.20	$2.75 to $3.20	No change
	0 to 8%	0 to 8%	
Capital expenditures	Approx. $900 million	Approx. $800 million	Increase of $100 million
	5%	—	
Segment A			
Revenue	$2.9 to $3.0 billion	$2.9 to $3.0 billion	No change
	4 to 7%	4 to 7%	
EBITDA	$1.2 to $1.25 billion	$1.15 to $1.2 billion	Increase top and bottom of range by $50 million
	9 to 13%	4 to 9%	
Segment B			
Revenue	$2. to $2.550 billion	$2.45 to $2.5 billion	Increase top and bottom of range by $50 million
	0 to 3%	0 to 3%	
EBITDA	$0.75 to $0.78 billion	$0.78 to $0.8 billion	Decrease top of range by $20 million
	(5) to (2)%	(6) to 1%	

Updated assumptions

Assumptions for 2013 original targets	**Result to date or expectation for full year**
Segment B revenue growth greater than product #1 revenue declines due to continued retail expansion and upgrades supporting our distribution network. Product #1 revenue declines reflect continued erosion in our main market in Central Canada as increased competition arrives.	Confirmed by results in the first six months of 2013. Segment B revenue increased by 9% year over year, which exceeded the aggregate 6% year-over-year decline in product #1 revenues.
Continued decline in pricing of product #1	Product #1 revenues continued to decline due to retail price competition and unfavourable weather during the quarter. Product #1 revenues decreased year over year by 6.0% in the first half of 2013.
Between $20 and $30 million in restructuring costs to support several operating and capital efficiency initiatives.	Different initiatives expected to impact restructuring costs are currently estimated at approximately $40 million for the full year. Restructuring costs of $15 million were recorded in the first half of 2013, of which $10 million was for employee-related initiatives and $5 million was related to sale of real estate.
.....	.....

Previously disclosed assumptions

Updated assumptions

Example #3c – Entity-specific disclosure

2013 Financial Assumptions

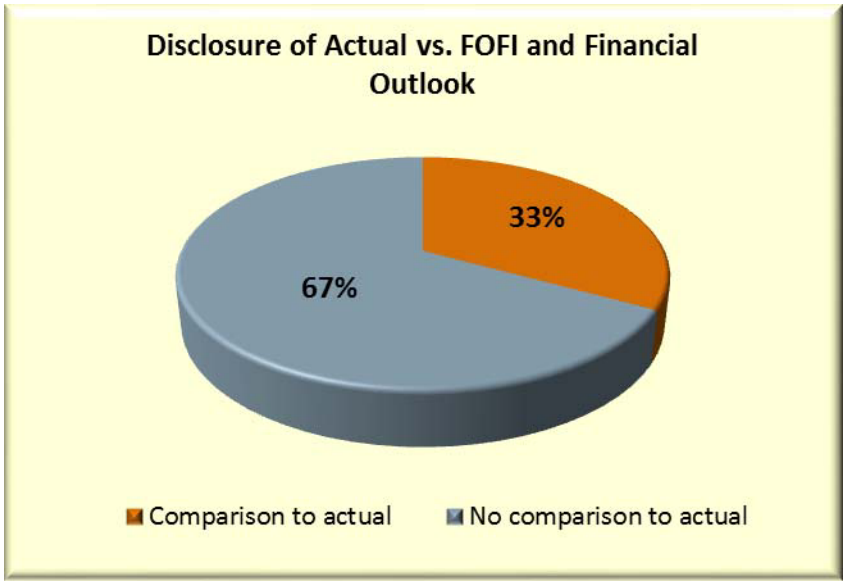
In the 2012 annual MD&A, the Company previously provided assumptions for 2013 which included capital expenditures estimated to range from $525 million to $550 million (discussed further in Section 3.5, Liquidity and Capital Resources). The Company expects its tax rate to be in the 23% to 28% range (discussed further in Section 2.9, Other Income Items). The 2013 pension contributions were estimated to be between $55 million and $70 million (discussed further in Section 3.9, Commitments and Future Trends). Undue reliance should not be placed on these assumptions and other forward-looking information.

2013 Third-Quarter Guidance

The Company has updated the following assumptions: Capital expenditures are currently estimated to be $605 million in 2013. This increase includes the purchase of additional vehicles and our ability to complete our planned capital program. We estimate our aggregate defined benefit pension contributions to equal approximately $55 million in 2013, and in the range of $70 million to $85 million in each of the subsequent three or four years.

4. Comparison of actual results vs. FOFI and Financial Outlook in MD&A

The comparison of actual results to previously disclosed FOFI and financial outlook is important for investors in their assessment of the effectiveness of management and of the current and future business performance of the issuer. Only 33% of reporting issuers reviewed provided this comparison. Under subsection 5.8(4) of NI 51-102, reporting issuers are required to provide such a comparison in the MD&A if actual amounts differ materially from previously disclosed FOFI or financial outlook for that period.



The disclosure in the example below does not provide a comparison between actual results and previously disclosed financial outlook. A comparison of the actual results to the FOFI or financial outlook originally disclosed in previous documents will allow investors the opportunity to assess the reasonableness of previous disclosure and adjust their expectations.

No comparison of actual results to financial outlook

Example #4a – Boilerplate disclosure

ABC Company achieved sales growth of 10.5% in 2012 and maintained capital expenditures at $15 million.

The disclosure in the entity-specific example below provides a comprehensive discussion comparing actual results to previously disclosed financial outlook. The discussion includes a qualitative and quantitative explanation of the material differences. Investors will be able to clearly understand whether the targets were or were not achieved and why.

Comparison

Explanation of material differences

Example #4a – Entity-specific disclosure

2012 objectives	Accomplishments in 2012
Sales growth of 3-4%	Sales growth of 10.5% - A 6% increase in sales was achieved during fiscal 2012 due to the introduction of product X in Q4. - The remaining 4.5% of sales growth resulted from sales of product Y. The reduction of product Y's selling price drove an increase in sales volume for product Y.
Capital expenditure $25-35 million	Capital expenditure of $15 million. - Spending was substantially lower than anticipated due to lower information technology enhancement requirements ($8 million) and less equipment replacements ($7 million).

5. Practice Points

Effective communication of FLI enables investors to have a better understanding of a reporting issuer's business, their long term objectives, and their progress in achieving those objectives. The following practice points will assist issuers and their advisors in promoting clear, transparent disclosure for FLI.

1. **Quality of assumptions**

   Assumptions should be reasonable and specific to a reporting issuer. Material factors and assumptions should be provided where FLI is disclosed. Qualitative, entity-specific and quantitative assumptions are informative and useful to investors.

2. **Timely updating of ongoing progress**

   Updating of ongoing progress as compared to previously disclosed FLI allows investors to assess corporate performance during the fiscal year. Affirmation of targets, disclosure of affected material differences, as well as updates on trends likely to impact future performance on a timely basis is informative information for investors. Disclosure of expected material differences is also important.

3. **Key Performance Indicators - financial and non-financial**

   KPIs can help both reporting issuers and investors understand how well an issuer is progressing towards their objectives. Disclosure of an issuer's objectives along with their related KPIs is an important tool to measure success of corporate performance. KPIs can be both quantitative and qualitative in nature.

4. **Separate Presentation**

   Having a separate section with all FLI enables investors to easily identify information that constitutes material FLI and what represents historical information. The FLI for an issuer can be presented in a narrative format or through the use of tables and charts. A table that sets out objectives, key specific assumptions and risks will clarify the relationship between the underlying key components and the FLI.

5. Role of the Audit Committee and Board of Directors

The audit committee and board of directors play a key role in the oversight of FLI. As such, they should consider reviewing and approving all FLI disclosure before it is publicly disclosed, including the underlying assumptions being used to develop the FLI.

The following is an illustration of an entity-specific example where the reporting issuer provides comprehensive and understandable FLI disclosure. The table includes discussion of the original target for the KPI, a comparison to actual results, inclusion of entity-specific related assumptions and updated targets for the upcoming year.

Scorecard	What we targeted	How we did	Commentary	What we are targeting to do in 2013
Same store sales growth	3%-5%	**6.30%**	Our same-store sales growth was driven mainly by changes to our clothing lines with quality products introduced at targeted price points which contributed to positive product mix, and combined with pricing, resulted in a higher average sale per consumer. Additional advertising targeted at our core growth markets in Eastern U.S. also contributed favourably, and we believe was a significant factor in the strong performance during the period.	4%-6%
EPS (fully diluted)	$2.30 - $2.40	**$2.35**	A combination of operating income growth driven primarily by continued strength in corporate sales in the Americas, a lower effective tax rate, and our share repurchase program contributed to our EPS performance in fiscal 2012.	$2.35 - $2.45

6. Conclusions

The findings of our review illustrate that the quality of FLI continues to be an area where disclosure needs improvement. Investors continue to demand forward-looking information. Clear identification of FLI, detailed disclosure of entity-specific material factors and assumptions, updating FLI, and providing comparisons is important, required information for reporting issuers and can provide clear and informative information to investors.

Given its importance to investors, this is an area of disclosure we will continue to assess in our CD and prospectus review programs. Issuers who have not complied with the FLI requirements will be expected to take corrective action.

7. Questions and Additional Resources

If you have any questions about this report, please contact:

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8. Appendix A - Requirements

	Rule Reference & Subsection	Description	FLI	FOFI and financial outlook
Definitions	*1.1 of NI 51-102*	Definitions for FLI, FOFI and financial outlook	✓	✓
Reasonable Basis	*4A.2 of NI 51-102* *4A.2 of NI 51-102CP*	Reasonable basis for FLI required	✓	✓

Assumptions	*4B.2 of NI 51-102*	Reasonable assumptions in the circumstances supporting financial outlook or FOFI required
		• Financial outlook or FOFI must
		  • be limited to a period for which information can be reasonably estimated (generally not more than a year)
		  • use the accounting policies the reporting issuer expects to use to prepare its historical F/S for the period covered by the FOFI or financial outlook
				✓

Disclosure	*4A.3(a) of NI 51-102*	Information must be identified as FLI	✓	✓
	4A.3(b) of NI 51-102	Users must be cautioned that actual results may vary from FLI	✓	✓
	4A.3(b) of NI 51-102 *4A.5 of NI 51-102CP*	Material risk factors that could cause actual results to differ materially from the FLI must be identified	✓	✓
	4A.3(c) of NI 51-102 *4A.6 of NI 51-102CP*	Material factors and assumptions used to develop FLI must be identified	✓	✓
	4A.3(c) of NI 51-102	Description of the issuer's policy for updating FLI if it includes procedures in addition to those required under Section 5.8 of NI 51-102 (described below)	✓	✓
Additional disclosure for financial outlook and FOFI	*4B.3(a) of NI 51-102*	If the document containing the disclosure is not dated, include the date management approved the FOFI or financial outlook		✓
	4B.3(b) of NI 51-102	Purpose of financial outlook or FOFI must be explained		✓
	4B.3(b) of NI 51-102	Readers must be cautioned that information may not be appropriate for other purposes		✓
Updating FLI in interim or annual MD&A	*5.8(2) of NI 51-102*	Disclose events or circumstances that have occurred in the period that are reasonably likely to cause actual results to differ materially from the previously publicly disclosed material FLI. Discuss the expected differences. This applies to FLI for a financial period that is not yet complete.	✓	✓
Comparison to Actual	*5.8(4) of NI 51-102*	Disclose material differences between actual annual or interim results and any FOFI or financial outlook previously disclosed for the period		✓
Withdrawal	*5.8(5) of NI 51-102*	Disclose any decision to withdraw previously disclosed FLI. The events and circumstances that led to this decision must be discussed as are the assumptions underlying the FLI that are no longer valid.	✓	✓

OSC ONTARIO SECURITIES COMMISSION

Ontario

As the regulatory body responsible for overseeing the capital markets in Ontario, the Ontario Securities Commission administers and enforces the provincial Securities Act, the provincial Commodity Futures Act and administers certain provisions of the provincial Business Corporations Act. The OSC is a self-funded Crown corporation accountable to the Ontario Legislature through the Minister of Finance.

1.2 Notices of Hearing

1.2.1 Bunting & Waddington Inc. et al. – s. 127, 127.1

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

AND

IN THE MATTER OF
BUNTING & WADDINGTON INC., ARVIND SANMUGAM
AND JULIE WINGET

AMENDED 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, on July 10, 2013 at 10:00 a.m., or as soon thereafter as the hearing can be held.

AND TAKE NOTICE THAT the purpose of the hearing is to consider whether it is in the public interest for the Commission, at the conclusion of the hearing, to make an order:

(a) pursuant to clause 2 of subsection 127(1) of the Act that trading in any securities by Bunting & Waddington Inc. ("Bunting & Waddington"), Arvind Sanmugam ("Sanmugam"), and Julie Winget ("Winget") (collectively, the "Respondents") cease permanently or for such period as is specified by the Commission;

(b) pursuant to clause 2.1 of subsection 127(1) of the Act that the acquisition of any securities by the Respondents is prohibited permanently or for such period as is specified by the Commission;

(c) pursuant to clause 3 of subsection 127(1) of the Act that any exemptions contained in Ontario securities law do not apply to the Respondents permanently or for such period as is specified by the Commission;

(d) pursuant to clause 6 of subsection 127(1) of the Act that the Respondents be reprimanded;

(e) pursuant to clauses 7, 8.1 and 8.3 of subsection 127(1) of the Act that Sanmugam, and Winget (collectively the "Individual Respondents") resign all positions that they hold as a director or officer of any issuer, registrant, or investment fund manager;

(f) pursuant to clauses 8, 8.2 and 8.4 of subsection 127(1) of the Act that the Individual Respondents be prohibited from becoming or acting as a director or officer of any issuer, registrant, or investment fund manager;

(g) pursuant to clause 8.5 of subsection 127(1) of the Act that the Respondents be prohibited from becoming or acting as a registrant, as an investment fund manager or as a promoter;

(h) pursuant to clause 9 of subsection 127(1) of the Act that the Respondents each pay an administrative penalty of not more than $1 million for each failure by that Respondent to comply with Ontario securities law;

(i) pursuant to clause 10 of subsection 127(1) of the Act that each Respondent disgorge to the Commission any amounts obtained as a result of non-compliance by that Respondent with Ontario securities law;

(j) pursuant to clause 1 of subsection 127(10) of the Act that the Commission make an order in respect of the Respondent, Sanmugan, under subsection 127(1) or (10) as he has been convicted in Ontario of an offence arising from a transaction, business or course of conduct related to securities;

(k) pursuant to section 127.1 of the Act that the Respondents be ordered to pay the costs of the Commission investigation and the hearing; and

(l) such further order as the Commission considers appropriate in the public interest.

BY REASON OF the allegations as set out in the Amended Statement of Allegations of Staff of the Commission dated May 30, 2013 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 proceedings.

DATED at Toronto this 3rd day of June, 2013.

”Josee Turcotte” *per*
John Stevenson
Secretary to the Commission

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

AND

IN THE MATTER OF
BUNTING & WADDINGTON INC., ARVIND SANMUGAM
AND JULIE WINGET

AMENDED STATEMENT OF ALLEGATIONS
OF STAFF OF THE ONTARIO SECURITIES COMMISSION

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

I. OVERVIEW

1. This proceeding involves unregistered trading in securities and unregistered advising with respect to investing in, buying or selling securities by the respondents between approximately February 2006 and June 2010 (the "Material Period").

2. Arvind Sanmugam ("Sanmugam") and Bunting & Waddington Inc. ("Bunting & Waddington") engaged in fraudulent conduct by making misrepresentations to investors in order to induce them to engage the services of Bunting & Waddington and Sanmugam.

II. THE RESPONDENTS

3. Bunting & Waddington was incorporated in November 2001 pursuant to the *Business Corporations Act*, R.S.O. 1990, c. B.16., and conducted business in several locations in the Toronto area.

4. Sanmugam was at all times the directing mind and *de facto* director of Bunting & Waddington. He is an Ontario resident.

5. Julie Winget ("Winget") is an Ontario resident, Sanmugam's common law wife, and was the sole registered director of Bunting & Waddington during the Material Period.

6. None of Bunting & Waddington, Sanmugam, and Winget has ever been registered with the Commission in any capacity.

III. THE ACTIVITY

a. Bunting & Waddington and Sanmugam

7. Bunting & Waddington held itself out as providing "market commentary" to its clients, who are investors located in Ontario and elsewhere (the "Investors"). Market commentary includes advice on buying and selling specific securities at particular prices on a specific date.

8. Sanmugam directed the Investors to open "trading accounts with margins and options" at an online discount brokerage service (the "Investor Accounts"). Sanmugam exercised control over the Investor Accounts in two ways:

   (a) Investors would provide the passwords to their trading accounts to Sanmugam and he would execute trades in those accounts; or

   (b) Sanmugam would direct Investors to execute specific trades within their accounts.

9. Bunting & Waddington and Sanmugam represented to some or all of the Investors that they could expect to earn a monthly return of $8,000 on a total investment of $100,000. Provided this 8% return was achieved in any given month, investors would pay Bunting & Waddington a monthly retainer of $3,500.

10. Sanmugan and Bunting & Waddington exercised control over more than $4,000,000 of Investors' funds in respect of trading and advising activities directed by Sanmugam.

11. Bunting & Waddington and Sanmugam made the following misrepresentations to some or all of the Investors:
   (a) Sanmugam was a successful trader;

(b) he had over 75 advisors working for him at Bunting & Waddington;

(c) Bunting & Waddington's market commentators were highly experienced, and each had a proven track record of generating high rates of return; and

(d) Investors would always retain full control over their invested funds.

12. These representations were misleading in the following ways:

(a) through his trading and advising activities, Sanmugam lost over $3,600,000 of Investor funds between February 2006 and June 2010 alone;

(b) there is no evidence of Sanmugam having any advisors working for him at Bunting & Waddington or at all;

(c) Sanmugam was the only market commentator at Bunting & Waddington; and

(d) there is no evidence of Sanmugam having a proven track record of generating high rates of return.

13. Sanmugam persisted in trading Investors' funds, notwithstanding repeated complaints from many of his Investors. He refused to communicate directly with some Investors when they tried to contact him.

b. Winget

14. Winget incorporated Bunting & Waddington in November 2001, and is identified on the Ministry of Government Services' Corporation Profile Report as its sole director.

15. In furtherance of the trading and advising activities described above, Winget opened the bank accounts for Bunting & Waddington, and was the sole signatory over those accounts. She caused Bunting & Waddington business expenses to be paid.

16. During the Material Period, Winget received a net amount of over $500,000 in transfers into her personal bank account from Bunting & Waddington directly and/or from Bunting & Waddington via Sanmugam.

IV. SUPERIOR COURT OF JUSTICE PROCEEDINGS

a. Sanmugam's Conviction for Fraud

17. By indictment dated February 28, 2012 (the "Indictment") and sworn by a Crown Attorney pursuant to the *Criminal Code,* R.S.C., 1985, c. C-46, as amended (the "Criminal Code"), Sanmugam was charged with eight counts of contravening the Criminal Code.

18. Counts 5, 6 and 7 of the Indictment charged Sanmugam with 3 counts of fraud over $5,000.00. contrary to section 380(l)(a) of the Criminal Code.

19. On September 5, 2012, Sanmugam pleaded guilty to and was convicted of three counts of fraud over $5,000.00, being counts 5, 6 and 7 of the Indictment.

20. On November 9. 2012, Justice Ducharme of the Superior Court of Justice sentenced Sanmugam to a total of 5 years of imprisonment, and awarded a total of $1,109,405.00 in restitution to the investors named in counts 5, 6 and 7 of the Indictment.

b. Facts Admitted by Sanmugam

21. Sanmugam admitted the following facts in respect of his fraud convictions:

(a) "Mr. Sanmugam was not licensed to trade securities or to offer advice in the trading of securities in any capacity in the Province of Ontario or anywhere else in Canada;"

(b) "Bunting and Waddington was never properly registered with the Ontario Securities Commission or with any of the other provincial securities commissions in Canada;"

(c) "he held himself out as a licensed and educated market commentator and venture capitalist;"

(d) Bunting and Waddington was “his securities company;”

(e) "he had staffed his firm with many securities traders and he was adept at making money for his clients;" and

(f) "he targeted people who had no financial knowledge and who were not sophisticated in financial matters.”

(i) Count 5

(g) Sanmugam told the elderly widow from Vancouver, British Columbia referenced in count 5 of the Indictment that "he was a professional investor and that if she would entrust her money with him, he would ensure that she would eventually have all her bills, credit cards and lines of credit paid off;”

(h) He told her that “he would have to review her finances and tell her how much she should invest with him. He also warned her to keep their plans secret so that she would not be talked out of these plans by anyone. Over a period of time and under Mr. Sanmugam's direction, [she] transferred a total of $662,000.00 to Mr. Sanmugam. She liquidated her securities portfolios that her deceased husband had left her and she mortgaged other properties. She conveyed to Mr. Sanmugam all of her assets in secret;”

(i) "A production order obtained by the police show the amounts entering Mr. Sanmugam's account and they are then disbursed to other accounts that he controlled for the purposes of trading or for the purposes of supporting his other business ventures;” and

(j) “Over time [she] began to hear less and less from Mr. Sanmugam … [and eventually it was] discovered that she had lost her life savings” to Sanmugam.

(ii) Count 6

(k) Sanmugam told the retired octogenarian investors from Ontario referenced in count 6 of the Indictment that “if they supplied him with a minimum of $100,000.00 they could expect to make $8,000.00 in profit each month. Their monthly fee for having Mr. Sanmugam look after their finances was $3,500.00. [They] mortgaged their house and they gave Mr. Sanmugam a total of $118,700.00 to invest at the beginning of September 2007. Over the course of time [their] investment portfolio ... made no money and the investment statements they received indicated that they were trading heavily in margin. [They] mistakenly believed that the margin amount, which was in the hundreds of thousands of dollars was pure profit, so they obligingly paid Mr. Sanmugam his $3,500.00 each month”;

(l) In November of 2008, the [investors referenced in count 6] began to get margin calls from TD Waterhouse Discount Brokerage… They were not sure what the margin calls were but they became alarmed and tried to get in touch with Mr. Sanmugam. Mr. Sanmugam would not personally return their phone calls and he instructed his assistant. … to reassure them that everything would be fine;” and

(m) By September of 2010 "there was no money left in their account. They had to sell their house to pay off their mortgage and they now live in rental accommodation."

(iii) Count 7

(n) The Toronto, Ontario investor referenced in count 7 of the Indictment met Sanmugam in October of 2008. Sanmugam “held himself out as a venture capitalist and owner of the securities investment firm, Bunting &Waddington;”

(o) “Sanmugam told her that he usually generated $150,000.00 a month from trading for his clients;”

(p) “In March of 2009, Sanmugam convinced [her] to invest with him and, at his urging, she opened an online trading portfolio with TD Waterhouse Brokerage. In order to provide capital for the investment, [she] and her mother mortgaged their home… They then gave Mr. Sanmugam $328,705.00 to invest”.

(q) “Mr. Sanmugam continually told [her] that her portfolio was profitable and that he was investing in a reliable blue-chip investment portfolio. However, in reality, he was trading on margin, similar to his trading style for [the investors referenced in count 6]. [She] did not understand trading on margin and thought the sums in her margin account were profits instead of debt;” and

(r) “Sanmugam would often move sums of money from the discount brokerage account into [her] chequing account or her mother's account and tell them that these sums were profits that they would withdraw and

spend in whatever way they wished. Sanmugam was able to do this because he had the password to [her] account."

V. BREACHES OF ONTARIO SECURITIES LAW

22. During the Material Period, each of Bunting & Waddington, Sanmugam and Winget traded and engaged in or held themselves out as engaging in the business of trading in securities without being registered to do so and without an exemption from the dealer registration requirement, contrary to subsection 25(l)(a) of the *Securities Act,* R.S.O. 1990, c. S.5, as amended (the "Act") as that section existed at the time the conduct at issue commenced in February 2006, and contrary to subsection 25(1) of the Act as subsequently amended on September 28, 2009.

23. During the Material Period, Bunting & Waddington and Sanmugam advised and engaged in or held themselves out as engaging in the business of advising with respect to investing in, buying or selling securities without being registered to do so and without an exemption from the adviser registration requirement, contrary to subsection 25(l)(c) of the Act as that section existed at the time the conduct at issue commenced in February 2006, and contrary to subsection 25(3) of the Act as subsequently amended on September 28, 2009.

24. Bunting & Waddington and Sanmugam directly or indirectly engaged or participated in an act, practice or course of conduct relating to securities that he or it knew or reasonably ought to have known, perpetrated a fraud on investors, contrary to subsection 126.1(b) of the Act.

25. Winget as director of Bunting & Waddington authorized, permitted or acquiesced in the corporate respondent's non-compliance with Ontario securities law and accordingly, failed to comply with Ontario securities law pursuant to section 129.2 of the Act.

26. On September 5, 2012, Sanmugam was convicted of a criminal offence arising from a transaction, business or course of conduct related to securities, which are circumstances which permit an order to be made pursuant to clause 1 of subsection 127(10) of the Act.

27. Staff reserve the right to make such other allegations as Staff may advise and the Commission may permit.

DATED at Toronto, this 30th day of May, 2013

1.3 News Releases

1.3.1 Canadian Securities Regulators Seek Comment on Derivatives Rules Relating to Product Determination and Trade Repositories and Data Reporting

FOR IMMEDIATE RELEASE
June 6, 2013

CANADIAN SECURITIES REGULATORS SEEK COMMENT ON DERIVATIVES RULES RELATING TO PRODUCT DETERMINATION AND TRADE REPOSITORIES AND DATA REPORTING

TORONTO – Members of the Canadian Securities Administrators (CSA) today published for comment proposed provincial rules and updated model rules relating to the reporting of derivatives transactions to trade repositories. Together, the publications aim to achieve a harmonized derivatives trade reporting regime across Canada.

Informed by comments received on CSA Staff Consultation Paper 91-301, published in December 2012, the CSA has developed updated model rules. Today, the Autorité des marchés financiers, the Manitoba Securities Commission and the Ontario Securities Commission are publishing harmonized province-specific rules based on the updated model rules.

Other jurisdictions, including the Alberta Securities Commission, the British Columbia Securities Commission, the New Brunswick Securities Commission and the Nova Scotia Securities Commission, require legislative amendments to be implemented before publishing province-specific rules. These jurisdictions, along with the Financial and Consumer Affairs Authority of Saskatchewan, are today publishing a Multilateral Staff Notice together with the updated model rules.

“It is intended that there will be the greatest degree of harmonization possible among all Canadian jurisdictions in respect of derivative rules, even though they will be based on local statutes,” said Bill Rice, Chair of the CSA and Chair and CEO of the Alberta Securities Commission. “This publication includes rules classified as either province-specific or model for the reason that necessary supporting legislation is presently in place in some jurisdictions but not others.”

The comment periods for each of the proposed province-specific rules and the updated model rules are the same and all comments received will be considered before any amendments are made to any of the rules. When final amendments are made, the intention is that each province will publish substantially similar final province-specific rules or multilateral instruments resulting in harmonized requirements applicable across the country.

The province-specific rules and the updated model rules can be found on the respective jurisdiction 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.

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1.3.2 Boyuan Construction Group, Inc. Settles with the Ontario Securities Commission

FOR IMMEDIATE RELEASE
June 5, 2013

BOYUAN CONSTRUCTION GROUP, INC.
SETTLES WITH THE ONTARIO SECURITIES COMMISSION

TORONTO – The Ontario Securities Commission has approved a settlement agreement reached between Staff of the Commission and Boyuan Construction Group, Inc. ("Boyuan"). Boyuan's operations and management are located in Zhejiang, China and its primary business is the construction of residential and commercial buildings in China.

Boyuan admitted to conduct contrary to the public interest in connection with a related party transaction and loan agreement that was entered into in November 2010 without adequate internal controls or consultation with the company's CFO, senior officers or the Board of Directors and as a result, Commission staff and company auditors were provided with inaccurate responses and a false document related to the transaction.

Under the settlement agreement, Boyuan is required to retain a consultant to conduct a comprehensive examination and review of its internal controls for financial reporting, policies and procedures, training, ethics and compliance with financial and other reporting requirements of Ontario securities law. In addition, Boyuan must make a payment of $200,000 to the Commission for the benefit of third parties or investor education, as well as a payment of $100,000 for investigation costs.

Commission staff acknowledge and appreciate the assistance provided in this matter by the British Columbia Securities Commission, the Alberta Securities Commission, the British Virgin Islands Financial Services Commission and the Hong Kong Securities and Futures Commission.

A copy of the Settlement Agreement and Order of the Commission in this matter are available on the OSC website at www.osc.gov.on.ca.

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. As part of its review of emerging market issuers, the OSC recently issued an Issuer Guide for Companies Operating in Emerging Markets that summarizes its expectations for reporting issuers listed on Canadian exchanges with significant business operations in emerging markets.

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1.3.3 Ontario Securities Commission Seeks Comment on Derivatives: Product Determination and Derivatives Trade Repositories and Data Reporting Rules

FOR IMMEDIATE RELEASE
June 6, 2013

ONTARIO SECURITIES COMMISSION SEEKS COMMENT ON DERIVATIVES: PRODUCT DETERMINATION AND DERIVATIVES TRADE REPOSITORIES AND DATA REPORTING RULES

TORONTO – The Ontario Securities Commission (OSC) today published for comment OSC Rule 91-506 *Derivatives: Product Determination* and OSC Rule 91-507 *Trade Repositories and Derivatives Data Reporting*. These rules will implement Canada's G-20 commitment to require all OTC derivative transactions to be reported to trade repositories and will provide the OSC with an essential tool to identify and address systemic risk and market abuse.

Specifically, the proposed OSC Rules:

- define the types of contracts or instruments that are required to be reported to a trade repository;
- establish requirements for the operation of trade repositories; and,
- establish requirements for transaction data reporting.

In December 2012, the Canadian Securities Administrators (CSA) published for comment model rules relating to the reporting of derivatives transactions to trade repositories. Informed by the comments received, the CSA developed updated model rules and today, the OSC published Ontario-specific rules based on those updated model rules, that will greatly enhance transparency in the over-the-counter derivatives market.

The comment period on the proposed rules closes September 6, 2013 and the document is available on the OSC's website: www.osc.gov.on.ca.

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1.3.4 OSC Provides Update on Proposed Enforcement Initiatives

FOR IMMEDIATE RELEASE
June 5, 2013

OSC PROVIDES UPDATE ON PROPOSED ENFORCEMENT INITIATIVES

TORONTO – In advance of the Enforcement Policy Hearing on June 17, 2013, the Ontario Securities Commission today issued Staff Notice 15-706, which provides an update on activities undertaken since the publication of Staff Notice 15-704 *Request for Comments on Proposed Enforcement Initiatives*.

Staff have been actively monitoring developments in the United States, in particular the use of "neither admit nor deny settlements", and have clarified in Staff Notice 15-706 the limited circumstances under which no-contest settlements would be considered.

Staff remain committed to the four proposed enforcement initiatives set out in 15-704 and will be speaking in support of their use at the policy hearing on June 17, 2013.

Participants in the upcoming Enforcement Policy Hearing are invited to review Staff Notice 15-706 in advance of the hearing.

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.

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1.3.5 Ontario Securities Commission Release Results of Forward Looking Information Disclosure Review

FOR IMMEDIATE RELEASE
June 13, 2013

ONTARIO SECURITIES COMMISSION RELEASE RESULTS OF FORWARD LOOKING INFORMATION DISCLOSURE REVIEW

TORONTO – The Ontario Securities Commission (OSC) today published OSC Staff Notice 51-721 *Forward-Looking Information Disclosure*, which sets out the results of the OSC's forward-looking information (FLI) disclosure review and provides further guidance on complying with existing FLI disclosure requirements.

Compliance with FLI disclosure requirements is vital, as the information provided within the FLI enhances transparency for investors and helps them better understand a reporting issuer's business and future prospects. The information outlined in the Notice published today should be used as an instructive aid for reporting issuers to assist them in complying with their disclosure obligations.

In conducting the review, the OSC assessed 60 reporting issuers on their compliance with FLI disclosure requirements, under National Instrument 51-102 *Continuous Disclosure Obligations*. The results of the review highlight the areas in which many reporting issuers require improvement in terms of disclosure compliance and sets out the expectation of prompt corrective action where necessary. Additionally, the Notice provides guidance and examples to assist reporting issuers in preparing FLI and reminds the audit committee and board of directors of their role in the dissemination of timely and transparent information to investors.

Specifically, the Notice provides guidance in the following areas:

- clear identification of FLI;
- disclosure of the material factors and assumptions used to develop FLI;
- updating previously disclosed FLI;
- comparison of actual results to the future oriented financial information (FOFI) of financial outlook previously disclosed; and,
- The role of the audit committee and board of directors in the review of FLI.

OSC Staff Notice 51-721 can be found on the OSC's website at www.osc.gov.on.ca.

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1.3.6 Canadian Securities Regulators Now Require Delivery of the Fund Facts for Mutual Funds

CSA/ACVM Canadian Securities Administrators Autorités canadiennes en valeurs mobilières

FOR IMMEDIATE RELEASE
June 13, 2013

CANADIAN SECURITIES REGULATORS NOW REQUIRE DELIVERY OF THE FUND FACTS FOR MUTUAL FUNDS

TORONTO – The Canadian Securities Administrators (CSA) today published amendments to National Instrument 81-101 *Mutual Fund Prospectus Disclosure* (NI 81-101) and related consequential amendments, which will require delivery of the Fund Facts document for mutual funds instead of the simplified prospectus to satisfy the prospectus delivery requirements.

The Fund Facts is a document written in plain language, no more than two pages double-sided and highlights key information about a mutual fund that research by the CSA has identified as important to investors. As of January 1, 2011, the Fund Facts has been required to be made available to investors on request or on the mutual fund's or mutual fund manager's website. The amendments published today further advance this important investor-focused initiative by requiring that the Fund Facts be delivered to investors instead of the simplified prospectus, giving investors enhanced access to more meaningful and effective disclosure about their mutual funds.

As part of its next steps, the CSA will work on requirements that would implement delivery of the Fund Facts at the point of sale for mutual funds.

"Requiring the delivery of the Fund Facts will give investors access to key information about the potential benefits, risks and costs of mutual funds, which will assist them in making more informed and confident investment decisions," said Bill Rice, Chair of the CSA and Chair and CEO of the Alberta Securities Commission.

When the amendments were published for comment in June 2012, the CSA committed to testing the Fund Facts with investors before finalizing the document. Informed by the investor feedback, changes were made to enhance the presentation of risk, cost and performance disclosure in the Fund Facts. These changes to the Fund Facts form will take effect January 13, 2014.

The requirement to deliver the Fund Facts to satisfy the prospectus delivery requirements, will take effect June 13, 2014, one year from the time of publication of this Notice. However, the CSA continues to encourage early adoption of the delivery of the Fund Facts instead of the prospectus, in order to assist investors in their decision-making process and in discussions with their financial advisors.

The Notice can be found on CSA members' websites.

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

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1.4 Notices from the Office of the Secretary

1.4.1 Portfolio Capital et al.

FOR IMMEDIATE RELEASE
June 5, 2013

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

AND

IN THE MATTER OF
PORTFOLIO CAPITAL INC., DAVID ROGERSON
AND AMY HANNA-ROGERSON

TORONTO – Staff of the Ontario Securities Commission filed an Amended Statement of Allegations dated June 4, 2013 with the Office of the Secretary in the above noted matter.

A copy of the Amended Statement of Allegations dated June 4, 2013 is available at www.osc.gov.on.ca.

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

AND

IN THE MATTER OF
PORTFOLIO CAPITAL INC., DAVID ROGERSON
AND AMY HANNA-ROGERSON

AMENDED STATEMENT OF ALLEGATIONS OF
STAFF OF THE ONTARIO SECURITIES COMMISSION

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

I. OVERVIEW

1. This proceeding involves an investment scheme that was created and carried out by Portfolio Capital Inc. ("Portfolio Capital"), David Rogerson ("Rogerson") and Amy Hanna-Rogerson ("Hanna-Rogerson") during the period of May 2007 to March 2012 (the "Material Time"), in which the Respondents solicited and sold shares of PlusPetro Inc. (Panama) ("PlusPetro Panama") to investors in Ontario. The Respondents engaged in fraudulent conduct by making untrue or misleading statements to investors regarding the business of PlusPetro Panama, the use of investor funds and the future value of the PlusPetro Panama shares.

II. THE RESPONDENTS

2. Portfolio Capital is a corporation which was incorporated pursuant to the *Ontario Business Corporations Act*, R.S.O. 1990, c. B.16 on May 23, 2007. Its registered address is 110 Cumberland Street, Suite 317, Toronto, which is a United Parcel Services mailbox. Portfolio Capital purports to be an investment banking firm. Portfolio Capital has never been a reporting issuer in Ontario and has never been registered with the Commission in any capacity.

3. Rogerson was a resident of Bala, Ontario during the Material Time. He has never been registered with the Commission in any capacity. Throughout the Material Time, he was the President and directing mind of Portfolio Capital.

4. Hanna-Rogerson was a resident of Bala, Ontario during the period of May 2007 to November 2010. She is the spouse of Rogerson. She is the sole director of Portfolio Capital. She has never been registered with the Commission in any capacity. Hanna-Rogerson controlled and is the sole signatory on Portfolio Capital's two bank accounts, which received investor funds.

III. PARTICULARS OF THE ALLEGATIONS

A. Unregistered Trading

5. During the Material Time, Portfolio Capital offered Share Purchase Agreements ("SPA") to residents of Ontario and to residents of other jurisdictions for the purchase of PlusPetro Panama shares. The SPAs are investment contracts within the definition of security in section 1(1) of the *Securities Act*, R.S.O. 1990, c.S.5, as amended (the "*Act*").

6. During the Material Time, PlusPetro Panama shares were sold to more than 200 investors and potential investors raising approximately USD 980,000.00 and CAD 544,000.00.

7. Rogerson met with and told investors that PlusPetro Panama was a start up company that had the opportunity to purchase the rights to a break-through technology known as Crude Oil Additive Technology Solution ("COATS"), which is an alleged oil additive. According to the representations made to investors by Rogerson, the COATS technology has the ability to lower viscosity in crude oil to make it easier to transport.

8. Investors were told by Rogerson that their funds would be used for the start-up operations of PlusPetro Panama, including securing financing to acquire COATS and testing of the technology. Rogerson created and provided investors with promotional materials regarding the COATS technology and the PlusPetro Panama investment.

9. Hanna-Rogerson also met with and provided information to several investors regarding purchasing PlusPetro Panama shares.

10. After agreeing to invest, investors executed SPAs with Portfolio Capital for the purchase of PlusPetro Panama shares, which were signed by Rogerson as President of Portfolio Capital. Investors purchased PlusPetro Panama shares for prices ranging from $0.25 to $0.50 per share. Investors, however, never received share certificates for the PlusPetro Panama shares they purchased as they were told that the printing of such share certificates was expensive and environmentally wasteful.

11. Investors were directed to pay for their investment by way of cheque or bank draft made payable to Portfolio Capital or by wire transfer to a Portfolio Capital bank account located at a Toronto Dominion bank located in Bala, Ontario. Each of Rogerson and Hanna-Rogerson accepted funds from investors on behalf of Portfolio Capital and deposited the investor funds into Portfolio Capital's bank accounts.

12. Rogerson and Hanna-Rogerson sold shares of PlusPetro Panama to Ontario residents in circumstances where there were no exemptions available to them under the *Act*.

B. Illegal Distribution

13. The sale of PlusPetro Panama shares was a trade in securities not previously issued and was therefore a distribution.

14. Portfolio Capital has never filed a preliminary prospectus or a prospectus with the Commission and no receipts have been issued by the Director in relation to PlusPetro Panama securities. No exemption from the prospectus and registration requirements under the Act was available to Portfolio Capital in the circumstances.

C. Fraudulent Conduct

15. Rogerson told investors that their funds would be used for the start-up operations of PlusPetro Panama. Investors received multiple Shareholder Update Letters from Rogerson during the Material Time which stated that PlusPetro Panama was very close to securing financing and would imminently purchase the COATS technology and then commence marketing and selling the technology to large oil companies. The Shareholder Update Letters were also used to solicit further funds from investors.

16. These representations were untrue and misleading and perpetrated a fraud on investors. Staff allege that PlusPetro Panama has not carried on any legitimate business operations and that there is no evidence that the COATS technology exists.

17. Contrary to the representations set out above in paragraph 15, the Respondents personally profited by using investor funds for personal expenditures, including, among other things, food and alcohol, pet care and property expenses, including mortgage payments.

18. The Respondents engaged in a course of conduct relating to securities of PlusPetro Panama that they knew or reasonably ought to have known would result in a fraud on persons or companies.

D. Representations Regarding the Future Value of the PlusPetro Panama Shares and the Listing of Such Shares on the Toronto Stock Exchange ("TSX")

19. Rogerson told potential investors that once PlusPetro Panama purchased COATS, it would apply to have the PlusPetro Panama shares listed on the TSX. Potential investors were further told by Rogerson that their shares would increase in value from $0.50 a share to prices ranging from $5.00 to $10.00 per share once the PlusPetro Panama shares were listed on the TSX. These representations were made by Rogerson with the intention of effecting trades in PlusPetro Panama shares.

20. During the Material Time, Rogerson, as President of Portfolio Capital, also drafted and sent Shareholder Update Letters to investors which stated that PlusPetro Panama would be listing its shares on the TSX in the coming months.

21. Neither Rogerson nor PlusPetro Panama have ever made an application to have the PlusPetro Panama shares listed on the TSX. Neither Rogerson nor PlusPetro Panama have ever sought permission of the Director to make representations to investors regarding listing PlusPetro Panama shares on the TSX.

IV. BREACHES OF ONTARIO SECURITIES LAW AND CONDUCT CONTRARY TO THE PUBLIC INTEREST

22. The specific allegations advanced by Staff are:

    a) During the Material Time, the Respondents traded and engaged in or held themselves out as engaging in the business of trading in securities without being registered to do so and without an exemption from the dealer

registration requirement, contrary to section 25(1)(a) of the *Act* as that section existed at the time the conduct at issue commenced in May 2007, and contrary to section 25(1) of the *Act* as subsequently amended on September 28, 2009;

b) During the Material Time, the Respondents traded in securities of PlusPetro Panama when a preliminary prospectus and a prospectus had not been filed and receipts had not been issued for them by the Director, contrary to section 53(1) of the Act;

c) During the Material Time, the Respondents engaged in or participated in acts, practices or courses of conduct relating to securities of PlusPetro Panama that they knew or ought to have known perpetrated a fraud on persons or companies, contrary to section 126.1(b) of the *Act*;

d) During the Material Time, Rogerson made misleading representations and gave an undertaking to investors regarding the future listing and future value of PlusPetro Panama shares with the intention of effecting a trade in those shares, contrary to sections 38(2) and 38(3) of the *Act*;

e) During the Material Time, Hanna-Rogerson authorized, permitted or acquiesced in Portfolio Capital's non-compliance with Ontario securities law and accordingly failed to comply with Ontario securities law, contrary to section 129.2 of the Act; and

f) The Respondents' conduct was contrary to the public interest and harmful to the integrity of the capital markets in Ontario.

23. Staff reserve the right to make such other allegations as Staff may advise and the Commission may permit.

DATED at Toronto, June 4, 2013

1.4.2 Global Consulting and Financial Services et al.

FOR IMMEDIATE RELEASE
June 5, 2013

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

AND

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

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

1. The oral hearing scheduled for June 5, 2013 proceed in writing and the hearing date scheduled for June 5, 2013 is vacated;

2. The Amended Temporary Order against Global, Crown, Michael Chomica, Jan Chomica and Banks is extended to June 26, 2013 and the hearing in respect of these respondents is adjourned to June 24, 2013 at 10:30 a.m.;

3. The Amended Temporary Order against Siklos is extended to October 11, 2013 and the hearing in respect of Siklos is adjourned to October 9, 2013 at 10:00 a.m.; and

4. Pursuant to Rule 1.4 and Rule 1.5.3(3) of the Rules, future service on Crown is waived.

A copy of the Temporary Order dated June 5, 2013 is available at www.osc.gov.on.ca.

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1.4.3 Boyuan Construction Group, Inc.

FOR IMMEDIATE RELEASE
June 5, 2013

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

AND

IN THE MATTER OF
BOYUAN CONSTRUCTION GROUP, INC.

TORONTO – Following a hearing held on June 4, 2013, the Commission issued an Order in the above named matter approving the Settlement Agreement reached between Staff of the Commission and the Respondent.

A copy of the Order dated June 4, 2013 and Settlement Agreement dated May 30, 2013 are available at www.osc.gov.on.ca.

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1.4.4 Issam El-Bouji et al.

FOR IMMEDIATE RELEASE
June 6, 2013

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

AND

IN THE MATTER OF
ISSAM EL-BOUJI, GLOBAL RESP CORPORATION,
GLOBAL GROWTH ASSETS INC.,
GLOBAL EDUCATIONAL TRUST FOUNDATION
AND MARGARET SINGH

TORONTO – The Commission issued an Order in the above noted matter which provides that the date set for June 19, 2013 for a potential disclosure motion to be brought by the Respondents be vacated.

A copy of the Order dated June 6, 2013 is available at www.osc.gov.on.ca.

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1.4.5 Bunting & Waddington Inc. et al.

FOR IMMEDIATE RELEASE
June 6, 2013

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

AND

IN THE MATTER OF
BUNTING & WADDINGTON INC.,
ARVIND SANMUGAM
AND JULIE WINGET

TORONTO – The Office of the Secretary issued an Amended Notice of Hearing setting the matter down to be heard on July 10, 2013, at 10:00 a.m. or as soon thereafter as the hearing can be held in the above named matter.

A copy of the Amended Notice of Hearing dated June 3, 2013 and Amended Statement of Allegations of Staff of the Ontario Securities Commission dated May 30, 2013 are available at www.osc.gov.on.ca.

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1.4.6 Garth H. Drabinsky et al.

FOR IMMEDIATE RELEASE
June 6, 2013

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

AND

IN THE MATTER OF
GARTH H. DRABINSKY,
MYRON I. GOTTLIEB
AND GORDON ECKSTEIN

TORONTO – The Commission issued an Order in the above named matter which provides that Drabinsky's motion shall be heard on July 10, 2013 at 10:00 a.m.

A copy of the Order dated June 6, 2013 is available at www.osc.gov.on.ca.

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1.4.7 New Hudson Television LLC and James Dmitry Salganov

FOR IMMEDIATE RELEASE
June 10, 2013

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

AND

IN THE MATTER OF
NEW HUDSON TELEVISION LLC &
JAMES DMITRY SALGANOV

TORONTO – The Commission issued an Order in the above named matter which provides that this proceeding be adjourned to a date and time agreed to by the parties and as set by the Office of the Secretary.

A copy of the Order dated June 6, 2013 is available at www.osc.gov.on.ca.

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1.4.8 Ground Wealth Inc. et al.

FOR IMMEDIATE RELEASE
June 10, 2013

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

AND

IN THE MATTER OF
GROUND WEALTH INC., MICHELLE DUNK,
ADRION SMITH, JOEL WEBSTER, DOUGLAS DEBOER,
ARMADILLO ENERGY INC., ARMADILLO ENERGY, INC.,
AND ARMADILLO ENERGY LLC.

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

1. The hearing in relation to the Notice of Hearing is adjourned to a pre-hearing conference to be held on August 20, 2013 at 10:00 a.m.;

2. The hearing in relation to the Temporary Order is adjourned to August 20, 2013 at 10:30 a.m.; and

3. The February 2013 Temporary Order against the Respondents is extended to August 22, 2013.

A copy of the Order dated June 6, 2013 is available at www.osc.gov.on.ca.

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1.4.9 Michael Robert Shantz and Canada Pacific Consulting Inc.

FOR IMMEDIATE RELEASE
June 10, 2013

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

AND

IN THE MATTER OF
MICHAEL ROBERT SHANTZ AND
CANADA PACIFIC CONSULTING INC.

TORONTO – The Commission issued its Reasons and Decision and an Order pursuant to subsections 127(1) and 127(10) of the *Securities Act* in the above noted matter.

A copy of the Reasons and Decision and the Order dated June 7, 2013 are available at www.osc.gov.on.ca.

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Chapter 2

Decisions, Orders and Rulings

2.1.1 I.G. Investment Management, Ltd. and I.G. Mackenzie Sentinel Strategic Income Fund

Headnote

National Policy 11-203 Process For Exemptive Relief Applications in Multiple Jurisdictions – Relief granted to permit global balanced fund to invest more than 10% of its assets in debt securities issued by foreign governments or supranational agencies – relief subject to certain conditions.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, ss. 2.1(1) and 19.1

April 25, 2013

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

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 I.G. MACKENZIE SENTINEL
STRATEGIC INCOME FUND
(The "Fund")

DECISION

Background

The local securities regulatory authority or regulator (the "Decision Maker") in each of the Jurisdictions has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the "Legislation") exempting the Fund pursuant to section 19.1 of National Instrument 81-102 *Mutual Funds* ("NI 81-102") from the requirement in section 2.1(1) of NI 81-102 to permit the Fund to invest up to:

(a) 20% of its net asset value, taken at market value at the time of purchase, in evidences of indebtedness of any one issuer if those evidences of indebtedness are issued, or guaranteed fully as to principal and interest, by supranational agencies or governments other than the government of Canada, the government of a jurisdiction in Canada, or the government of the United States of America and are rated "AA" by Standard & Poor's, or have an equivalent rating by one or more other approved credit rating organizations; and

(b) 35% of its net asset value, taken at market value at the time of purchase, in evidences of indebtedness of any one issuer if those evidences of indebtedness are issued, or guaranteed fully as to principal and interest, by supranational agencies or governments other than the government of Canada, the government of a jurisdiction in Canada, or the government of the United States of America and are rated "AAA" by Standard & Poor's, or have an equivalent rating by one or more other approved credit rating organizations.

(the "Requested Relief").

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 that Section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (MI 11-102) is intended to be relied upon in all of the provinces and territories of Canada other than Ontario, and

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

Interpretation

Defined terms contained in National Instrument 14-101 *Definitions* and MI 11-102 have the same meaning in this decision unless they are otherwise defined in this decision.

Representations

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

1. The Fund is a mutual fund trust that has been established under the laws of Manitoba. The Filer is the trustee of the Fund.

2. The Fund is a reporting issuer under the securities laws of all of the provinces and territories of Canada and is subject to the requirements of NI 81-102.

3. The securities of the Fund are qualified for distribution in each province and territory of Canada pursuant to a combined simplified prospectus and annual information form, both dated January 7, 2013, in compliance with National Instrument 81-101 *Mutual Fund Prospectus Disclosure* ("NI 81-101"), except to the extent the Fund has received exemptive relief from the requirements of NI 81-101.

4. The Fund is not in default of securities legislation in any of the provinces and territories of Canada.

5. The investment objective of the Fund is to seek income with the potential for long-term capital growth by investing primarily in fixed income and/or income-oriented equity securities. The Fund's investments are not limited geographically.

6. The investment strategy of the Fund is to pursue a flexible approach to investing in fixed income and/or equity asset classes with no geographic restriction. The Fund will generally invest 30% to 70% of its assets in any one asset class, but may invest 0% to 100% of its assets in any one asset class. Allocations between asset classes are based on economic conditions and/or the portfolio managers' assessment of relative valuations.

7. Fixed income investments may include, but are not limited to, corporate bonds, (investment grade and noninvestment grade), convertible bonds, and/or government bonds. The Fund's investments in Canadian or U.S. dollar denominated corporate bonds are generally expected to have a weighted average credit rating of "BB" or higher, as rated by Standard & Poor's Corporation or an equivalent bond rating service.

8. The Fund wishes to have the ability to invest up to 20% of the proportion of its net assets then invested in evidences of indebtedness, taken at market value at the time of purchase, in government-issued or guaranteed debt securities with a credit rating of "AA" or higher, and similarly, up to 35% of the proportion of its net assets then invested in evidences of indebtedness, taken at market value at the time of purchase, in government-issued or guaranteed debt securities with a credit rating of "AAA" or higher.

9. Section 2.1(1) of NI 81-102 restricts mutual funds from investing no more than ten (10%) percent of their net asset value in any single issuer, save and except for securities issued or guaranteed as to principal and interest by the Government of Canada or an agency thereof, or by the Government of any Province of Canada or an agency thereof, or by the Government of the United States of America or an agency thereof.

10. In the Companion Policy to NI 81-102, the Canadian Securities Administrators state their views on various matters relating to NI 81-102. Section 3.1(4) of the Companion Policy indicates that the relief from paragraph 2.04(1)(a) of NP39, which is replaced by Section 2.1 of NI 81-102, has been provided to mutual funds generally under the following circumstances:

i. The mutual Fund has been permitted to invest up to 20% of its net asset value, taken at market value at the time of purchase, in evidences of indebtedness of any one issuer if those evidences of indebtedness are issued, or guaranteed fully as to principal and interest, by supranational agencies or governments other than the government of Canada, the government of a jurisdiction or the government of the United States of America and are rated "AA" by Standard & Poor's, or have an equivalent rating by one or more other approved credit rating organizations; and

ii. The mutual fund has been permitted to invest up to 35% of its net asset value, taken at market value at the time of purchase, in evidences of indebtedness of any one issuer if those evidences of indebtedness are issued by issuers described in paragraph 1 and are rated "AAA" by Standard & Poor's, or have an equivalent rating by one or more other approved credit rating organizations.

11. The Fund seeks the Requested Relief to enhance its ability to pursue and achieve its fundamental investment objectives. The Requested Relief will enable the Fund to increase its exposure to highly rated fixed income securities issued by foreign governments and/or supranational agencies that offer higher yields and/or are undervalued and may be expected to generate capital growth over the long term.

Decision

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

The decision of the Decision Makers under the Legislation is that the Requested Relief is granted subject to the following:

1. Paragraphs (a) and (b) of the Requested Relief cannot be combined for one issuer;

2. Any security that may be purchased under the Requested Relief is traded on a mature and liquid market;

3. The acquisition of the securities purchased pursuant to this Decision is consistent with the fundamental investment objectives the Fund;

4. The simplified prospectus of the Fund discloses the additional risks associated with the concentration of net assets of the Fund in securities of fewer issuers, such as the potential additional exposure to the risk of default of the issuer in which the Fund has so invested and the risks, including foreign exchange risks, of investing in the country in which that issuer is located; and

5. The simplified prospectus of the Fund discloses, in the investment strategy section, the details of the Requested Relief along with the conditions imposed and the type of securities covered by this Decision.

“R.B. Bouchard”
Director, Corporate Finance\
The Manitoba Securities Commission

2.1.2 Northwest & Ethical Investments L.P.

Headnote

NP 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Approval of mutual fund reorganization – Approval required because mergers do not meet the criteria for pre-approval – Funds have differing investment objectives and fees, and mergers conducted on a taxable basis – Securityholders provided with timely and adequate disclosure regarding the merger.

Applicable Legislative Provisions

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

May 16, 2013

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

AND

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

AND

IN THE MATTER OF
NORTHWEST & ETHICAL INVESTMENTS L.P.
(THE MANAGER)

AND

NEI ETHICAL GROWTH FUND
NEI ETHICAL SELECT GLOBAL BALANCED PORTFOLIO
NEI ETHICAL SELECT GLOBAL GROWTH PORTFOLIO
NEI SELECT GLOBAL BALANCED CORPORATE CLASS PORTFOLIO
NEI SELECT CANADIAN GROWTH CORPORATE CLASS PORTFOLIO
NEI NORTHWEST SPECIALTY GROWTH FUND INC.
(each, a Terminating Fund(s) and
together with the Manager, the Filers)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Manager on behalf of the Funds for a decision under the securities legislation of the Jurisdiction approving the proposed mergers described below (the **Mergers**) of the Terminating Funds into the Continuing Funds (defined in the table below and together with the Terminating Funds, the **Funds**) pursuant to paragraph 5.5(1)(b) of National Instrument 81 - 102 *Mutual Funds* (**NI 81-102**) (the **Approval Sought**).

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

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

(b) the Manager 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 provinces and territories of Canada, other than the province of Ontario (Other 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

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

The Manager

1. The Manager is a corporation governed by the laws of the province of Ontario with its head office in Toronto, Ontario.

2. The Manager is the investment fund manager of the Funds. The Manager is registered as an investment fund manager in Ontario, British Columbia, Newfoundland and Labrador and Quebec, and as a portfolio manager in Ontario and British Columbia.

The Funds

3. The Funds, other than NEI Northwest Specialty Growth Fund Inc. (the **SGFI Terminating Fund**), are either open-ended mutual fund trusts established under the laws of the province of Ontario, or are (or will be, in the case of NEI Northwest Enhanced Yield Equity Corporate Class[1] (the **New Corporate Class Continuing Fund**)), separate classes of securities of Northwest Corporate Class Inc. (the **Corporation**), a mutual fund corporation governed under the laws of the province of Ontario. The SGFI Terminating Fund is a company incorporated under the laws of the province of Québec, which was converted from a closed-end mutual fund to an open-ended mutual fund.

4. Securities of each of NEI Ethical Growth Fund, NEI Ethical Canadian Dividend Fund, NEI Ethical Select Global Balanced Portfolio, NEI Ethical Select Canadian Balanced Portfolio, NEI Ethical Select Global Growth Portfolio and NEI Ethical Select Canadian Growth Portfolio (each, a **Trust Fund** and collectively, the **Trust Funds**) and the SGFI Terminating Fund are currently qualified for sale under the simplified prospectus, annual information form and fund facts each dated July 3, 2012, as amended (collectively, the **July 3 Offering Documents**). Securities of each of NEI Select Global Balanced Corporate Class Portfolio, NEI Select Canadian Growth Corporate Class Portfolio, NEI Select Canadian Balanced Corporate Class Portfolio, NEI Select Global Growth Corporate Class Portfolio and NEI Northwest Enhanced Yield Equity Corporate Class (together with the New Corporate Class Continuing Fund each, a **Corporate Class Fund** and collectively, the **Corporate Class Funds**) are currently qualified for sale under the simplified prospectus, annual information form and fund facts each dated October 31, 2012, as amended (the **October 31 Offering Documents**) or, in the case of the New Corporate Class Continuing Fund, will be qualified for sale under a simplified prospectus, annual information form and fund facts each dated on or about May 24, 2013 (the **New Corporate Class Offering Documents** and together with the July 3 Offering Documents and the October 31 Offering Documents, the **Offering Documents**).

5. Each of the Funds is, or will be, a reporting issuer under the applicable securities legislation of the province of Ontario and the Other Jurisdictions (the **Legislation**).

6. Neither the Manager nor the Funds is in default under the Legislation.

7. Other than circumstances in which the securities regulatory authority of a province or territory of Canada has expressly exempted a Fund therefrom, each of the Funds follows the standard investment restrictions and practices established under NI 81-102.

8. The net asset value for each series of the Funds, as applicable, is calculated on a daily basis in accordance with the Funds' valuation policy and as described in the applicable Offering Documents.

The Proposed Mergers

9. The Manager intends to reorganize the Funds by merging each Terminating Fund set out in the table below into its respective Continuing Fund set out in the table below:

[1] A new class of shares of Northwest Corporate Class Inc. to be qualified for sale under a simplified prospectus to be dated on or before the date of the SGFI Merger (as defined herein).

Merger #	*Terminating Fund:*	*Continuing Fund:*	*This Merger is also referred to as:*
1.	NEI Ethical Growth Fund	NEI Ethical Canadian Dividend Fund	**Trust Fund Merger** **Taxable Merger** **Fee Structure Merger**
2.	NEI Ethical Select Global Balanced Portfolio	NEI Ethical Select Canadian Balanced Portfolio (an **Investment Objective Change Continuing Fund**)	**Trust Fund Merger** **Taxable Merger** **Investment Objective Merger** **Investment Objective Change Merger**
3.	NEI Ethical Select Global Growth Portfolio	NEI Ethical Select Canadian Growth Portfolio (an **Investment Objective Change Continuing Fund**)	**Trust Fund Merger** **Taxable Merger** **Investment Objective Merger** **Investment Objective Change Merger**
4.	NEI Select Global Balanced Corporate Class Portfolio	NEI Select Canadian Balanced Corporate Class Portfolio (a **Continuing Corporate Class Fund**, and an **Investment Objective Change Continuing Fund**)	**Corporate Class Fund Merger** **Investment Objective Merger** **Investment Objective Change Merger**
5.	NEI Select Growth Corporate Class Portfolio	NEI Select Global Growth Corporate Class Portfolio (a **Continuing Corporate Class Fund**)	**Corporate Class Fund Merger** **Investment Objective Merger**
6.	SGFI Terminating Fund	New Corporate Class Continuing Fund	**SGIF Merger** **Taxable Merger** **Investment Objective Merger** **Fee Structure Merger**

10. Regulatory approval of the Mergers is required because each Merger does not satisfy all of the criteria for pre-approved reorganizations and transfers set out in section 5.6 of NI 81-102 in the following ways:

    (a) In the case of the Investment Objective Mergers (i.e., Mergers #2, 3, 4, 5 and 6 in the table above), the fundamental investment objectives of the Continuing Funds are not, or may be considered not to be, "substantially similar" to the investment objectives of their corresponding Terminating Funds;

    (b) In the case of the Fee Structure Mergers (i.e., Mergers #1 and 6 in the table above), the fee structure of the Continuing Funds is not, or may be considered not to be, "substantially similar" to the fee structure of their corresponding Terminating Funds; and

    (c) In the case of the Taxable Mergers (i.e., Mergers #1, 2, 3 and 6 in the table above), these Mergers will not be completed as "qualifying exchanges" or tax-deferred transactions under the Income Tax Act (Canada).

11. Except as described in this decision, the proposed Mergers comply with all of the other criteria for pre-approved reorganizations and transfers set out in section 5.6 of NI 81-102.

12. No sales charges will be payable in connection with the acquisition by a Continuing Fund of the investment portfolio of its applicable Terminating Fund.

13. The investment portfolio and other assets of each Terminating Fund to be acquired by or included in the portfolio of the applicable Continuing Fund in order to effect the Mergers are currently, or will be, acceptable, on or prior to the effective date of the Mergers, to the portfolio manager(s) of the applicable Continuing Fund and are, or will be, consistent with the investment objectives of the applicable Continuing Fund at the time of the Merger.

14. In accordance with National Instrument 81-106 – *Investment Fund Continuous Disclosure*, a press release announcing the proposed Mergers and Investment Objective Change (as defined in paragraph 19) was issued on February 20, 2013 and subsequently filed on SEDAR. A material change report with respect to the Terminating Funds for the proposed Mergers and the Investment Objective Change Continuing Funds (defined in the table above) for the proposed Investment Objective Change was filed via SEDAR on Feburary 26, 2013 and amendments to the applicable Offering Documents with respect to the proposed Mergers and Investment Objective Change were filed via SEDAR on March 1, 2013.

15. A notice of meeting, a management information circular and a proxy in connection with special meetings of securityholders were mailed to securityholders of the Terminating Funds, the Investment Objective Change Continuing Funds and the Continuing Corporate Class Funds (defined in the table above) on April 5, 2013 and were subsequently filed via SEDAR.

16. Fund facts, and in the case of the New Corporate Class Continuing Fund, preliminary fund facts, relating to the relevant series of the Continuing Funds were mailed to securityholders of the corresponding Terminating Funds.

17. Securityholders of the Terminating Funds approved the Mergers at special meetings held on April 30, 2013.

18. Securityholders of the Investment Objective Change Continuing Funds approved a proposed change to the Investment Objective Change Continuing Funds' fundamental investment objectives (**the Investment Objective Change**) at special meetings of securityholders of the Investment Objective Change Continuing Funds held on April 30, 2013, to provide greater flexibility to invest in foreign property, as currently disclosed in the applicable Offering Documents.

19. Each Merger other than the Corporate Class Fund Mergers (i.e., Mergers #1, 2, 3 and 6 in the table above), will be effected on a taxable basis.

20. The Manager will pay for the costs of the Mergers. These costs consist mainly of brokerage charges associated with the merger-related trades that occur both before and after the effective date of the Mergers and legal, proxy solicitation, translation, printing, mailing and regulatory fees.

21. Each Terminating Fund will merge into the applicable Continuing Fund at the close of business on or about May 24, 2013 and the Continuing Funds will continue as publicly offered open-ended mutual funds.

22. Implicit in the approval by securityholders of the Investment Objective Change Mergers (i.e., Mergers #2, 3 and 4 in the table above), is the adoption by the Terminating Fund of the fundamental investment objective of the Investment Objective Change Continuing Fund. Investors in the Terminating Fund were informed about the Investment Objective Change in the management information circular when they were asked to consider the merits of the Investment Objective Change Merger of the Terminating Fund into the Investment Objective Change Continuing Fund. Implementation of the Investment Objective Change Mergers is conditional upon approval of the Investment Objective Change by securityholders of the applicable Investment Objective Change Continuing Fund.

23. All of the issued and outstanding securities of each Terminating Fund will be exchanged for securities of its applicable Continuing Fund on a dollar-for-dollar and series-by-series basis, so that securityholders of each Terminating Fund become securityholders of its applicable Continuing Fund.

24. Each Terminating Fund will be wound up following the applicable Merger.

25. As required by National Instrument 81-107 – *Independent Review Committee for Investment Funds*, an independent review committee (**IRC**) has been appointed for the Funds. The Manager presented the potential conflict of interest matters related to the proposed Mergers to the IRC for a recommendation. On February 15, 2013, the IRC reviewed the potential conflict of interest matters related to the proposed Mergers and provided its positive recommendation for each of the Mergers, after determining that each proposed Merger, if implemented, would achieve a fair and reasonable result for each applicable Fund.

26. The Manager believes that the Mergers are beneficial to securityholders of each Terminating Fund and Continuing Fund for the following reasons:

Trust Fund Mergers (i.e., Mergers #1, 2 and 3 in the table above) and Corporate Class Fund Mergers (i.e., Mergers #4 and 5 in the table above)

(a) securityholders of certain applicable Terminating Funds and Continuing Funds will benefit from greater flexibility to invest in foreign property, which will provide a more appropriate level of diversification and exposure to a broader set of investment opportunities across global capital markets;

(b) securityholders of the applicable Terminating Fund and Continuing Fund may enjoy increased economies of scale and lower operating expenses as part of a larger combined Continuing Fund;

(c) each Continuing Fund will have a portfolio of greater value allowing for increased portfolio diversification opportunities than within the applicable Terminating Fund; and

(d) each Continuing Fund, as a result of its increased size, will benefit from a more significant profile in the marketplace,

SGFI Merger (i.e., Merger #6 in the table above)

(a) securityholders of the applicable Terminating Fund and Continuing Fund will benefit from greater flexibility to invest across the Canadian equity market, which will provide a more appropriate level of diversification and exposure to a broader set of investment opportunities; and

(b) once created, the Continuing Fund will be a class of shares of Northwest Corporate Class Inc. and so, as securityholders of the Continuing Fund, investors will be able to switch between different funds that are classes of Northwest Corporate Class Inc. without triggering a disposition of their shares for income tax purposes.

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 Approval Sought is granted.

'Darren McKall'
Investment Funds Branch

2.1.3 MD Physician Services Inc.

Headnote

National Policy 11-203 – Process for Exemptive Relief Applications in Multiple Jurisdictions – relief granted from sections 2.3(f), 2.3(h), 2.5(2)(a) and 2.5(2)(c) of National Instrument 81-102 – Mutual Funds to permit a mutual fund to use ETFs to invest up to 10 percent of its net assets, in aggregate, in gold and other physical commodities provided that no more than 2.5 percent of the mutual fund's net assets may be invested in any one commodity sector, other than gold and silver – ETFs will be traded on a Canadian or U.S. stock exchange – subject to 10 percent exposure to physical commodities, in aggregate, and certain conditions

Applicable Legislative Provisions

National Instrument 81-102 – Mutual Funds, ss. 2.3(f) and (h), 2.5(2)(a) and (c), and 19.1.

January 28, 2013

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
MD PHYSICIAN SERVICES INC.
(THE FILER OR MDPSI)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer for an exemption pursuant to section 19.1 of National Instrument 81-102 – *Mutual Funds* (**NI 81-102**) exempting MDPIM Strategic Yield Pool and MDPIM Strategic Opportunities Pool (the **Funds**) from:

(a) clauses 2.3(f) and (h) of NI 81-102 to permit the Funds to invest indirectly in physical commodities (in addition to gold, which is permitted by clause 2.3(e) of NI 81-102) through investments in Gold/Silver ETFs (as defined below) and/or Other Physical Commodity ETFs (as defined below); and

(b) clauses 2.5(2)(a) and (c) of NI 81-102 to permit the Funds to invest in the following categories of exchange-traded funds traded on a stock exchange in Canada or the United States that do not qualify as "index participation units" (as defined in NI 81-102) (**ETFs**):

    (i) gold or silver ETFs, whether on an unlevered basis (**Unlevered Gold/Silver ETFs**) or based on a multiple of 200% (**Leveraged Gold/Silver ETFs** and together with Unlevered Gold/Silver ETFs, **Gold/Silver ETFs**); and

    (ii) ETFs that have exposure to one or more physical commodities other than gold or silver, on an unlevered basis (Other Physical Commodity ETFs) (collectively, Gold/Silver ETFs and Other Physical Commodity ETFs, Commodity ETFs)

(collectively, the **Exemption Sought**).

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

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

(b) the Filer has provided notice that section 4.7(1) of 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 (together with Ontario, the **Jurisdictions**).

Interpretation

Terms defined in National Instrument 14-101 *Definitions*, MI 11-102 and NI 81-102 have the same meaning if used in this decision, unless otherwise defined.

Representations

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

The Funds

1. MDPSI will be the investment fund manager of each Fund. MDPSI is registered as a portfolio manager in each of the provinces and territories of Canada and is registered in Ontario in the category of exempt market dealer and investment fund manager. MDPSI is also registered as an investment fund manager in each of the provinces of Newfoundland & Labrador and Quebec. MDPSI is indirectly wholly owned by the Canadian Medical Association.

2. The Funds will be open-end mutual fund trusts created under the laws of the Province of Ontario.

3. The securities of the Funds will be qualified for distribution pursuant to a simplified prospectus and annual information form that will be prepared and filed in accordance with the securities legislation of the Jurisdictions. The Funds are reporting issuers or the equivalent in each Jurisdiction.

4. The Filer is not in default of securities legislation in any Jurisdiction.

5. As with all of the mutual funds managed by MDPSI, the Funds will be available for investment only by "qualified eligible investors", which essentially means that the investors must be either physicians who are members of the Canadian Medical Association or relatives of those individuals. Securities of the mutual funds managed by MDPSI are available for acquisition only through MD Management Limited, a registered investment dealer and member of the Investment Industry Regulatory Organization of Canada (IIROC).

6. The Funds will be members of the family of mutual funds known as the MDPIM Funds. There are currently seven mutual funds in this family of mutual funds that are either Canadian, US or international equity or Canadian fixed income funds. The Funds, together with the other MDPIM Funds, are only available to "qualified eligible investors" who are either clients of MD Private Trust Company or MD Private Investment Counsel, a division of MDPSI (**MDPIC**), and who have appointed MDPIC to provide them with discretionary portfolio management services and advice.

7. The Funds will principally invest in equity securities, exchange traded funds listed on a Canadian or U.S. stock exchange and fixed income securities that emphasize alternative or non-traditional asset classes or strategies. The Funds will also have exposure to currencies and commodities.

    (i) MDPIM Strategic Yield Pool – its investment objective is to provide income and long-term capital appreciation. It will principally invest in equity securities, exchange traded funds listed on a Canadian or U.S. stock exchange and fixed income securities that emphasize alternative or non-traditional asset classes or strategies. It will also have exposure to currencies and commodities.

    (ii) MDPIM Strategic Opportunities Pool – Its investment objective is to provide long-term capital appreciation. It will principally invest in equity securities, exchange traded funds listed on a Canadian or U.S. stock exchange and fixed income securities that emphasize alternative or non-traditional asset classes or strategies. It will also have exposure to currencies and commodities.

8. MDPSI proposes to engage QS Investors, LLC (**QS Investors**), which is a registered investment adviser in the United States based in New York City, to be the portfolio manager and investment adviser to the Funds. QS Investors provides investment and advisory services to a diverse array of institutional clients. QS Investors relies on the "international adviser" registration exemption in Ontario and Quebec to advise various "Canadian permitted clients" in these provinces. The Funds qualify as such "Canadian permitted clients" as such term is defined in National Instrument 31-103 – Registration *Requirements, Exemptions and Ongoing Registrant Obligations*. Accordingly, QS Investors relies on the "international adviser" registration exemption in Ontario to advise the Funds. QS Investors has experience advising investment funds that invest solely in other funds and ETFs in the United States, and that have investment objectives and strategies similar to the Funds.

9. MDPSI expects that the Funds will invest in ETFs that are "index participation units" as such term is defined in NI 81-102 (**IPUs**). MDPSI also proposes that the Funds gain exposure to non-traditional asset classes and strategies, through investing in Commodity ETFs that are not IPUs. In other words, it is the view of MDPSI that the universe of IPUs is not sufficiently broad to allow the Funds to fully achieve their investment objectives through investing only in IPUs or other securities that are permitted under NI 81-102. MDPSI believes that it is necessary for the Funds to invest in the following types of Commodity ETFs that are not IPUs in order to achieve the Funds' investment objectives:

   (i) Gold/Silver ETFs, and

   (ii) Other Physical Commodity ETFs.

10. MDPSI wishes the Funds to be able to invest in any one or more types of Commodity ETFs to a maximum collective limit of 10 percent of its net assets, taken at market value at the time of the purchase.

The Commodity ETFs

11. Each Commodity ETF will be a "mutual fund" (as such term is defined under the Securities Act (Ontario)) and will be listed and traded on a stock exchange in Canada or the United States. The various categories of Commodity ETFs have the following characteristics:

   (i) The assets of a Gold/Silver ETF consist primarily of gold or silver, as the case may be, or derivatives that have an underlying interest in gold or silver, as the case may be. The objective of a Gold/Silver ETF is to reflect the price of gold or silver, as the case may be (less the Gold/Silver ETF's expenses and liabilities), whether on an unlevered basis, in the case of an Unlevered Gold/Silver ETFs, or on a leveraged basis, in the case of a Leveraged Gold/Silver ETF. A Leveraged Gold/Silver ETF is generally rebalanced daily to ensure that its performance and exposure to the price of gold or silver, as the case may be, will not exceed +200% of the corresponding daily performance of the price of gold or silver, as the case may be.

   (ii) The assets of an Other Physical Commodity ETF consist primarily of one or more physical commodities, other than gold or silver, or derivatives that have an underlying interest in such physical commodity or commodities. These physical commodities may include, without limitation, precious metals commodities (such as platinum, platinum certificates, palladium and palladium certificates), energy commodities (such as crude oil, gasoline, heating oil and natural gas), industrials and/or metals commodities (such as aluminum, copper, nickel and zinc) and agricultural commodities (such as coffee, corn, cotton, lean hogs, live cattle, soybeans, soybean oil, sugar and wheat). The objective of an Other Physical Commodity ETF is to reflect the price of the applicable commodity or commodities (less the Other Physical Commodity ETF's expenses and liabilities) on an unlevered basis.

Investments in Commodity ETFs

12. The investment objectives and investment strategies of the Funds are designed to offer investors an opportunity to obtain exposure to a number of non-traditional – or "alternative" asset classes and strategies, including equity securities and bonds issued by entities which are in commodity-based businesses, commodities and currencies. To fulfill their investment objectives, the Funds require the ability to invest in physical commodities, in addition to gold, and to invest in Commodity ETFs.

13. There are no liquidity concerns with permitting the Fund to invest in Commodity ETFs, since the securities of Commodity ETFs trade on a Canadian or U.S. exchange and therefore are highly liquid investments. The Commodity ETFs will either be "registered" investment companies in the United States or reporting issuers in one or more of the Jurisdictions, which means that there will be clear disclosure about the Commodity ETFs readily available in the marketplace.

14. In accordance with its investment objective and investment strategies and in addition to its investments indirectly in commodities, the Fund will be permitted generally to invest in ETFs.

15. In addition to investing in securities of ETFs that are IPUs, the Fund proposes to have the ability to invest in the Commodity ETFs whose securities are not IPUs.

16. The amount of loss that can result from an investment by a Fund in a Commodity ETF will be limited to the amount invested by the Fund in securities of the Commodity ETF.

17. The Commodity ETFs are attractive investments for the Funds, as, in addition to being liquid, they provide an efficient and cost effective means of achieving diversification and exposure to the asset classes and strategies that the Funds will invest in.

18. In accordance with the investment strategies of the Funds, no more than 10 percent of the net asset value of the Fund will be invested in a combination of Commodity ETFs taken at market value at the time of purchase. In addition, no more than 2.5 percent of the net asset value of each of the Funds may be invested in any one commodity sector, other than gold and/or silver, taken at market value at the time of purchase. For this purpose, the relevant commodity sectors are energy, grains, industrial metals, livestock, precious metals other than gold and silver and softs (e.g., cocoa, cotton, coffee and sugar).

19. The aggregate investment in Commodity ETFs by the Fund will not exceed 10 percent of the Fund's net asset value, taken at market value at the time of purchase.

20. The simplified prospectus of the Funds states that the Funds may invest indirectly in gold and other physical commodities and describes the risks associated with such investments and strategies.

21. The Funds are available for acquisition only by a limited group of individuals, all of whom have a connection with MDPSI, given MDPSI's ownership by the Canadian Medical Association, and also a managed account relationship with MDPIC. It is extremely unlikely that an investor will invest all of his or her assets in one of the Funds – rather the Funds will be one part of a managed portfolio of MDPIM Funds.

22. An investment by the Funds in securities of a Commodity ETF will represent the business judgment of responsible persons uninfluenced by considerations other than the best interest of the Funds.

23. Any investment in Commodity ETFs will be made in compliance with the custodian requirements in Part 6 of NI 81-102.

24. The Filer has determined that it would be in the best interests of the Funds to receive the Exemption Sought.

Decision

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

The decision of the principal regulator under the Legislation is that the Exemption Sought is granted provided that, in respect of each Fund:

(a) an investment by the Fund in securities of a Commodity ETF is in accordance with the fundamental investment objectives of the Fund;

(b) the Fund does not purchase gold, permitted gold certificates, securities of an Commodity ETF or enter into specified derivatives the underlying interest of which is gold (the **Commodity Products**) if, immediately after the purchase, more than 10 percent of the net assets of the Fund in aggregate, taken at market value at the time of purchase, would consist of Commodity Products;

(c) the Fund does not purchase Commodity Products if, immediately after the transaction, the market value exposure to all physical commodities (whether direct or indirect) through the Commodity Products is more than 10 percent of the net assets of the Fund in aggregate, taken at market value at the time of purchase;

(d) no more than 2.5% of the net asset value of the Fund may be invested in any one commodity sector, other than gold and/or silver, taken at market value at the time of purchase. For this purpose, the relevant commodity sectors are energy, grains, industrial metals, livestock, precious metals other than gold and silver and softs (e.g., cocoa, cotton, coffee and sugar);

(e) the securities of the Commodity ETFs are treated as specified derivatives for the purposes of Part 2 of NI 81-102;

(f) the Fund does not short sell securities of a Commodity ETF;

(g) the securities of the Commodity ETFs are traded on a stock exchange in Canada or the United States; and

(h) the prospectus of the Fund discloses (i) in the investment strategy section, the fact that the Fund has obtained relief to invest in the Commodity ETFs, together with an explanation of what each category of Commodity ETF is, and (ii) the risks associated with the Fund's investment in securities of the Commodity ETFs.

"Raymond Chan"
Manager, Investment Funds Branch
Ontario Securities Commission

2.2 Orders

2.2.1 Magna International Inc. – s. 104(2)(c)

Headnote

Clause 104(2)(c) - Issuer bid - relief from issuer bid requirements in sections 94 to 94.8 and 97 to 98.7 of the Act - Issuer proposes to purchase, at a discounted purchase price, up to 1,940,000 of its common shares from one of its shareholders - due to discounted purchase price, proposed purchases cannot be made through TSX trading system - but for the fact that the proposed purchases cannot be made through the TSX trading system, the Issuer could otherwise acquire the subject shares in reliance upon the issuer bid exemption available under section 101.2 of the Act and in accordance with the TSX rules governing normal course issuer bid purchases - no adverse economic impact on or prejudice to issuer or public shareholders - proposed purchases exempt from issuer bid requirements in sections 94 to 94.8 and 97 to 98.7 of the Act, subject to conditions, including that the issuer not purchase, in the aggregate, more than one-third of the maximum number of shares to be purchased under its normal course issuer bid by way of off-exchange block purchases.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 94 to 94.8, 97 to 98.7 and 104(2)(c).

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

AND

IN THE MATTER OF
MAGNA INTERNATIONAL INC.

ORDER
(Clause 104(2)(c))

UPON the application (the **"Application"**) of Magna International Inc. (the **"Issuer"**) to the Ontario Securities Commission (the **"Commission"**) for an order pursuant to clause 104(2)(c) of the Securities Act (Ontario) (the **"Act"**) exempting the Issuer from the requirements of sections 94 to 94.8, inclusive, and sections 97 to 98.7, inclusive, of the Act (the **"Issuer Bid Requirements"**) in connection with the proposed purchases (the **"Proposed Purchases"**) by the Issuer of up to 1,940,000 common shares of the Issuer (the **"Subject Shares"**) in tranches, from BMO Nesbitt Burns Inc. (the **"Selling Shareholder"**);

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

AND UPON the Issuer (and the Selling Shareholder in respect of paragraphs 5, 6, 7, 8, 12, 23 and 24 as they relate to the Selling Shareholder) having represented to the Commission that:

1. The Issuer is a corporation governed by the *Business Corporations Act* (Ontario).

2. The registered and principal business office of the Issuer is 337 Magna Drive, Aurora, Ontario, L4G 7K1.

3. The Issuer is a reporting issuer in each of the provinces of Canada and its common shares are listed for trading on the Toronto Stock Exchange (the **"TSX"**) and the New York Stock Exchange (the **"NYSE"**) under the symbols "MG" and "MGA", respectively. The Issuer is not in default of any requirement of the securities legislation in the jurisdictions in which it is a reporting issuer.

4. The Issuer's authorized share capital consists of an unlimited number of common shares (**"Common Shares"**), of which 233,154,283 are issued and outstanding as of December 31, 2012, and 99,760,000 preference shares (**"Preference Shares"**) issuable in series. As of December 31, 2012, no Preference Shares are issued or outstanding.

5. The Selling Shareholder has advised the Issuer that its corporate headquarters are located in the Province of Ontario. The trades contemplated by this application will be executed and settled in the Province of Ontario.

6. The Selling Shareholder has advised the Issuer that it does not directly or indirectly beneficially own more than 5% of the issued and outstanding Common Shares.

7. The Selling Shareholder has advised the Issuer that it is the beneficial owner of at least 1,940,000 Common Shares and that the Subject Shares were not acquired by the Selling Shareholder in anticipation of resale pursuant to private agreements under an issuer bid exemption order by a securities regulatory authority (**"Off-Exchange Block Purchase"**).

8. The Selling Shareholder is at arm's length to the Issuer and is not an "insider" of the Issuer or an "associate" of an "insider" of the Issuer, or an "associate" or "affiliate" of the Issuer, as such terms are defined in the Act. The Selling Shareholder is an "accredited investor" within the meaning of National Instrument 45-106 – *Prospectus and Registration Exemptions*.

9. Pursuant to a Notice of Intention to make a Normal Course Issuer Bid (the **"Notice"**) accepted by the TSX effective November 9, 2012, the Issuer announced a normal course issuer bid (the "**Normal Course Issuer Bid"**) to purchase up to 12,000,000 Common Shares, representing approximately 5% of the Issuer's public float of Common Shares.

10. The Issuer was granted an order on March 22, 2013 (the **"March Order"**) pursuant to clause 104(2)(c) of the Act exempting the Issuer from the requirements of sections 94 to 94.8, inclusive, and sections 97 to 98.7, inclusive, of the Act in connection with the proposed purchases by the Issuer of up to 3,735,000 Common Shares in tranches from arm's length selling shareholders. As of the date hereof, the Issuer has purchased 2,000,000 Common Shares under the March Order.

11. In accordance with the Notice, the Normal Course Issuer Bid is conducted through the facilities of the TSX and purchases may also be made on the NYSE or by such other means as may be permitted by the TSX and/or the NYSE, in accordance with sections 628 to 629.3 of Part VI of the TSX Company Manual (the **"TSX NCIB Rules"**), including, further to an amendment to the Notice made and announced by the Issuer on March 22, 2013, private agreements under an issuer bid exemption order issued by a securities regulatory authority.

12. The Issuer and the Selling Shareholder currently intend to enter into one or more agreements of purchase and sale (each, an **"Agreement"**), pursuant to which the Issuer will, subject to market conditions, agree to acquire some or all of the Subject Shares from the Selling Shareholder in tranches, such tranches to occur not more than once per calendar week and no one tranche to exceed 1,000,000 Common Shares, each to occur prior to November 12, 2013 (each such purchase, a **"Proposed Purchase"**) for a purchase price (each, a **"Purchase Price"**) that will be negotiated at arm's length between the Issuer and the Selling Shareholder. The Purchase Price will be at a discount to the prevailing market price on the TSX and below the prevailing bid-ask price for the Issuer's Common Shares at the time of each Proposed Purchase.

13. The Subject Shares acquired under each Proposed Purchase will constitute a "block", as that term is defined in section 628 of the TSX NCIB Rules.

14. The purchases of the Subject Shares by the Issuer pursuant to each Agreement will constitute an "issuer bid" for purposes of the Act, to which the Issuer Bid Requirements would apply.

15. Because the Purchase Price will be at a discount to the prevailing market price on the TSX and below the prevailing bid-ask price for the Issuer's Common Shares, at the time of each Proposed Purchase, each Proposed Purchase cannot be made through the TSX trading system and, therefore, will not occur "through the facilities" of the TSX. As a result, the Issuer will be unable to acquire the Subject Shares from the Selling Shareholder in reliance upon the exemption from the Issuer Bid Requirements that is available pursuant to section 101.2(1) of the Act.

16. But for the fact that the Purchase Price will be at a discount to the prevailing market price on the TSX and below the prevailing bid-ask price for the Issuer's Common Shares, at the time of each Proposed Purchase, the Issuer could otherwise acquire the Subject Shares as a "block purchase" (a **"Block Purchase"**) in accordance with the block purchase exception in section 629(1)(7) of the TSX NCIB Rules and the exemption from the Issuer Bid Requirements available pursuant to section 101.2(1) of the Act.

17. The sale of any of the Subject Shares to the Issuer will not be a "distribution" (as defined in the Act).

18. For each Proposed Purchase, the Issuer will be able to acquire the Subject Shares from the Selling Shareholder without the Issuer being subject to the dealer registration requirements of the Act.

19. Management of the Issuer is of the view that the Issuer will be able to purchase the Subject Shares at a lower price than the price at which it would be able to purchase the Subject Shares under the Normal Course Issuer Bid, through the facilities of the TSX, and management is of the view that this is an appropriate use of funds to increase shareholder value.

20. The purchase of the Subject Shares will not adversely affect the Issuer or the rights of any of the Issuer's securityholders and will not materially affect control of the Issuer. To the knowledge of the Issuer, the Proposed Purchases will not prejudice the ability of other securityholders of the Issuer to otherwise sell Common Shares in the open market at the prevailing market price. The Proposed Purchases will be carried out with a minimum cost to the Issuer.

21. To the best of the Issuer's knowledge, as of December 31, 2012, the "public float" for the Issuer's Common Shares represented approximately 99.5% of all issued and outstanding Common Shares for purposes of the TSX NCIB Rules.

22. The market for the Common Shares is a "liquid market" within the meaning of section 1.2 of Multilateral Instrument 61-101 – *Protection of Minority Security Holders in Special Transactions*.

23. Other than the Purchase Price, no additional fee or other consideration will be paid in connection with the Proposed Purchases.

24. At the time that each Agreement is entered into by the Issuer and the Selling Shareholder and at the time of each Proposed Purchase, neither the Issuer nor the Trading Products Group of, nor personnel of, the Selling Shareholder that have negotiated the Agreement or have made, or participated in the making of, or provided advice in connection with, the decision to enter into the Agreement and sell the Subject Shares, will be aware of any "material change" or any "material fact" (each as defined in the Act) in respect of the Issuer that has not been generally disclosed.

25. The Issuer will not purchase Common Shares pursuant to the Proposed Purchases or its Normal Course Issuer Bid during designated blackout periods administered in accordance with the Issuer's corporate policies.

26. The Issuer will not purchase, pursuant to private agreements under an issuer bid exemption order by a securities regulatory authority, in aggregate, more than one-third of the maximum number of Common Shares that the Issuer can purchase under its Normal Course Issuer Bid.

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

IT IS ORDERED pursuant to clause 104(2)(c) of the Act that the Issuer be exempt from the Issuer Bid Requirements in connection with the Proposed Purchases, provided that:

(a) the Proposed Purchases will be taken into account by the Issuer when calculating the maximum annual aggregate limit that is imposed upon the Issuer's Normal Course Issuer Bid in accordance with the TSX NCIB Rules;

(b) the Issuer will refrain from conducting a Block Purchase in accordance with the TSX NCIB Rules during the calendar week that it completes each Proposed Purchase and may not make any further purchases under its Normal Course Issuer Bid for the remainder of that calendar day on which it completes each Proposed Purchase;

(c) the Purchase Price for each Proposed Purchase is not higher than the last "independent trade" (as that term is used in paragraph 629(l)1 of the TSX NCIB Rules) of a board lot of Common Shares immediately prior to the execution of each Proposed Purchase;

(d) the Issuer will otherwise acquire any additional Common Shares pursuant to the Issuer's Normal Course Issuer Bid in accordance with the Notice and TSX NCIB Rules, as applicable;

(e) immediately following each Proposed Purchase of the Subject Shares from the Selling Shareholder, the Issuer will report the purchase of the Subject Shares to the TSX;

(f) the Issuer will issue a press release disclosing (i) its intention to make the Proposed Purchases, and where such Proposed Purchases are made in tranches, in advance of the first tranche with the Selling Shareholder, and (ii) that information regarding each Proposed Purchase, including the number of Common Shares purchased and the aggregate purchase price, will be available on the System for Electronic Document Analysis and Retrieval (**"SEDAR"**) following the completion of each Proposed Purchase;

(g) the Issuer will report information regarding each Proposed Purchase including the number of Common Shares purchased and the aggregate purchase price, on SEDAR before 5:00 p.m. (Toronto time) on the business day following such purchase;

(h) at the time that each Agreement is entered into by the Issuer and the Selling Shareholder and at the time of each Proposed Purchase, neither the Issuer nor the Trading Products Group of, nor personnel of, the Selling Shareholder that have negotiated the Agreement or have made, or participated in the making of, or provided advice in connection with, the decision to enter into the Agreement and sell the Subject Shares, will be aware of any "material change" or any "material fact" (each as defined in the Act) in respect of the Issuer that has not been generally disclosed; and

(i) the Issuer does not purchase, pursuant to Off-Exchange Block Purchases, in the aggregate more than one-third of the maximum number of Common Shares that the Issuer can purchase under its Normal Course Issuer Bid.

DATED at Toronto this 4th day of June, 2013.

"Edward P. Kerwin"

"Sarah B. Kavanagh"

2.2.2 Saputo Inc. – s. 104(2)(c)

Headnote

Clause 104(2)(c) – Issuer bid – relief from issuer bid requirements in sections 94 to 94.8 and 97 to 98.7 of the Act – Issuer proposes to purchase, at a discounted purchase price, up to 1,700,000 of its common shares from one of its shareholders – due to discounted purchase price, proposed purchases cannot be made through TSX trading system – but for the fact that the proposed purchases cannot be made through the TSX trading system, the Issuer could otherwise acquire the subject shares in reliance upon the issuer bid exemption available under section 101.2 of the Act and in accordance with the TSX rules governing normal course issuer bid purchases – no adverse economic impact on or prejudice to issuer or public shareholders – proposed purchases exempt from issuer bid requirements in sections 94 to 94.8 and 97 to 98.7 of the Act, subject to conditions, including that the issuer not purchase more than one-third of the maximum number of shares to be purchased under its normal course issuer bid by way of off-exchange block purchases.

Statutes Cited

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

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

AND

IN THE MATTER OF
SAPUTO INC.

ORDER
(Clause 104(2)(c))

UPON the application (the **"Application"**) of Saputo Inc. (the **"Issuer"**) to the Ontario Securities Commission (the **"Commission"**) for an order pursuant to clause 104(2)(c) of the Act exempting the Issuer from the requirements of sections 94 to 94.8 and 97 to 98.7 of the Act (the **"Issuer Bid Requirements"**) in respect of the proposed purchases by the Issuer of up to 1,700,000 (collectively, the **"Subject Shares"**) of its common shares (the **"Common Shares"**) in one or more trades from the Canadian Imperial Bank of Commerce (the **"Selling Shareholder"**);

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

AND UPON the Issuer (and the Selling Shareholder in respect of paragraphs 5, 6, 7, 8, 11, 22 and 23, as they relate to the Selling Shareholder) having represented to the Commission that:

1. The Issuer is a corporation governed by the Canada Business Corporations Act.

2. The head office and registered office of the Issuer are located at 6869, Métropolitain Boulevard East, Saint-Léonard, Québec, H1P 1X8.

3. The Issuer is a reporting issuer in each of the provinces and territories of Canada and the Common Shares of the Issuer are listed for trading on the TSX under the symbol "SAP". The Issuer is not in default of any requirement of the securities legislation in the jurisdictions in which it is a reporting issuer.

4. The authorized common share capital of the Issuer consists of an unlimited number of Common Shares, of which 196,784,243 were issued and outstanding as of April 30, 2013.

5. The corporate headquarters of the Selling Shareholder are located in the Province of Ontario.

6. The Selling Shareholder has advised the Issuer that it does not directly or indirectly own more than 5% of the issued and outstanding Common Shares.

7. The Selling Shareholder has advised the Issuer that it is the beneficial owner of at least 1,700,000 Common Shares and that the Subject Shares were not acquired in anticipation of resale pursuant to private agreements under an issuer bid exemption order issued by a securities regulatory authority **("Off-Exchange Block Purchases")**.

8. The Selling Shareholder is at arm's length to the Issuer and is not an "insider" of the Issuer or "associate" of an "insider" of the Issuer, or an "associate" or "affiliate" of the Issuer, as such terms are defined in the Act. The Selling Shareholder is an "accredited investor" within the meaning of National Instrument 45-106 *Prospectus and Registration Exemptions* **("NI 45-106")**.

9. Pursuant to a Notice of Intention to Make a Normal Course Issuer Bid dated November 7, 2012 (the **"Notice"**), the Issuer announced on November 7, 2012 a normal course issuer bid (the **"Normal Course Issuer Bid"**) for up to 9,850,532 Common Shares. In accordance with the Notice, the Normal Course Issuer Bid is conducted through the facilities of the TSX or such other means as may be permitted by the TSX or a securities regulatory authority, in accordance with sections 628 to 629.3 of Part VI of the TSX Company Manual (the **"TSX NCIB Rules"**), including pursuant to Off-Exchange Block Purchases. As of the date of this application, 1,200,000 Common Shares had been purchased under the Normal Course Issuer Bid.

10. The Notice contemplates that purchases under the Normal Course Issuer Bid may be made by such other means as may be permitted by the TSX or a securities regulatory authority.

11. The Issuer and the Selling Shareholder intend to enter into one or more agreements of purchase and sale (each an **"Agreement"**) pursuant to which the Issuer will agree to acquire the Subject Shares from the Selling Shareholder by one or more purchases each occurring on or prior to June 30, 2013 (each such purchase, a **"Proposed Purchase"**) for a purchase price (the **"Purchase Price"**) that will be negotiated at arm's length between the Issuer and the Selling Shareholder. The Purchase Price will be at a discount to the prevailing market price of the Common Shares on the TSX and below the bid-ask price for the Common Shares at the time of each Proposed Purchase.

12. The Subject Shares acquired under each Proposed Purchase will constitute a "block" as that term is defined in section 628 of the TSX NCIB Rules.

13. The purchase of the Subject Shares by the Issuer pursuant to each Agreement will constitute an "issuer bid" for purposes of the Act, to which the applicable Issuer Bid Requirements would apply.

14. Because the Purchase Price will be at a discount to the prevailing market price and below the bid-ask price for the Common Shares at the time of each Proposed Purchase, each Proposed Purchase cannot be made through the TSX trading system and, therefore, will not occur "through the facilities" of the TSX. As a result, the Issuer will be unable to acquire the Subject Shares from the Selling Shareholder in reliance upon the exemption from the Issuer Bid Requirements that is available pursuant to section 101.2(1) of the Act.

15. But for the fact that the Purchase Price will be at a discount to the prevailing market price and below the bid-ask price for the Common Shares at the time of each Proposed Purchase, the Issuer could otherwise acquire the Subject Shares as a block purchase (a **"Block Purchase"**) in accordance with the block purchase exception in section 629(l)7 of the TSX NCIB Rules and the exemption from the Issuer Bid Requirements that is available pursuant to section 101.2(1) of the Act.

16. The sale of any of the Subject Shares to the Issuer will not be a "distribution" (as defined in the Act).

17. For each Proposed Purchase, the Issuer will be able to acquire the Subject Shares from the Selling Shareholder without the Issuer being subject to the dealer registration requirements of the Act.

18. The Issuer is of the view that it will be able to purchase the Subject Shares at a lower price than the price at which it would be able to purchase the Common Shares under the Normal Course Issuer Bid through the facilities of the TSX and the Issuer is of the view that this is a responsible use of the Issuer's funds on hand.

19. The purchase of the Subject Shares will not adversely affect the Issuer or the rights of any of the Issuer's securityholders and it will not materially affect the control of the Issuer. To the knowledge of the Issuer, the Proposed Purchases will not prejudice the ability of other shareholders of the Issuer to otherwise sell Common Shares in the open market at the prevailing market price. The Proposed Purchases will be carried out with a minimum of cost to the Issuer.

20. To the best of the Issuer's knowledge, as of March 31, 2013, the "public float" for the Common Shares represented approximately 65% of all issued and outstanding Common Shares for purposes of the TSX NCIB Rules.

21. The market for the Common Shares is a "liquid market" within the meaning of section 1.2 of Multilateral Instrument 61-101 *Protection of Minority Security Holders in Special Transactions*.

22. Other than the Purchase Price, no fee or other consideration will be paid in connection with the Proposed Purchases.

23. At the time that each Agreement is entered into by the Issuer and the Selling Shareholder, neither the Issuer, nor the Selling Shareholder will be aware of any "material change" or "material fact" (each as defined in the Act) in respect of the Issuer that has not been generally disclosed.

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

IT IS ORDERED pursuant to clause 104(2)(c) of the Act that the Issuer be exempt from the Issuer Bid Requirements in connection with each Proposed Purchase, provided that:

(a) the Proposed Purchases will be taken into account by the Issuer when calculating the maximum annual aggregate limit that is imposed upon the Normal Course Issuer Bid in accordance with the TSX NCIB Rules;

(b) the Issuer will refrain from conducting a Block Purchase in accordance with the TSX NCIB Rules during the calendar week that it completes each Proposed Purchase and may not make any further purchases under the Normal Course Issuer Bid for the remainder of that calendar day on which it completes each Proposed Purchase;

(c) the Purchase Price is not higher than the last "independent trade" (as that term is used in paragraph 629(l)1 of the TSX NCIB Rules) of a board lot of Common Shares immediately prior to the execution of each Proposed Purchase;

(d) the Issuer will otherwise acquire any additional Common Shares pursuant to the Normal Course Issuer Bid in accordance with the Notice, as amended, and the TSX NCIB Rules, as applicable;

(e) immediately following each Proposed Purchase of the Subject Shares from the Selling Shareholder, the Issuer will report the purchase of the Subject Shares to the TSX;

(f) at the time that each Agreement is entered into by the Issuer and the Selling Shareholder, neither the Issuer, nor the Selling Shareholder will be aware of any "material change" or "material fact" (each as defined in the Act) in respect of the Issuer that has not been generally disclosed;

(g) the Issuer will issue a press release disclosing (i) its intention to make the Proposed Purchases in advance of the first Proposed Purchase, and (ii) that information regarding each Proposed Purchase, including the number of common shares purchased and the aggregate purchase price, will be available on SEDAR following completion of each proposed purchase;

(h) the Issuer will report information regarding each Proposed Purchase, including the number of common shares purchased and aggregate purchase price, on SEDAR before 5:00 p.m. (Toronto time) on the business day following such purchase; and

(i) the Issuer does not purchase, pursuant to Off-Exchange Block Purchases, more than one-third of the maximum number of Common Shares the Issuer can purchase under the Normal Course Issuer Bid.

DATED at Toronto this 4th day of June, 2013.

"Christopher Portner"
Commissioner

"Sarah B. Kavanagh"
Commissioner

2.2.3 Global Consulting and Financial Services et al. – ss. 127(1), (8) and Rules 1.4, 1.5.3(3) of the Rules of Procedure

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

AND

**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**

**TEMPORARY ORDER
(Subsections 127(1) and (8) of the Securities Act and Rules 1.4 and 1.5.3(3) of the Rules of Procedure
(2012), 35 O.S.C.B. 10071)**

WHEREAS on November 4, 2010, the Ontario Securities Commission (the "Commission") issued a temporary cease trade 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 that Global Consulting and Financial Services ("Global"), Crown Capital Management Corporation ("Crown"), Canadian Private Audit Service ("CPAS"), Executive Asset Management ("EAM"), Jan Chomica, Michael Chomica, Peter Kuti ("Kuti"), and Lorne Banks ("Banks") (collectively, the "Respondents") cease trading in all securities (the "Temporary Order");

AND WHEREAS on November 4, 2010, the Commission ordered pursuant to clause 3 of subsection 127(1) of the Act, that any exemptions contained in Ontario securities law do not apply to the Respondents;

AND WHEREAS on November 4, 2010, the Commission ordered that the Temporary Order shall expire on the fifteenth day after its making unless extended by order of the Commission;

AND WHEREAS on November 9, 2010, the Commission issued a direction under subsection 126(1) of the Act freezing assets in a bank account in the name of Crown (the "Freeze Direction");

AND WHEREAS on November 4, 2010, the Commission issued a Notice of Hearing to consider, among other things, the extension of the Temporary Order, to be held on November 17, 2010 at 3:00 p.m. (the "Notice of Hearing");

AND WHEREAS the Notice of Hearing set out that the hearing was to consider, *inter alia*, whether, in the opinion of the Commission, it was in the public interest, pursuant to subsections 127(7) and (8) of the Act, to extend the Temporary Order until the conclusion of the hearing, or until such further time as considered necessary by the Commission;

AND WHEREAS Staff of the Commission ("Staff") served the Respondents with copies of the Temporary Order and the Notice of Hearing, and served Crown with the Freeze Direction as evidenced by the Affidavit of Charlene Rochman, sworn on November 17, 2010, and filed with the Commission;

AND WHEREAS on November 17, 2010, Staff and counsel for Banks appeared before the Commission, and whereas Global, Crown, CPAS, EAM and Kuti did not appear before the Commission to oppose Staff's request for the extension of the Temporary Order;

AND WHEREAS Staff had received a Direction from Jan Chomica dated November 11, 2010, in which she consented to extending the Temporary Order for at least two months;

AND WHEREAS counsel for Michael Chomica did not attend the hearing but had advised Staff that Michael Chomica consented to (or did not oppose) an extension of the Temporary Order for at least two months;

AND WHEREAS on November 17, 2010, counsel for Banks advised the Commission that Banks consented to an extension of the Temporary Order;

AND WHEREAS the Commission considered the evidence and submissions before it and, pursuant to subsection 127(8) of the Act, ordered that the Temporary Order be extended to January 27, 2011;

AND WHEREAS the Commission further ordered that the hearing in this matter be adjourned to January 26, 2011 at 11:00 a.m., and that the parties make efforts to advise the Commission by January 3, 2011 whether they were in agreement that the hearing set for January 26, 2011 be held in writing;

AND WHEREAS by Notice of Motion dated December 16, 2010 (the "Notice of Motion"), Staff sought to amend the Temporary Order to include Peter Siklos ("Siklos") as the person using the alias "Peter Kuti", thereby making Siklos subject to the Temporary Order, and to abridge, under Rule 1.6(2) of the Commission's *Rules of Procedure* (2010), 33 O.S.C.B. 8017 (the "Rules"), the notice requirements for the filing and service of motion materials under Rule 3.2 of the Rules and the requirement for a Memorandum of Fact and Law under Rule 3.6 of the Rules (the "Motion");

AND WHEREAS in support of the Motion, Staff filed the Affidavit of Wayne Vanderlaan ("Vanderlaan"), sworn December 15, 2010 (the "Vanderlaan Affidavit"), in which Vanderlaan stated that there is a real Peter Kuti who, based on the information currently available to Staff, is not the "Peter Kuti" who is an alias for Siklos;

AND WHEREAS the Motion was heard on Monday, December 20, 2010 at 10:00 a.m. before a panel of the Commission (the "Motion Hearing");

AND WHEREAS the Commission, after considering the Affidavit of Service of Charlene Rochman sworn December 17, 2010, was satisfied that Staff had served the Notice of Motion, the December 16, 2010 covering letter from Carlo Rossi, Litigation Counsel with Staff, and the Vanderlaan Affidavit on the Respondents;

AND WHEREAS counsel for Banks advised Staff that he would not be attending on the Motion and that Banks took no position with respect to it;

AND WHEREAS on December 20, 2010, Staff and counsel for Siklos attended before the Commission, and counsel for Siklos advised that Siklos consented to the Motion;

AND WHEREAS the Commission considered the Notice of Motion and the Vanderlaan Affidavit and the submissions made by Staff and counsel for Siklos at the Motion Hearing;

AND WHEREAS the Commission ordered that:

1. Pursuant to clause 2 of subsection 127(1) of the Act, Peter Siklos (also known as Peter Kuti) shall cease trading in all securities;

2. Pursuant to clause 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to Peter Siklos (also known as Peter Kuti);

3. The title of the proceeding shall be amended accordingly;

4. For clarity, the Temporary Order as Amended (the "Amended Temporary Order") be extended to January 27, 2011; and

5. For clarity, the hearing to consider the extension of the Amended Temporary Order be held on January 26, 2011 at 11:00 a.m. and the parties shall make efforts to advise the Commission by January 3, 2011 whether they are in agreement that the hearing scheduled for January 26, 2011 be held in writing;

AND WHEREAS by way of letter dated January 25, 2011, Staff advised the Commission that it had obtained the consent of Michael Chomica, Jan Chomica, Siklos and Banks (collectively, the "Individual Respondents"), Crown and Global to extend the Amended Temporary Order;

AND WHEREAS Staff provided the Commission with the Affidavit of Charlene Rochman sworn January 24, 2011, outlining service of the Amended Temporary Order on the Respondents and the consent of the Individual Respondents, Crown and Global to the extension of the Amended Temporary Order;

AND WHEREAS the Commission ordered that the Amended Temporary Order be extended to March 9, 2011 and that the hearing be adjourned to March 8, 2011 at 10:00 a.m.;

AND WHEREAS on March 8, 2011, Staff attended before the Commission and no one attended on behalf of the Respondents;

AND WHEREAS the Commission was satisfied that Staff had undertaken reasonable efforts to serve the Respondents with notice of the hearing;

AND WHEREAS on March 8, 2011, Staff advised the Commission that Staff had been in contact with Jan Chomica and counsel representing Michael Chomica, Banks and Siklos and that Jan Chomica, Michael Chomica, Banks and Siklos were not opposing the extension of the Amended Temporary Order;

AND WHEREAS the Commission ordered that the Amended Temporary Order be extended to May 17, 2011 and that the hearing be adjourned to May 16, 2011 at 10:00 a.m.;

AND WHEREAS on May 16, 2011, Staff appeared before the Commission and no one appeared on behalf of any of the Respondents;

AND WHEREAS on May 16, 2011, Staff advised the Commission that Staff had been in contact with counsel representing Michael Chomica, Banks and Siklos and that the Individual Respondents were not opposing the extension of the Amended Temporary Order;

AND WHEREAS Staff further advised that Jan Chomica had provided her consent to the extension of the Amended Temporary Order by way of writing;

AND WHEREAS Staff provided the Commission with the Affidavit of Charlene Rochman sworn May 13, 2011 outlining Staff's efforts to serve the Respondents and the consent of the Individual Respondents, Crown and Global to the extension of the Amended Temporary Order;

AND WHEREAS the Commission ordered that the Amended Temporary Order be extended to July 18, 2011 and the hearing be adjourned to July 15, 2011 at 11:00 a.m.;

AND WHEREAS on July 15, 2011, Staff appeared before the Commission and no one appeared on behalf of any of the Respondents;

AND WHEREAS on July 15, 2011, Staff advised the Commission that Staff had been in contact with counsel

representing Michael Chomica and Banks and that Michael Chomica consented to an extension of the Amended Temporary Order for 90 days and Banks was not opposing the extension;

AND WHEREAS Staff further advised that Jan Chomica had provided her consent to the extension of the Amended Temporary Order by way of writing;

AND WHEREAS Staff provided the Commission with the Affidavit of Charlene Rochman sworn July 13, 2011 outlining service on the Respondents;

AND WHEREAS the Commission ordered that the Amended Temporary Order be extended to October 12, 2011 and the hearing be adjourned to October 11, 2011 at 2:30 p.m.;

AND WHEREAS on October 11, 2011, Staff appeared before the Commission to request that the Amended Temporary Order be extended for an additional 90 days;

AND WHEREAS no one appeared on behalf of any of the Respondents;

AND WHEREAS Staff advised the Commission that Staff had been in contact with counsel representing Siklos and Banks and that Siklos consented to an extension of the Amended Temporary Order for 90 days and Banks was not opposing the extension;

AND WHEREAS Staff provided the Commission with the Affidavit of Charlene Rochman sworn October 7, 2011 outlining service on the Respondents;

AND WHEREAS the Commission ordered that the Amended Temporary Order be extended to January 12, 2012 and the hearing be adjourned to January 11, 2012 at 10:00 a.m.;

AND WHEREAS on January 11, 2012, Staff appeared before the Commission to request that the Amended Temporary Order be extended for an additional 90 days;

AND WHEREAS no one appeared on behalf of any of the Respondents other than counsel for Siklos;

AND WHEREAS Michael Chomica and Jan Chomica advised Staff in writing that they consented to an extension of the Amended Temporary Order for 90 days;

AND WHEREAS counsel for Banks advised Staff that Banks did not oppose a further extension of the Amended Temporary Order for 90 days;

AND WHEREAS counsel for Siklos advised the Commission that he consented to an extension of the Amended Temporary Order for 90 days;

AND WHEREAS Staff provided the Commission with the Affidavit of Charlene Rochman affirmed January 10, 2012 outlining Staff's efforts to serve the Respondents;

AND WHEREAS on January 11, 2012, the Commission ordered that the Amended Temporary Order be extended to April 12, 2012 and the hearing be adjourned to April 11, 2012 at 10:00 a.m.;

AND WHEREAS on April 11, 2012, Staff appeared before the Commission to request that the Amended Temporary Order be extended and no one appeared on behalf of any of the Respondents;

AND WHEREAS Staff provided the Commission with the Affidavit of Peaches Barnaby sworn April 11, 2012 outlining Staff's efforts to serve the Respondents;

AND WHEREAS on April 11, 2012, the Commission ordered that the Amended Temporary Order be extended to June 12, 2012 and the hearing be adjourned to June 11, 2012 at 9:00 a.m.;

AND WHEREAS on June 11, 2012, Staff appeared before the Commission to request that the Amended Temporary Order be extended and no one appeared on behalf of any of the Respondents;

AND WHEREAS Staff provided the Commission with the Affidavit of Peaches Barnaby sworn June 5, 2012 outlining Staff's efforts to serve the Respondents;

AND WHEREAS quasi-criminal proceedings were commenced in the Ontario Court of Justice pursuant to section 122(1)(c) of the Act against, *inter alia*, Michael Chomica, Jan Chomica and Siklos (the "Section 122 Proceedings");

AND WHEREAS on June 11, 2012, Staff advised the Commission that counsel for Banks consented to a further extension of the Amended Temporary Order for six months;

AND WHEREAS on June 11, 2012, the Commission ordered that the Amended Temporary Order be extended to December 5, 2012 and the hearing be adjourned to December 4, 2012 at 3:30 p.m.;

AND WHEREAS by way of letter dated November 30, 2012, Staff advised the Commission that a judicial pre-trial conference was scheduled for December 17, 2012 in connection with the Section 122 Proceedings and that the Individual Respondents consented to an extension of the Amended Temporary Order to the middle of January 2013;

AND WHEREAS Staff provided the Commission with the Affidavit of Nancy Poyhonen sworn November 30, 2012, outlining Staff's attempts to serve the Amended Temporary Order on the Respondents and the consent of the Individual Respondents to the extension of the Amended Temporary Order;

AND WHEREAS on December 3, 2012, the Commission ordered that the Amended Temporary Order be extended to January 18, 2013 and the hearing be adjourned to January 17, 2013 at 9:00 a.m.;

AND WHEREAS on January 17, 2013, Staff appeared before the Commission to request that the Amended Temporary Order be extended and no one appeared on behalf of any of the Respondents;

AND WHEREAS Staff provided the Commission with the Affidavit of Peaches Barnaby sworn January 15, 2013 outlining Staff's service of the Amended Temporary Order on the Individual Respondents, Global and Crown, and Staff's efforts to serve CPAS and EAM;

AND WHEREAS Staff advised the Commission that further dates had been scheduled in connection with the Section 122 Proceedings, including a set date appearance on February 14, 2013 and a continuing judicial pre-trial conference on February 28, 2013;

AND WHEREAS Staff requested that the Amended Temporary Order be extended to a date following the judicial pre-trial conference on February 28, 2013;

AND WHEREAS on January 17, 2013, the Commission ordered that the Amended Temporary Order be extended to March 8, 2013 and the hearing be adjourned to March 7, 2013 at 11:00 a.m.;

AND WHEREAS on March 7, 2013, Staff appeared before the Commission to request that the Amended Temporary Order be extended;

AND WHEREAS no one appeared on behalf of any of the Respondents;

AND WHEREAS Staff provided the Commission with the Affidavit of Peaches Barnaby sworn March 6, 2013 outlining Staff's service of the Amended Temporary Order on the Individual Respondents, Global and Crown, and Staff's efforts to serve CPAS and EAM;

AND WHEREAS Staff advised the Commission that, on February 14, 2013, Michael Chomica pleaded guilty to three counts of fraud contrary to sections 122 and 126.1(b) of the Act and that further dates had been scheduled in connection with the Section 122 Proceedings, including a sentencing hearing for Michael Chomica on March 14, 2013;

AND WHEREAS Staff provided the Commission with a letter from counsel to Banks indicating that Banks consented to a further extension of the Amended Temporary Order;

AND WHEREAS Staff requested that the Amended Temporary Order be extended;

AND WHEREAS the Commission ordered that the Amended Temporary Order be extended to April 26, 2013 and the hearing be adjourned to April 25, 2013 at 10:00 a.m.;

AND WHEREAS on April 25, 2013, Staff appeared before the Commission to request that the Amended Temporary Order be extended;

AND WHEREAS no one appeared on behalf of any of the Respondents;

AND WHEREAS Staff provided the Commission with the Affidavit of Peaches Barnaby sworn March 11, 2013 outlining Staff's service of the Amended Temporary Order on the Individual Respondents, Global and Crown, and Staff's efforts to serve CPAS and EAM;

AND WHEREAS Staff advised the Commission that: (i) Michael Chomica was sentenced to a period of incarceration in connection with the Section 122 Proceedings on March 14, 2013; (ii) Staff withdrew the allegations against Jan Chomica in connection with the Section 122 Proceedings; (iii) an appearance was scheduled for May 16, 2013 before the Ontario Court of Justice in connection with the Section 122 Proceedings against Siklos; and (iv) Staff had initiated administrative proceedings pursuant to section 127 of the Act against, inter alia, Global, Crown, Michael Chomica, Jan Chomica and Banks and the next appearance was scheduled for May 22, 2013 (the "Section 127 Proceedings");

AND WHEREAS Staff requested that the Amended Temporary Order be extended;

AND WHEREAS the Commission ordered that the Amended Temporary Order be extended to June 6, 2013 and the hearing be adjourned to June 5, 2013 at 9:00 a.m.;

AND WHEREAS by a letter from Staff to the Secretary of the Commission dated June 3, 2013 (the "June 3 Letter") accompanied by the Affidavit of Nancy Poyhonen sworn on June 3, 2013 (the "June 3 Affidavit"), Staff requested that the hearing scheduled for June 5, 2013 proceed in writing and that the Commission make certain orders in connection with the Amended Temporary Order;

AND WHEREAS the June 3 Affidavit outlines service of the Commission's April 25, 2013 Order on the Individual Respondents and on Global and Staff's attempts to effect service on Crown;

AND WHEREAS it has become evident that service on Crown is not possible;

AND WHEREAS the June 3 Affidavit includes Staff's recent correspondence with Siklos, counsel to Banks and counsel to Jan Chomica and Global, informing these respondents of Staff's intention to request an order of the Commission to extend the Amended Temporary Order for approximately six months and to request that the hearing scheduled for June 5, 2013 proceed in writing;

AND WHEREAS trial dates have been scheduled in connection with the Section 122 Proceedings against

Siklos for January 2014 and the next appearance in connection with the Section 122 Proceedings is scheduled for October 4, 2013 to confirm the trial dates;

AND WHEREAS a pre-hearing conference is currently scheduled for June 24, 2013 in connection with the Section 127 Proceedings;

AND WHEREAS in the June 3 Letter, Staff requests that:

1. The oral hearing scheduled for June 5, 2013 proceed in writing and that the date for the oral hearing be vacated;

2. The Amended Temporary Order against Global, Crown, Michael Chomica, Jan Chomica and Banks be extended to June 26, 2013 and that the hearing in respect of these respondents be adjourned to June 24, 2013 at 10:00 a.m. so that it may be addressed at the pre-hearing conference in connection with the Section 127 Proceedings; and

3. The Amended Temporary Order against Siklos be extended to a date following his next appearance before the Ontario Court of Justice in connection with the Section 122 Proceedings on October 4, 2013, and that the hearing in respect of Siklos be adjourned to a date following October 4, 2013 that is at least two days prior to the date on which the Amended Temporary Order expires;

AND WHEREAS Siklos consents to the extension of the Amended Temporary Order as outlined above;

AND WHEREAS in the June 3 Letter, Staff indicated that it is not seeking to extend the Amended Temporary Order against either CPAS or EAM;

AND WHEREAS the Commission considered the June 3 Letter and the June 3 Affidavit and the Commission is of the opinion that is in the public interest to make this Order;

IT IS ORDERED that:

1. The oral hearing scheduled for June 5, 2013 proceed in writing and the hearing date scheduled for June 5, 2013 is vacated;

2. The Amended Temporary Order against Global, Crown, Michael Chomica, Jan Chomica and Banks is extended to June 26, 2013 and the hearing in respect of these respondents is adjourned to June 24, 2013 at 10:30 a.m.;

3. The Amended Temporary Order against Siklos is extended to October 11, 2013 and the hearing in respect of Siklos is adjourned to October 9, 2013 at 10:00 a.m.; and

4. Pursuant to Rule 1.4 and Rule 1.5.3(3) of the Rules, future service on Crown is waived.

DATED at Toronto this 5th day of June, 2013.

"Christopher Portner"

2.2.4 Boyuan Construction Group, Inc.

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

AND

IN THE MATTER OF
BOYUAN CONSTRUCTION GROUP, INC.

ORDER

WHEREAS on May 30, 2013, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing pursuant to subsection 127(1) and section 127.1 of the *Securities Act,* R.S.O. 1990, c. S. 5, as amended (the "Act") in relation to Boyuan Construction Group, Inc. (the "Respondent");

AND WHEREAS the Respondent and Staff of the Commission ("Staff") entered into a settlement agreement dated May 30, 2013 (the "Settlement Agreement") in which they agreed to a settlement of the proceeding commenced by the Notice of Hearing, dated May 30, 2013, subject to the approval of the Commission;

AND UPON reviewing the Settlement Agreement, the Notice of Hearing and the Statement of Allegations, and upon hearing submissions from counsel for Staff and the Respondent;

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

IT IS HEREBY ORDERED that:

1. The Settlement Agreement is approved;

2. The Respondent shall be required to retain Control Solutions International, Inc. or such other consultant that is not unacceptable to Staff (the "Consultant"), at the Respondent's expense, in order to conduct a comprehensive eexamination and review of its internal controls over financial reporting, policies and procedures, training, ethics and compliance with financial and other reporting requirements of Ontario securities law, as set out in the Terms of Reference for the Consultant, attached hereto. The Consultant shall be required to provide reports to the Respondent's board of directors, its audit committee and Staff, and the Respondent shall be required to implement such changes;

3. The Respondent shall, contemporaneously with the signing of this Order, voluntarily pay to the Commission the sum of $200,000, to be designated for allocation to or for the benefit of third parties or for use by the Commission for the purpose of educating investors or promoting or otherwise enhancing knowledge and information of persons regarding the operation of the securities and financial markets, in accordance with subsection 3.4(2)(b) of the Act; and

4. The Respondent shall, contemporaneously with the signing of this Order, pay Staff's investigation costs in the amount of $100,000.

DATED at Toronto this 4th day of June, 2013.

"James D. Carnwath"

TERMS OF REFERENCE FOR THE CONSULTANT

Respondent agrees to comply with the following undertakings:

A. Retention of a Consultant

i. Boyuan shall retain, pay for, and enter into an agreement with an independent consultant ("Consultant"), not unacceptable to Staff, to conduct a comprehensive examination and review of the areas specified below and to make recommendations to Boyuan's board of directors and Staff. The Consultant's compensation and expenses shall be borne exclusively by Boyuan, and shall not be deducted from any amount due under the provisions of the Order at Schedule “A” of the Settlement Agreement (the “Order”).

ii. The agreement with the Consultant ("Agreement") shall provide that the Consultant examine:

a. The policies, procedures and effectiveness of Boyuan's internal accounting controls and its internal controls over financial reporting and disclosure, including, but not limited to, related party transactions and cash receipts and disbursements;

b. The policies, procedures, and effectiveness of Boyuan's regulatory and compliance functions, including the operations of any committees or other mechanisms established to review and approve transactions or for the purpose of preventing the recording of transactions or financial reporting results in a manner that is not in compliance with International Financial Reporting Standards (“IFRS”);

c. Boyuan's training of its accounting staff concerning financial reporting and IFRS and compliance with the financial and other reporting requirements of Ontario securities law;

d. Boyuan's ethics and compliance policies, including the adequacy and effectiveness of any whistleblower procedures designed to allow employees and others to report confidentially matters that may bear on Boyuan's financial reporting obligations;

e. Boyuan's records management and retention policies and procedures, including without limitation such procedures with respect to e-mail and other electronically stored information;

f. The functioning of Boyuan's audit committee, including the audit committee's policies and procedures and the methods for the selection of its members; and

g. Boyuan's policies and procedures concerning its communications with its outside auditors.

B. Consultant's Reporting Obligations

i. The Consultant shall issue a report to Boyuan’s board of directors, its audit committee, and to Staff in English within three months of appointment, provided however, that the Consultant may seek to extend the period of review for one additional three-month term by requesting such an extension from Staff. After consultation with Boyuan, Staff shall have discretion to grant such extension for the period requested if deemed reasonable and warranted.

ii. The Consultant's report shall address the Consultant's review of the areas specified in paragraph A.ii above and shall include a description of the review performed, the conclusions reached, the Consultant's recommendations for any changes or improvements to Boyuan's policies and procedures for a company of its size and industry, as the Consultant reasonably deems necessary to conform to the law and best practices, and a procedure for implementing the recommended changes or improvements.

iii. Boyuan shall adopt all recommendations contained in the Consultant's report, provided, however, that within forty-five days of its receipt of the report, Boyuan shall in writing advise the Consultant and Staff of any recommendation that it considers to be unnecessary or inappropriate. With respect to any recommendation that Boyuan considers unnecessary or inappropriate, Boyuan need not adopt that recommendation at that time but shall propose in writing to the Consultant an alternative policy, procedure, or system designed to achieve the same objective or purpose, for consideration by the Consultant.

iv. As to any recommendations of the Consultant with respect to which Boyuan and the Consultant do not agree, including any recommendations that Boyuan considers unnecessary or inappropriate, such parties shall attempt in good faith to reach an agreement within ninety days of the issuance of the Consultant's report. In the event Boyuan and the Consultant are unable to agree on an alternative proposal, Boyuan shall abide by the determinations of the Consultant, or apply to the Commission to resolve the disagreement.

v. Boyuan shall retain the Consultant for a period of twelve months from the date of appointment in accordance with paragraph C below. After the Consultant's recommendations become final pursuant to paragraph B above, the Consultant shall oversee the implementation of such recommendations and provide a report to Boyuan's board of directors, its audit committee, and to Staff twelve months after appointment concerning the progress of the implementation. If, at the conclusion of this twelve-month period, less than all the recommendations of the consultant (to the extent deemed significant by Staff) have been substantially implemented for at least two successive fiscal quarters, Staff may, in its discretion, direct Boyuan to extend the Consultant's term of appointment until such time as all recommendations (to the extent deemed significant by Staff) have been substantially implemented for at least two successive fiscal quarters.

vi. In addition to the reports identified above, the Consultant shall provide Boyuan's board of directors, its audit committee, and Staff with such documents or other information concerning the areas specified in paragraph A.ii above as any of them may request during the pendency or at the conclusion of the review.

C. Terms of Consultant's Retention

i. Within forty-five days after the date of entry of the Order, Boyuan will submit to Staff a proposal setting forth the identity, qualifications, and proposed terms of retention of the Consultant. Staff, within thirty days of such notice, will either (a) deem Boyuan's choice of Consultant and proposed terms of retention not unacceptable or (b) require Boyuan to propose an alternative Consultant and/or revised proposed terms of retention within fifteen days. This process will continue, as necessary, until the proposed Consultant and retention terms are not unacceptable to Staff.

ii. The Consultant shall have reasonable access to all of Boyuan's books and records and the ability to meet privately with Boyuan's personnel and auditors. Boyuan shall instruct and otherwise encourage its officers, directors, and employees to cooperate fully with the review conducted by the Consultant, and inform its officers, directors, and employees that failure to cooperate with the review may be grounds for dismissal, other disciplinary actions, or other appropriate actions.

iii. The Consultant shall have the right, as reasonable and necessary in his or her judgment, to retain, at Boyuan's expense, legal counsel, accountants, and other persons or firms, other than officers, directors, or employees of Boyuan, to assist in the discharge of the Consultant's obligations. Boyuan shall pay all reasonable fees and expenses (as reasonably documented) of any persons or firms retained by the Consultant.

iv. The Consultant shall make and keep notes of interviews conducted, and keep a copy of documents gathered, in connection with the performance of his or her responsibilities, and require all persons and firms retained to assist the Consultant to do so as well.

iv. If the Consultant determines that he or she has a conflict with respect to one or more of the areas described in paragraph A.ii above, he or she shall delegate his or her responsibilities with respect to that subject to a person who is chosen by the Consultant and who is not unacceptable to Staff.

vi. For the period of engagement and for a period of two years from completion of the engagement, the Consultant shall not enter into any employment, consultant, solicitor-client, auditing, or other professional relationship with Boyuan, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such, and shall require that any firm with which the Consultant is affiliated or of which the Consultant is a member, or any person engaged to assist the Consultant in performance of the Consultant's duties under the Order, not, without prior written consent of Staff, enter into any employment, consultant, solicitor-client, auditing, or other professional relationship with Boyuan, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such for the period of the engagement and for a period of two years after the engagement.

2.2.5 Issam El-Bouji 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
ISSAM EL-BOUJI, GLOBAL RESP CORPORATION,
GLOBAL GROWTH ASSETS INC.,
GLOBAL EDUCATIONAL TRUST FOUNDATION AND
MARGARET SINGH

ORDER
(Section 127)

WHEREAS on January 10, 2013, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing (the "Notice of Hearing") pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c S.5, as amended (the "Act"), accompanied by a Statement of Allegations dated January 10, 2013 filed by Staff of the Commission ("Staff") against Issam El-Bouji, Global RESP Corporation, Global Growth Assets Inc., Global Educational Trust Foundation and Margaret Singh (collectively, the "Respondents");

AND WHEREAS on January 28, 2013, the Commission ordered that the hearing be adjourned to February 27, 2013;

AND WHEREAS on February 27, 2013, the Commission ordered that the matter be adjourned to a confidential pre-hearing conference to be held on June 19, 2013 at 10:00 a.m. and that June 5, 2013 at 10:00 a.m. be reserved for a potential disclosure motion to be brought by the Respondents;

AND WHEREAS on May 22, 2013, the Commission ordered that the matter be adjourned to a confidential pre-hearing conference to be held on July 5, 2013 and that June 19, 2013 be reserved for a potential disclosure motion to be brought by the Respondents;

AND WHEREAS the parties consent to vacating the June 19, 2013 date that was reserved for a potential disclosure motion to be brought by the Respondents;

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

IT IS HEREBY ORDERED that the date set for June 19, 2013 for a potential disclosure motion to be brought by the Respondents be vacated.

DATED at Toronto this 6th day of June, 2013.

"James E. A. Turner"

2.2.6 Garth H. Drabinsky – 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
GARTH H. DRABINSKY
MYRON I. GOTTLIEB
GORDON ECKSTEIN

ORDER
(Sections 127 and 127.1)

WHEREAS on February 20, 2013, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing in relation to a Statement of Allegations issued by Staff of the Commission ("Staff") regarding Garth H. Drabinsky, Myron I. Gottlieb and Gordon Eckstein (collectively, the "Respondents");

AND WHEREAS the Notice of Hearing stated that an initial hearing before the Commission would be held on March 19, 2013;

AND WHEREAS on March 19, 2013, the Commission convened a hearing and ordered that the matter be adjourned to a confidential pre-hearing conference on May 23, 2013;

AND WHEREAS on May 23, 2013, a confidential pre-hearing conference was held, at which Staff and counsel for each of the Respondents attended;

AND WHEREAS counsel for Drabinsky requested that a motion be scheduled respecting certain portions of Staff's Statement of Allegations (the "Motion");

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

IT IS HEREBY ORDERED that Drabinsky's motion shall be heard on July 10, 2013 at 10:00 a.m.

DATED at Toronto this 6th day of June, 2013.

"James E. A. Turner"

2.2.7 New Hudson Television LLC and James Dmitry Salganov – s. 127

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

AND

IN THE MATTER OF
NEW HUDSON TELEVISION LLC &
JAMES DMITRY SALGANOV

ORDER
(Section 127 of the Securities Act)

WHEREAS on June 8, 2011, the Ontario Securities Commission (the "Commission") issued a temporary cease trade 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: that all trading in New Hudson Television Corporation ("NHTV Corp.") securities and New Hudson Television L.L.C. ("NHTV LLC") securities shall cease; that NHTV Corp. and NHTV LLC and their representatives cease trading in all securities; and that any exemptions contained in Ontario securities law do not apply to NHTV Corp. and NHTV LLC (the "Temporary Order");

AND WHEREAS on June 22, 2011 it was ordered that:

(i) the Temporary Order was amended to provide that pursuant to clause 2 of subsection 127(1) of the Act, James Dmitry Salganov shall cease trading in securities of NHTV Corp. and NHTV LLC;

(ii) pursuant to subsection 127(8) of the Act, the Temporary Order as amended by (i), above (the "Amended Temporary Order") was extended to December 20, 2011; and,

(iii) the hearing to consider any further extension of the Amended Temporary Order would be held on December 19, 2011 at 9:00 a.m.

AND WHEREAS the Amended Temporary Order was further extended by orders dated December 19, 2011 and June 22, 2012;

AND WHEREAS on October 9, 2012, the Commission issued a Notice of Hearing (the "Notice of Hearing") pursuant to sections 127 and 127.1 of the Act, accompanied by a Statement of Allegations dated October 9, 2012 (the "Statement of Allegations"), issued by Staff of the Commission ("Staff") with respect to NHTV LLC and Dmitry James Salganov, hereafter known as James Dmitry Salganov ("Salganov") (collectively, the "Respondents");

AND WHEREAS the Notice of Hearing stated that a hearing would be held at the offices of the Commission on October 19, 2012;

AND WHEREAS on October 19, 2012, Staff confirmed the Commission had received the affidavit of Peaches A. Barnaby sworn October 17, 2012, which indicated that the Notice of Hearing and Statement of Allegations were served on all the Respondents;

AND WHEREAS on October 19, 2012, Staff appeared and Salganov participated via telephone conference and made submissions, and Staff requested that the matter be adjourned until December 20, 2012, for a status hearing;

AND WHEREAS on December 20, 2012, Staff appeared and Salganov appeared on his own behalf and on behalf of NHTV LLC and made submissions, and all parties requested that the status hearing be continued on March 5, 2013 at 10:00 a.m.;

AND WHEREAS on March 5, 2013, Staff appeared and Salganov appeared on his own behalf and on behalf of NHTV LLC and made submissions, and all parties requested that the status hearing be continued on April 9, 2013 at 3:00 p.m.;

AND WHEREAS on April 9, 2013, Staff appeared and Salganov appeared on his own behalf and on behalf of NHTV LLC and made submissions, and all parties requested that the status hearing be continued on June 6, 2013 at 10:00 a.m.;

AND WHEREAS on June 6, 2013, Staff appeared and Salganov appeared on his own behalf and on behalf of NHTV Corp. and NHTV LLC and made submissions;

IT IS HEREBY ORDERED that this proceeding be adjourned to a date and time agreed to by the parties and as set by the Office of the Secretary.

Dated at Toronto this 6th day of June, 2013.

"Alan J. Lenczner"

2.2.8 Ground Wealth Inc. et al. – ss. 127(1), (7), (8)

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

AND

**IN THE MATTER OF
GROUND WEALTH INC., MICHELLE DUNK,
ADRION SMITH, JOEL WEBSTER,
DOUGLAS DeBOER, ARMADILLO ENERGY INC.,
ARMADILLO ENERGY, INC. AND
ARMADILLO ENERGY LLC**

**ORDER
(Subsections 127(1), (7) and (8) of the Securities Act)**

WHEREAS the Ontario Securities Commission (the "Commission") issued a temporary order on July 27, 2011 (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") that:

1. Pursuant to paragraph 2 of subsection 127(1) of the Act, all trading in the securities of Armadillo Energy Inc. ("the Armadillo Securities") shall cease;

2. Pursuant to paragraph 2 of subsection 127(1) of the Act, Armadillo Energy Inc. ("Armadillo Texas"), Ground Wealth Inc. ("GWI"), Paul Schuett ("Schuett"), Doug DeBoer ("DeBoer"), James Linde ("Linde"), Susan Lawson ("Lawson"), Michelle Dunk ("Dunk"), Adrion Smith ("Smith"), Bianca Soto ("Soto") and Terry Reichert ("Reichert") (collectively, the "Respondents to the Temporary Order") shall cease trading in all securities; and

3. Pursuant to subsection 127(6) of the Act, the Temporary Order shall take effect immediately and shall expire on the fifteenth day after its making unless extended by order of the Commission;

AND WHEREAS on August 11, 2011, the Commission held a hearing to consider whether it was in the public interest to extend the Temporary Order, and heard submissions from Staff of the Commission ("Staff") and counsel to the Respondents to the Temporary Order;

AND WHEREAS on August 11, 2011, the Commission extended the Temporary Order to February 13, 2012 (the "Amended Temporary Order") on the same terms and conditions as provided for in the Temporary Order; provided that the Temporary Order shall not prevent a Respondent from trading for the Respondent's own account, solely through a registered dealer or a registered dealer in a foreign jurisdiction (which dealer must be given a copy of the Amended Temporary Order), in (a) any "exchange traded security" or "foreign exchange traded security" within the meaning of National Instrument 21-101, provided the Respondent does not own beneficially or exercise control or direction over more than 5 per cent of the voting or equity securities of the issuer of any such securities, or (b) any security issued by a mutual fund that is a reporting issuer; and provided the Respondent provides Staff with the particulars of the accounts in which such trading is to occur before any trading in such accounts occurs;

AND WHEREAS on February 8, 2012, the Commission held a hearing to consider whether it was in the public interest to extend the Amended Temporary Order pursuant to subsections 127(7) and 127(8) of the Act, and heard submissions from Staff and from counsel to the Respondents to the Temporary Order;

AND WHEREAS on February 8, 2012, the Commission extended the Amended Temporary Order to August 8, 2012 (the "February 2012 Temporary Order") on the following terms:

1. Pursuant to paragraph 2 of subsection 127(1) of the Act, all trading in the Armadillo Securities shall cease;

2. Pursuant to paragraph 2 of subsection 127(1) of the Act, the Respondents to the Temporary Order shall cease trading in Armadillo Securities and/or in securities of a nature similar to Armadillo Securities, which are securities evidencing an interest in the production of barrels of oil still in the ground; and

3. This Order shall not prevent Staff from applying to the Commission for a variation of this Order if Staff considers that doing so is in the public interest;

AND WHEREAS on August 2, 2012, the Commission held a hearing to consider whether it was in the public interest to extend the February 2012 Temporary Order pursuant to subsections 127(7) and 127(8) of the Act, and heard submissions from Staff and from counsel to the Respondents to the Temporary Order;

AND WHEREAS on August 2, 2012, the Commission extended the February 2012 Temporary Order until February 4, 2013, and ordered that the matter return before the Commission on February 1, 2013;

AND WHEREAS on February 1, 2013, the Commission held a hearing to consider whether it was in the public interest to further extend the February 2012 Temporary Order pursuant to subsections 127(7) and 127(8) of the Act;

AND WHEREAS on February 1, 2013, Staff appeared, made submissions and requested that the February 2012 Temporary Order be extended against GWI, Armadillo Texas, DeBoer, Dunk and Smith only;

AND WHEREAS on February 1, 2013 Staff advised that they would be initiating proceedings in this matter under section 127 of the Act shortly and would not be naming Schuett, Linde, Lawson, Soto or Reichert as respondents;

AND WHEREAS on February 1, 2013, counsel to the Respondents to the Temporary Order did not appear, but email correspondence setting out his position and advising that he did not oppose the extension of the February 2012 Temporary Order to March 6, 2013 was filed by Staff;

AND WHEREAS on February 1, 2013, the Commission extended the February 2012 Temporary Order to March 6, 2013, as against the respondents GWI, Armadillo Texas, DeBoer, Dunk and Smith and ordered that a further hearing be held before the Commission on March 5, 2013 (the "February 2013 Temporary Order");

AND WHEREAS on February 1, 2013, the Commission issued a Notice of Hearing (the "Notice of Hearing") pursuant to sections 127 and 127.1 of the Act, in relation to a Statement of Allegations filed by Staff on February 1, 2013 (the "Statement of Allegations") naming as respondents GWI, Armadillo Texas, DeBoer, Dunk and Smith, as well as Joel Webster ("Webster"), Armadillo Energy, Inc., a Nevada company ("Armadillo Nevada") and Armadillo Energy LLC, an Oklahoma company ("Armadillo Oklahoma");

AND WHEREAS on March 5, 2013, a hearing was held to consider whether it was in the public interest to further extend the February 2013 Temporary Order pursuant to subsections 127(7) and 127(8) of the Act, and a concurrent hearing was held in relation to the Notice of Hearing;

AND WHEREAS on March 5, 2013, Staff appeared, made submissions and advised that Smith, GWI, Dunk and Armadillo Nevada had been successfully served with the Notice of Hearing and the Statement of Allegations, but that Staff required additional time to serve the Notice of Hearing and the Statement of Allegations on Webster, DeBoer, Armadillo Texas and Armadillo Oklahoma;

AND WHEREAS on March 5, 2013, counsel to GWI and Dunk appeared, made submissions and did not oppose the extension of the February 2013 Temporary Order; Smith appeared personally but made no submissions; and Webster, DeBoer, Armadillo Texas, Armadillo Nevada and Armadillo Oklahoma did not appear;

AND WHEREAS on March 5, 2013, the Commission continued the February 2013 Temporary Order to April 9, 2013, as against the respondents GWI, Armadillo Texas, DeBoer, Dunk and Smith, and adjourned the proceeding in relation to the Temporary Order to April 8, 2013;

AND WHEREAS on April 8, 2013, a hearing was held to consider whether it was in the public interest to further extend the February 2013 Temporary Order pursuant to subsections 127(7) and 127(8) of the Act, and a concurrent hearing was held in relation to the Notice of Hearing;

AND WHEREAS on April 8, 2013, Staff appeared, made submissions and filed the Affidavit of Stephen Carpenter, sworn March 27, 2013;

AND WHEREAS Staff also filed materials confirming that (a) GWI, Dunk, Smith, Webster, DeBoer, Armadillo Texas and Armadillo Nevada were served with the Notice of Hearing and the Statement of Allegations, and that Armadillo Oklahoma was an inactive company, and (b) disclosure was being prepared and that Staff estimated that eight weeks would be required to complete production of the electronic disclosure briefs;

AND WHEREAS on April 8, 2013, counsel to GWI, Dunk and DeBoer appeared, made submissions and did not oppose the further extension of the February 2013 Temporary Order without prejudice, and also advised that he had been in contact with Smith and that Smith also did not oppose the further extension of the February 2013 Temporary Order;

AND WHEREAS counsel to GWI, Dunk and DeBoer also advised that his clients did not oppose an eight week adjournment of the proceeding in relation to the Notice of Hearing without prejudice, and that Smith also did not oppose the requested adjournment;

AND WHEREAS on April 8, 2013, Smith, Webster, Armadillo Texas, Armadillo Nevada and Armadillo Oklahoma did not appear;

AND WHEREAS on April 8, 2013, Schuett, Linde, Lawson, Soto and Reichert were no longer respondents to the February 2013 Temporary Order and were not respondents to the proceeding initiated by the Notice of Hearing;

AND WHEREAS on April 8, 2013, the respondents to the February 2013 Temporary Order, being GWI, Dunk, Smith, Webster, DeBoer, Armadillo Texas, Armadillo Nevada and Armadillo Oklahoma (collectively, the "Respondents"), were all respondents to the proceeding initiated by the Notice of Hearing;

AND WHEREAS on April 8, 2013, the Commission ordered that:

1. The February 2013 Temporary Order be extended to June 7, 2013;

2. A further hearing in relation to the Temporary Order be held on June 6, 2013;

3. The hearing in relation to the Notice of Hearing be adjourned to June 6, 2013; and

4. Any further notices or orders in this matter shall proceed under a single style of cause of the proceeding initiated by the February 1, 2013 Notice of Hearing, being "IN THE MATTER OF GROUND WEALTH INC., MICHELLE DUNK, ADRION SMITH, JOEL WEBSTER, DOUGLAS DeBOER, ARMADILLO ENERGY INC., ARMADILLO ENERGY, INC. and ARMADILLO ENERGY LLC.";

AND WHEREAS on June 6, 2013, a hearing was held to consider whether it was in the public interest to further extend the February 2013 Temporary Order pursuant to subsections 127(7) and 127(8) of the Act, and a concurrent hearing was held in relation to the Notice of Hearing;

AND WHEREAS Staff appeared, made submissions and filed the Affidavit of Stephen Carpenter, sworn May 22, 2013, and advised that disclosure was prepared and available for delivery to all the Respondents, upon their signing of an undertaking in such terms suitable to protect the personal and private information contained in the disclosure brief;

AND WHEREAS at the hearings, Staff provided counsel to GWI, Dunk and DeBoer with three copies of the electronic disclosure brief;

AND WHEREAS counsel to GWI, Dunk and DeBoer made submissions and did not oppose the further extension of the February 2013 Temporary Order without prejudice;

AND WHEREAS Smith, Webster, Armadillo Texas, Armadillo Nevada and Armadillo Oklahoma did not appear;

AND WHEREAS the Commission advised the parties that it expects to set the dates for a hearing on the merits at the next appearance on this matter;

AND WHEREAS the Commission is of the opinion that it is in the public interest to do so;

IT IS HEREBY ORDERED that:

1. The hearing in relation to the Notice of Hearing is adjourned to a pre-hearing conference to be held on August 20, 2013 at 10:00 a.m.;

2. The hearing in relation to the Temporary Order is adjourned to August 20, 2013 at 10:30 a.m.; and

3. The February 2013 Temporary Order against the Respondents is extended to August 22, 2013.

DATED at Toronto this 6th day of June, 2013.

"Mary Condon"

2.2.9 Michael Robert Shantz and Canada Pacific Consulting Inc. – ss. 127(1), (10)

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

AND

IN THE MATTER OF
MICHAEL ROBERT SHANTZ AND
CANADA PACIFIC CONSULTING INC.

ORDER
(Subsections 127(1) and 127(10) of the Securities Act)

WHEREAS on March 22, 2013, the Ontario Securities Commission (the **"Commission"**) issued a Notice of Hearing, pursuant to subsections 127(1) and 127(10) of the Ontario *Securities Act*, R.S.O. 1990, c. S.5, as amended (the ***"Act"***) in respect of Michael Robert Shantz (**"Shantz"**) and Canada Pacific Consulting Inc. (**"Canada Pacific"**) (collectively, the **"Respondents"**);

AND WHEREAS on March 21, 2013, Staff of the Commission (**"Staff"**) filed a Statement of Allegations in respect of the same matter;

AND WHEREAS on April 12, 2013, the Commission heard an application by Staff to convert the matter to a written hearing, in accordance with Rule 11.5 of the Commission's *Rules of Procedure* (2012), 35 O.S.C.B. 10071 and subsection 5.1(2) of the *Statutory Powers Procedures Act*, R.S.O. 1990, c. S.22, as amended;

AND WHEREAS the Respondents did not appear, although properly served as evidenced by the Affidavit of Service of Lee Crann, sworn April 2, 2013;

AND WHEREAS on April 12, 2013, the Commission ordered that:

(a) Staff's application to proceed by way of written hearing was granted;

(b) Staff's materials in respect of the written hearing shall be filed no later than April 26, 2013;

(c) The Respondents' responding materials, if any, shall be served and filed no later than May 10, 2013; and

(d) Staff's reply materials, if any, shall be served and filed no later than May 17, 2013;

AND WHEREAS Staff filed the Affidavit of Service of Lee Crann, sworn on April 29, 2013, confirming service of the Commission's Order dated April 12, 2013 on the Respondents;

AND WHEREAS Staff filed written submissions, a hearing brief and a brief of authorities;

AND WHEREAS the Respondents did not file any responding materials;

AND WHEREAS the Respondents are subject to an order dated May 22, 2012 made by the British Columbia Securities Commission that imposes sanctions, conditions, restrictions or requirements on them within the meaning of paragraph 4 of subsection 127(10) of the *Act*;

AND WHEREAS the Commission is of the opinion that it is in the public interest to make this order pursuant to subsections 127(1) and 127(10) of the *Act*;

IT IS HEREBY ORDERED:

(a) against Shantz that:

i. pursuant to paragraph 2 of subsection 127(1) of the *Act*, trading in any securities or derivatives by Shantz shall cease permanently;

ii. pursuant to paragraph 2.1 of subsection 127(1) of the *Act*, the acquisition of any securities by Shantz shall cease permanently;

iii. pursuant to paragraph 7 of subsection 127(1) of the *Act*, Shantz shall resign any positions that he holds as a director or officer of an issuer;

iv. pursuant to paragraph 8 of subsection 127(1) of the *Act*, Shantz shall be prohibited permanently from becoming or acting as director or officer of an issuer;

v. pursuant to paragraph 8.1 of subsection 127(1) of the *Act*, Shantz shall resign any positions that he holds as a director or officer of a registrant;

vi. pursuant to paragraph 8.2 of subsection 127(1) of the *Act*, Shantz shall be prohibited permanently from becoming or acting as a director or officer of a registrant; and

vii. pursuant to paragraph 8.5 of subsection 127(1) of the *Act*, Shantz shall be prohibited permanently from becoming or acting as a registrant or as a promoter;

(b) against Canada Pacific that:

i. pursuant to paragraph 2 of subsection 127(1) of the *Act*, all trading in securities of Canada Pacific shall cease permanently; and

ii. pursuant to paragraph 2 of subsection 127(1) of the *Act*, trading in any securities or derivatives by Canada Pacific shall cease permanently.

DATED at Toronto this 7th day of June, 2013.

James D. Carnwath, Q.C.

2.2.10 Nuveen Asset Management LLP – Commodity Futures Act, s. 80

Headnote

Section 80 of the Commodity Futures Act (Ontario) – Foreign adviser exempted from the adviser registration requirement in paragraph 22(1)(b) of the CFA where such adviser acts as an adviser in respect of commodity futures contracts or commodity futures options (commodities) for certain investors in Ontario who meet the definition of "permitted client" in NI 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations – Commodities are primarily traded on commodity futures exchanges outside of Canada and primarily cleared outside of Canada.

Terms and conditions on exemption correspond to the relevant terms and conditions on the comparable exemption from the adviser registration requirement available to international advisers in respect of securities set out in section 8.26 of NI 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations – Exemption also subject to a "sunset clause" condition.

Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as am.
Commodity Futures Act, R.S.O. 1990, c. C.20. as am., ss. 1(1), 22(1)(b) and 80.

Instruments Cited

National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, sections 1.1 and 8.26.

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

(the CFA)

AND

IN THE MATTER OF
NUVEEN ASSET MANAGEMENT LLC

ORDER
(Section 80 of the CFA)

UPON the application (the **Application**) of Nuveen Asset Management, LLC (the **Applicant**) to the Ontario Securities Commission (the **Commission**) for an order pursuant to section 80 of the CFA that the Applicant and any individuals engaging in, or holding themselves out as engaging in, the business of advising others as to trading in Contracts (as defined below) on the Applicant's behalf (the **Representatives**) be exempt, for a period of five years, from the adviser registration requirement in paragraph 22(1)(b) of the CFA, subject to certain terms and conditions;

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

AND WHEREAS for the purposes of this Order;

"CFA Adviser Registration Requirement" means the requirement in the CFA that prohibits a person or company from acting as an adviser unless the person or company is registered in the appropriate category of registration under the CFA;

"CFTC" means the United States Commodity Futures Trading Commission;

"Contract" has the meaning ascribed to that term in subsection 1(1) of the CFA;

"Foreign Contract" means a Contract that is primarily traded on one or more organized exchanges that are located outside of Canada and primarily cleared through one or more clearing corporations that are located outside of Canada;

"International Adviser Exemption" means the exemption set out in section 8.26 of NI 31-103 from the OSA Adviser Registration Requirement;

"NI 31-103" means National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*;

"OSA" means the *Securities Act* (Ontario);

"OSA Adviser Registration Requirement" means the requirement in the OSA that prohibits a person or company from acting as an adviser unless the person or company is registered in the appropriate category of registration under the OSA;

"Permitted Client" means a client in Ontario that is a "permitted client", as that term is defined in section 1.1 of NI 31-103, except that for purposes of the Order such definition shall exclude a person or company registered under the securities or commodities legislation of a jurisdiction of Canada as an adviser or dealer;

"SEC" means the United States Securities and Exchange Commission;

"specified affiliate" has the meaning ascribed to that term in Form 33-109F6 to National Instrument 33-109 *Registration Information*; and

"U.S. Advisers Act" means the *United States Investment Advisers Act of 1940*.

AND UPON the Applicant having represented to the Commission that:

1. The Applicant is a limited liability company organized under the laws of the State of Delaware, United States. The Applicant succeeds a business established in 1989 and became a separate entity in 2011 as a result of being spun out from one of its continuing affiliates. The Applicant's principal place of business is located in Chicago, Illinois.

2. The Applicant is an indirect wholly-owned subsidiary of Nuveen Investments Inc., the principal office of which is in Chicago, Illinois. Nuveen Investments Inc. does not carry on any activities which require registration or reliance on an exemption; such activities are carried on solely in its various subsidiaries.

3. The Applicant is registered in the United States with the SEC as an investment adviser under the U. S. Advisers Act. The Applicant is exempt from registration with the CFTC as a commodity trading advisor under section 4m(1) of the *Commodity Exchange Act*, section 4m(3) of the *Commodity Exchange Act*, CFTC Rule 4.14(a)(8), and such other exemption or exclusion from registration as a commodity trading advisor, as may be applicable.

4. The Applicant engages in the business of an adviser with respect to securities and with respect to Contracts in Illinois and its other offices in the United States. As of December 31, 2012, the Applicant managed approximately US $119.5 billion in assets.

5. The Applicant provides its advisory services in a broad array of fixed income, equity and other investment strategies, including in the broad categories of municipal bonds, taxable fixed income, global and international, value, growth and core, real assets, asset allocation, quantitative/enhanced, index, and non-traditional strategies. Depending on the particular strategy, the Applicant may invest in a variety of securities and other investments, including in certain cases derivatives, and employ various methods of analysis and investment techniques. In the United States, the Applicant trades both fixed income and equity futures for a variety of strategies. Among other trades, the Applicant has substantial experience trading US Treasury futures, FX futures and S&P EMini futures, on the CME (Chicago Mercantile Exchange).

6. Permitted Clients seek to access certain specialized portfolio management services provided by the Applicant, including advice as to trading in Foreign Contracts.

7. With respect to its investment advisory activities relating to commodity interests for Ontario clients, the Applicant intends to rely on the following exemptions from registration with the CFTC as a commodity trading advisor: section 4m(1) of the *Commodity Exchange Act*, section 4m(3) of the *Commodity Exchange Act*, CFTC Rule 4.14(a)(8), or such other exemption or exclusion from registration as a commodity trading advisor, as may be applicable.

8. The Applicant advises Ontario clients that are Permitted Clients with respect to foreign securities in reliance on the International Adviser Exemption and therefore is not registered under the OSA.

9. The Applicant is not registered in any capacity under the CFA.

10. In addition to providing advice in respect of securities as described in paragraph 5 above, the Applicant proposes to act also as an adviser to Permitted Clients in Ontario in respect of Foreign Contracts in connection principally with respect to foreign currency and interest futures, options and forwards. It will provide its advice on a fully discretionary basis.

11. There is currently no exemption from the CFA Adviser Registration Requirement that is equivalent to the International Adviser Exemption. Consequently, in order to advise Permitted Clients as to trading in Foreign Contracts, in the

absence of this Order, the Applicant would be required to satisfy the CFA Adviser Registration Requirement and would have to apply for, and obtain, registration in Ontario as an adviser under the CFA in the category of commodity trading manager.

12. To the best of the Applicant's knowledge, the Applicant confirms that there are currently no regulatory actions of the type contemplated by the Notice of Regulatory Action attached as Appendix "B", except as otherwise disclosed to the Commission, in respect of the Applicant or any predecessors or specified affiliates of the Applicant.

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

IT IS ORDERED pursuant to section 80 of the CFA that the Applicant and its Representatives are exempt, for a period of five years, from the adviser registration requirement in paragraph 22(1)(b) of the CFA in respect of providing advice to Permitted Clients as to the trading of Foreign Contracts provided that:

(a) the Applicant provides advice to Permitted Clients only as to trading in Foreign Contracts and does not advise any Permitted Client as to trading in Contracts that are not Foreign Contracts, unless providing such advice is incidental to its providing advice on Foreign Contracts;

(b) the Applicant's head office or principal place of business remains in the United States;

(c) the Applicant is registered or operates under an exemption from registration, under the applicable securities or commodity futures legislation in the United States, in a category of registration that permits it to carry on the activities in the United States that registration under the CFA as an adviser in the category of commodity trading manager would permit it to carry on in Ontario;

(d) the Applicant continues to engage in the business of an adviser, as defined in the CFA, in the United States;

(e) as at the end of the Applicant's most recently completed financial year, not more than 10% of the aggregate consolidated gross revenue of the Applicant, its affiliates and its affiliated partnerships (excluding the gross revenue of an affiliate or affiliated partnership of the Applicant if the affiliate or affiliated partnership is registered under securities legislation, commodities legislation or derivatives legislation in a jurisdiction of Canada) is derived from the portfolio management activities of the Applicant, its affiliates and its affiliated partnerships in Canada (which, for greater certainty, includes both securities-related and commodity-futures-related activities);

(f) before advising a Permitted Client with respect to Foreign Contracts, the Applicant notifies the Permitted Client of all of the following:

  (i) the Applicant is not registered in the local jurisdiction to provide the advice described under paragraph (a) of this Order;

  (ii) the foreign jurisdiction in which the Applicant's head office or principal place of business is located;

  (iii) all or substantially all of the Applicant's assets may be situated outside of Canada;

  (iv) there may be difficulty enforcing legal rights against the Applicant because of the above; and

  (v) the name and address of the Applicant's agent for service of process in Ontario;

(g) the Applicant has submitted to the Commission a completed *Submission to jurisdiction and appointment of agent for service* in the form attached as Appendix "A";

(h) the Applicant notifies the Commission of any regulatory action initiated after the date of this Order with respect to the Applicant or any predecessors or specified affiliates of the Applicant by completing and filing Appendix "B" within 10 days of the commencement of each such action; and

(i) by December 1 of each year, the Applicant notifies the Commission if it is relying on the exemption from registration granted pursuant to this Order.

Dated this 7th of June, 2013.

"Edward P. Kerwin"
Commissioner
Ontario Securities Commission

"Deborah Leckman"
Commissioner
Ontario Securities Commission

APPENDIX "A"

**SUBMISSION TO JURISDICTION AND
APPOINTMENT OF AGENT FOR SERVICE
INTERNATIONAL DEALER OR INTERNATIONAL ADVISER EXEMPTED
FROM REGISTRATION UNDER THE COMMODITY FUTURES ACT, ONTARIO**

1. Name of person or company ("International Firm"):

2. If the International Firm was previously assigned an NRD number as a registered firm or an unregistered exempt international firm, provide the NRD number of the firm:

3. Jurisdiction of incorporation of the International Firm:

4. Head office address of the International Firm:

5. The name, e-mail address, phone number and fax number of the International Firm's individual(s) responsible for the supervisory procedure of the International Firm, its chief compliance officer, or equivalent.

Name:

E-mail address:

Phone:

Fax:

6. The International Firm is relying on an exemption order under section 38 or section 80 of the *Commodity Futures Act* (Ontario) that is similar to the following exemption in National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (the "Relief Order"):

[ ] Section 8.18 [*international dealer*]

[ ] Section 8.26 [*international adviser*]

[ ] Other [specify]:

7. Name of agent for service of process (the "Agent for Service"):

8. Address for service of process on the Agent for Service:

9. The International Firm designates and appoints the Agent for Service at the address stated above as its agent upon whom may be served a notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal or other proceeding (a "Proceeding") arising out of or relating to or concerning the International Firm's activities in the local jurisdiction and irrevocably waives any right to raise as a defence in any such proceeding any alleged lack of jurisdiction to bring such Proceeding.

10. The International Firm irrevocably and unconditionally submits to the non-exclusive jurisdiction of the judicial, quasi-judicial and administrative tribunals of the local jurisdiction in any Proceeding arising out of or related to or concerning the International Firm's activities in the local jurisdiction.

11. Until 6 years after the International Firm ceases to rely on the Relief Order, the International Firm must submit to the regulator

a. a new Submission to Jurisdiction and Appointment of Agent for Service in this form no later than the 30th day before the date this Submission to Jurisdiction and Appointment of Agent for Service is terminated; and

b. an amended Submission to Jurisdiction and Appointment of Agent for Service no later than the 30th day before any change in the name or above address of the Agent for Service.

12. This Submission to Jurisdiction and Appointment of Agent for Service is governed by and construed in accordance with the laws of the local jurisdiction.

Dated: _____

_____
(Signature of the International Firm or authorized signatory)

_____
(Name of signatory)

_____
(Title of signatory)

Acceptance

The undersigned accepts the appointment as Agent for Service of _____ [Insert name of International Firm] under the terms and conditions of the foregoing Submission to Jurisdiction and Appointment of Agent for Service.

Dated: _____

_____
(Signature of the Agent for Service or authorized signatory)

_____
(Name of signatory)

_____
(Title of signatory)

This form is to be submitted to the following address:

Ontario Securities Commission
Suite 1903, Box 55
20 Queen Street West
Toronto, ON M5H 3S8
Attention: Senior Registration Supervisor, Portfolio Manager Team
Telephone: (416) 593-8164
email: amcbain@osc.gov.on.ca

APPENDIX "B"

NOTICE OF REGULATORY ACTION

1. Has the firm, or any predecessors or specified affiliates{1} of the firm entered into a settlement agreement with any financial services regulator, securities or derivatives exchange, SRO or similar agreement with any financial services regulator, securities or derivatives exchange, SRO or similar organization?

Yes _____ No _____

If yes, provide the following information for each settlement agreement:

Yes _____ No _____

If yes, provide the following information for each settlement agreement:

Name of entity

Regulator/organization

Date of settlement (yyyy/mm/dd)

Details of settlement

Jurisdiction

2. Has any financial services regulator ,securities or derivatives exchange, SRO or similar organization:

	Yes	**No**
(a) Determined that the firm, or any predecessors or specified affiliates of the firm violated any securities regulations or any rules of a securities or derivatives exchange, SRO or similar organization?	_____	_____
(b) Determined that the firm, or any predecessors or specified affiliates of the firm made a false statement or omission?	_____	_____
(c) Issued a warning or requested an undertaking by the firm, or any predecessors or specified affiliates of the firm?	_____	_____
(d) Suspended or terminated any registration, licensing or membership of the firm, or any predecessors or specified affiliates of the firm?	_____	_____
(e) Imposed terms or conditions on any registration or membership of the firm, or predecessors or specified affiliates of the firm?	_____	_____
(f) Conducted a proceeding or investigation involving the firm, or any predecessors or specified affiliates of the firm?	_____	_____
(g) Issued an order (other than en exemption order) or a sanction to the firm, or any predecessors or specified affiliates of the firm for securities or derivatives-related activity (e.g. cease trade order)?	_____	_____

If yes, provide the following information for each action:

Name of Entity

Type of Action

Regulator/organization

Date of action (yyyy/mm/dd) Reason for action

Jurisdiction

3. Is the firm aware of any ongoing investigation of which the firm or any of its specified affiliate is the subject?

Yes _____ No _____

If yes, provide the following information for each investigation:

Name of entity

Reason or purpose of investigation

Regulator/organization

Date investigation commenced (yyyy/mm/dd)

Jurisdiction

Name of firm

Name of firm's authorized signing officer or partner

Title of firm's authorized signing officer or partner

Signature

Date (yyyy/mm/dd)

Witness

The witness must be a lawyer, notary public or commissioner of oaths.

Name of witness

Title of witness

Signature

Date (yyyy/mm/dd)

This form is to be submitted to the following address:

Ontario Securities Commission
Suite 1903, Box 55
20 Queen Street West
Toronto, ON M5H 3S8
Attention: Senior Registration Supervisor, Portfolio Manager Team
Telephone: (416) 593-8164

email: amcbain@osc.gov.on.ca

{1} In this Appendix, the term "specified affiliate" has the meaning ascribed to that term in Form 33-109F6 to National Instrument 33-109 *Registration Information*.

2.2.11 Canadian Derivatives Clearing Corporation – s. 144

Headnote

Application under section 144 of the Securities Act (Ontario) (Act) to further vary a temporary order exempting Canadian Derivatives Clearing Corporation from the requirement in subsection 21.2(0.1) of the Act to be recognized as a clearing agency.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 21.2(0.1), 144.

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

AND

IN THE MATTER OF
CANADIAN DERIVATIVES CLEARING CORPORATION
(CDCC)

THIRD VARIATION TO THE
TEMPORARY EXEMPTION ORDER
(Section 144 of the Act)

WHEREAS the Ontario Securities Commission (Commission) issued an order (Temporary Exemption Order) dated February 15, 2011 pursuant to section 147 of the Act temporarily exempting CDCC from the requirement to be recognized as a clearing agency under subsection 21.2(0.1) of the Act;

AND WHEREAS the Commission issued an order dated February 14, 2012 (First Variation Order) pursuant to section 144 of the Act varying and restating the Temporary Exemption Order to extend CDCC's temporary exemption and to amend its terms and conditions in Schedule "A" thereto;

AND WHEREAS the Commission issued an order dated February 26, 2013 (Second Variation Order) pursuant to section 144 of the Act further varying and restating the Temporary Exemption Order to extend CDCC's temporary exemption and to amend its terms and conditions in Schedule "A" thereto;

AND WHEREAS the Temporary Exemption Order, as varied and restated by the First Variation Order and Second Variation Order, will terminate on July 1, 2013 unless further extended by order of the Commission;

AND WHEREAS the Commission has received an application from CDCC pursuant to section 144 of the Act requesting that the Commission further vary the Temporary Exemption Order, as varied and restated by the First Variation Order and Second Variation Order, to further extend CDCC's temporary exemption from the requirement to be recognized as a clearing agency pursuant to subsection 21.2(0.1) of the Act;

AND WHERAS the Commission has received certain representations from CDCC in connection with the application to further vary the Temporary Exemption Order, as varied and restated by the First Variation Order and Second Variation Order;

AND WHEREAS the Commission has considered these representations, CDCC's application, and other factors;

AND WHEREAS the Commission has determined that it is not prejudicial to the public interest to issue this order that further varies the Temporary Exemption Order, as varied and restated by the First Variation Order and Second Variation Order, to further extend CDCC's temporary exemption from the requirement to be recognized as a clearing agency pursuant to subsection 21.2(0.1) of the Act;

IT IS ORDERED, pursuant to section 144 of the Act, that the Temporary Exemption Order, as varied and restated by the First Variation Order and Second Variation Order, be varied by replacing the reference to "July 1, 2013" with a reference to "October 15, 2013."

DATED at Toronto, June 7th, 2013.

"Edward P. Kerwin"

"Deborah Leckman"

3.1.1 Boyuan Construction Group, Inc.

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

AND

IN THE MATTER OF
BOYUAN CONSTRUCTION GROUP, INC.

SETTLEMENT AGREEMENT

PART I – INTRODUCTION

1. The Ontario Securities Commission (the "Commission") will issue a Notice of Hearing to announce that it will hold a hearing to consider whether, pursuant to section 127 of the *Securities Act,* R.S.O. 1990, c. S-5, as amended (the "Act"), it is in the public interest for the Commission to make certain orders in respect of Boyuan Construction Group, Inc. ("Boyuan" or the "Company" or the "Respondent").

PART II – JOINT SETTLEMENT RECOMMENDATION

2. Staff of the Commission ("Staff") agree to recommend settlement of the proceeding commenced by Notice of Hearing dated May 30, 2013 (the "proceeding") against the Respondent according to the terms and conditions set out in Part VI of this Settlement Agreement. The Respondent agrees to the making of an order in the form attached as Schedule "A", based on the facts set out below.

PART III – AGREED FACTS

3. For the purpose of this proceeding, and any other regulatory proceeding commenced by a securities regulatory authority, the Respondent agrees with the facts as set out in Part III of this Settlement Agreement.

Overview

4. This proceeding relates to a related party transaction and a loan agreement (the "Transaction") which was entered into by the Respondent in November 2010, in the absence of adequate internal controls and procedures and without consultation with the CFO, other senior officers or the Board of Directors of the Company. This resulted in the Company misleading Staff and the Company's auditors about the Transaction. In particular, the Company provided Staff and the auditors with inaccurate responses and a false document respecting the Transaction, as described further below.

The Respondent

5. The Company was incorporated under the *Canada Business Corporations Act* on May 4, 2007 as "SND Energy Ltd." On February 24, 2009, the Company changed its name to "Boyuan Construction Group, Inc.".

6. Boyuan has been a reporting issuer whose common shares have been publicly traded on the TSX Venture Exchange and the Toronto Stock Exchange under the symbol "BOY" since February 24, 2009. The Company's operations and management are located in Jiaxing Port, Zhejiang, China. Its primary business is the construction of residential and commercial buildings in China. Boyuan meets the characteristics of an emerging market issuer as referenced in OSC Staff Notice 51-719 Emerging Markets Issuer Review.

7. The Transaction was entered into on behalf of the Company by Shou Cai Liang ("Shou"), the founder, Chairman, Chief Executive Officer and President of Boyuan. Shou is a resident of China and, as of November 9, 2012, owned 61.8% of the Company's common shares.

The Related Party Transaction

8. On or about June 5, 2010, the Canada Zhejiang Business Chamber ("CZBC") and its Chairman, Xu Qin, entered into the Investment Cooperation Framework Agreement with the Haining Municipal Government (the "Framework Agreement"). The Framework Agreement related to the development of the Haining Euro-American Industrial Park (the "Haining Project"), which was to be an industrial park in the city of Haining. Xu Qin, and his son and business partner, Xu Kai (collectively the "Xus"), established Haining Taige Consulting Co. Ltd. ("Taige"), a Chinese company formed to undertake the Haining Project. Taige was a wholly owned subsidiary of Hong Kong Meileduo Industry Limited ("Meileduo"), a Hong Kong incorporated company, which was wholly owned by Xu Qin.

9. The Respondent has represented that in anticipation of meeting the capital requirements associated with the Haining Project, and in conjunction with offering Boyuan the right to be the General Contractor, the Xus asked Shou if Boyuan could provide a short term loan.

10. By agreement dated November 1, 2010, one of Boyuan's Hong Kong subsidiaries, Hong Kong Wealthy Holdings Limited ("HK Wealthy"), entered into a loan agreement with Honsgain Investment Group Limited ("Honsgain") (the "Loan Agreement"). The Loan Agreement was negotiated between Shou and the beneficial owner of Honsgain, Xu Kai, who is a resident of China. The Loan Agreement was for CDN $7,038,000 and stated that the purpose of the loan was for Honsgain to lend the monies to Meileduo "for such company to invest in its subsidiary Taige" and that the loan could not be used for any other purposes.

11. The Respondent has represented to Staff that on November 8, 2010, at Xu Kai's request for personal reasons, Shou's wife, Hong Yongzhen, ("Mrs. Shou") became the sole shareholder and director of Honsgain, a previously incorporated British Virgin Islands ("BVI") corporation. Further, a Declaration of Trust was produced to Staff which states that Mrs. Shou would hold the shares of Honsgain in trust for the "beneficial owner" and directing mind of Honsgain, Xu Kai.

12. Pursuant to the Loan Agreement, approximately Cdn $7 million was transferred from HK Wealthy, through Mrs. Shou and Honsgain, to Meileduo and Hong Kong Route International Logistics Group Limited ("HK Route"), as follows:

Date	From	To	Amount (Cdn)	Subsequently to
Nov. 24, 2010	HK Wealthy	Hong Yongzhen (Shou's wife)	$1,238,000	**Meileduo**
Nov. 30, 2010	HK Wealthy	Hong Yongzhen (Shou's wife)	$1,550,000	**HK Route**
Dec 15, 2010	HK Wealthy	Hong Yongzhen (Shou's wife)	$1,530,000	**HK Route**
Jan 4, 2011	HK Wealthy	Honsgain	$2,720,000	**Meileduo**
TOTAL			**$7,038,000**	

13. The Respondent has represented to Staff that Xu Kai instructed Shou to transfer the monies in connection with the Loan Agreement to Meileduo and HK Route. Approximately $4 million was transferred to Meileduo and approximately $3 million was transferred to HK Route.

14. Boyuan did not ultimately participate in the Haining Project and all of the above-noted funds were repaid to HK Wealthy, through Shou, Mrs. Shou or Honsgain, on or before May 12, 2011. This series of advances and repayments are collectively referred to as the "Honsgain Transaction".

15. Mrs. Shou's appointment as a nominee shareholder and director rendered the provision of a loan by Boyuan to Honsgain a related party transaction. Shou failed to obtain the approval of the Company's Board of Directors prior to entering into this related party transaction on behalf of Boyuan.

16. Furthermore, in reporting the transaction to the CFO and other senior officers, the full extent of Mrs. Shou's involvement in the Honsgain transaction was not disclosed. In particular, the Company represented to Staff that Shou disclosed Mrs. Shou's involvement in the Honsgain Transaction as a conduit through which the loan was advanced and repaid; however, he failed to disclose the Declaration of Trust constituting Mrs. Shou as a nominee shareholder and director of Honsgain.

The 2011 Disclosure

17. The Honsgain Transaction was disclosed in Note 6 to Boyuan's Consolidated Financial Statements for the year ended June 30, 2011 under the heading "Due From/To Related Parties and Related Party Transactions" as well as in the Company's Management's Discussion & Analysis dated September 27, 2011 (the "2011 Financial Statements and MD&A") under the heading "Transactions with Related Parties", as follows:

> *"During 2011, the Company advanced $7,022,205[1] (HKD54,550,540) to a developer for a construction project, $4,286,948 (HKD33,297,864) of which was advanced to the developer through a person related to the CEO. The project did not materialize and the full amount was repaid to the Company by May 2011, $1,012,955 of which was repaid through the wife of the CEO. The advance was non-interest bearing, unsecured and with no specified repayment terms."*

18. The Company had represented both to Staff as well as to its auditors, Manning Elliott LLP, that the "developer" referred to in the note disclosure was "Honsgain" and that it was an arm's length party. In particular, during the course of Staff's continuous disclosure review, by letter dated October 25, 2011, Staff sought certain information respecting the note disclosure, including "the name of the developer, and its relationship with the Company and/or the CEO or his family". In Boyuan's written response dated November 25, 2011 (on which Shou was copied), Boyuan advised that the developer was "Hongsgain [sic] Investments GP Ltd" and that "[t]his company is not related to Boyuan China, the CEO and his family."

19. The information provided to Staff and the auditors regarding Honsgain as set out in paragraph 18 above was misleading in that Boyuan did not disclose the fact that Mrs. Shou was acting as a nominee of the beneficial owner of Honsgain, Xu Kai.

20. Further, when Boyuan's auditors originally made inquiries about the Honsgain Transaction in September 2011, Boyuan management provided its auditors copies of the Register of Members as well as the Certificate of Incumbency for Honsgain. These documents both identified "Wu Yuxiang", a purportedly non-related party, as the sole shareholder and director of the company (the "Honsgain Documents"). The Honsgain Documents were subsequently provided by the Company to Staff as well.

21. However, Staff independently obtained the Register of Members and Certificate of Incumbency for Honsgain from the BVI, which identify Mrs. Shou — and not "Wu Yuxiang" — as the sole shareholder and director of Honsgain (the "BVI Documents"). As such, the Honsgain Documents provided to Staff and the auditors were not genuine and were misleading. Further, the disclosure of the Honsgain Transaction as a related party transaction in the 2011 Financial Statements and the MD&A was incomplete as it omitted the fact that Mrs. Shou was acting as a nominee shareholder and director of Honsgain.

22. The Respondent has represented to Staff that Boyuan management obtained the Honsgain Documents from Xu Kai in September 2011 further to inquiries being made by the auditors and that they do not know who Wu Yuxiang is or why his name was indicated on the Honsgain Documents.

23. The misleading statements and documents provided to Staff and the auditors reflects the absence of adequate internal controls and procedures at Boyuan respecting the approval and recording of related party transactions and the provision of information respecting such transactions to its auditor and regulator.

The 2012 Revised Disclosure

24. In Boyuan's June 30, 2012 financial statements and related MD&A (the "2012 Financial Statements and MD&A"), the Company expanded on the disclosure of the Honsgain Transaction in Note 10 as follows:

> *"In the Company's consolidated financial statements for the year ended June 30, 2011, the Company reported that it had advanced $7,022,205 to a developer (an unrelated party) for a construction project, of which $4,286,948 was advanced through the wife of the CEO directly to the developer. In addition to the information contained in the 2011 consolidated financial statements the Company added additional and enhanced disclosure as follows:*
>
> > *The balance of $2,735,257 was advanced to a company ("Honsgain") in which the CEO's wife was the sole shareholder on title. On November 8, 2010 the CEO's wife entered into a declaration of trust with the developer to hold the shares of Honsgain in trust for the developer. The declaration of trust gave the developer control and beneficial ownership of Honsgain and the CEO's wife acted as a nominee for the beneficial owner.*
> >
> > *The funds were advanced with the intention that the Company would be awarded the construction contract located in Haining, Zhejiang, PRC.*

The advances were secured by a loan agreement dated November 1, 2010. The loan was non-interest bearing and the borrower agreed to repay the loan by May 30, 2011 ("Due Date"). In addition, the borrower agreed to pay a penalty of 2% per month if the

[1] The amounts referred to in the note are expressed in US dollars.

loan was not repaid by the Due Date. The project did not materialize and the full amount was repaid to the Company by May 2011, of which $1,012,955 was repaid through the wife of the CEO."

PART IV – CONDUCT CONTRARY TO THE PUBLIC INTEREST

25. By engaging in the conduct described above, Boyuan has engaged in conduct contrary to the public interest by:

(a) making statements and providing documents to Staff and its auditor as described in paragraphs 18 and 20 above which, at the time and in the light of the circumstances under which the statements were made, were misleading or untrue or did not state a fact that was required to be stated or that was necessary to make the statements not misleading; and

(b) failing to establish and maintain adequate internal controls respecting the approval and recording of related party transactions and the provision of information respecting such transactions to its auditor and regulator.

PART V – RESPONDENT'S POSITION

26. The Respondent requests that the settlement hearing panel consider the following mitigating circumstances:

(a) The Respondent acknowledges that its conduct was not acceptable for a reporting issuer in Ontario;

(b) The Respondent has cooperated with Staff's investigation;

(c) The Respondent has begun to take steps to implement an improved system of corporate governance and internal controls, including, but not limited to, relating to disclosure, related party transactions, financial reporting, the provision of information to its auditor and regulators;

(d) The Respondent has represented to Staff that it entered into the Honsgain transaction further to a legitimate business interest and that no officer or director of the Respondent realized any personal benefit; and

(e) The Honsgain Transaction was disclosed in the 2011 Financial Statements and MD&A under related party transactions, and the loan was repaid to the Company in full.

PART VI – TERMS OF SETTLEMENT

27. The Respondent agrees to the terms of settlement listed below.

28. The Commission will make an order pursuant to section 127(1) and section 127.1 of the Act that:

(a) the settlement agreement is approved;

(b) the Respondent be required to retain Control Solutions International, Inc. or such other consultant not unacceptable to Staff (the "Consultant"), at Boyuan's expense, to conduct a comprehensive examination and review of its internal controls over financial reporting, policies and procedures, training, ethics and compliance with financial and other reporting requirements of Ontario securities law, as set out in the Consultant Terms of Reference set out in Schedule "B" attached hereto. The Consultant would be required to provide reports to the Boyuan Board of Directors, Audit Committee and Staff, and Boyuan would be required to implement such changes;

(c) the Respondent shall pay to the Commission the sum of $200,000, which is designated for allocation to or for the benefit of third parties or for use by the Commission for the purpose of educating investors or promoting or otherwise enhancing knowledge and information of persons regarding the operation of the securities and financial markets, in accordance with subsection 3.4(2)(b) of the Act; and

(d) the Respondent shall pay Staff's investigation costs, in the amount of $100,000.

29. The Respondent agrees to make any payments ordered above by certified cheque when the Commission approves this Settlement Agreement.

30. The Respondent undertakes to consent to a regulatory Order made by any provincial or territorial securities regulatory authority in Canada containing any or all of the terms set out in sub-paragraph 28(b) above. These terms may be modified to reflect the provisions of the relevant provincial or territorial securities law.

PART VII – STAFF COMMITMENT

31. If the Commission approves this Settlement Agreement, Staff will not commence any proceeding under Ontario securities law in relation to the facts set out in Part III of this Settlement Agreement, subject to the provisions of paragraph 32 below.

32. If the Commission approves this Settlement Agreement and the Respondent fails to comply with any of the terms of the Settlement Agreement, Staff may bring proceedings under Ontario securities law against the Respondent. These proceedings may be based on, but are not limited to, the facts set out in Part III of this Settlement Agreement as well as the breach of the Settlement Agreement.

PART VIII – PROCEDURE FOR APPROVAL OF SETTLEMENT

33. The parties will seek approval of this Settlement Agreement at a public hearing before the Commission scheduled for June 4, 2013, or on another date agreed to by Staff and the Respondent, according to the procedures set out in this Settlement Agreement and the Commission's Rules of Practice.

34. Staff and the Respondent agree that this Settlement Agreement will form all of the agreed facts that will be submitted at the settlement hearing on the Respondent's conduct, unless the parties agree that additional facts should be submitted at the settlement hearing.

35. If the Commission approves this Settlement Agreement, the Respondent agrees to waive all rights to a full hearing, judicial review or appeal of this matter under the Act.

36. If the Commission approves this Settlement Agreement, neither party will make any public statement that is inconsistent with this Settlement Agreement or with any additional agreed facts submitted at the settlement hearing.

37. Whether or not the Commission approves this Settlement Agreement, the Respondent will not use, in any proceeding, this Settlement Agreement or the negotiation or process of approval of this agreement as the basis for any attack on the Commission's jurisdiction, alleged bias, alleged unfairness, or any other remedies or challenges that may otherwise be available.

PART IX – DISCLOSURE OF SETTLEMENT AGREEMENT

38. If the Commission does not approve this Settlement Agreement or does not make the order attached as Schedule "A" to this Settlement Agreement:

    (a) this Settlement Agreement and all discussions and negotiations between Staff and the Respondent before the settlement hearing takes place will be without prejudice to Staff and the Respondent; and

    (b) Staff and the Respondent will each be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing of the allegations contained in the Statement of Allegations. Any proceedings, remedies and challenges will not be affected by this Settlement Agreement, or by any discussions or negotiations relating to this agreement.

39. Both parties will keep the terms of the Settlement Agreement confidential until the Commission approves the Settlement Agreement. At that time, the parties will no longer have to maintain confidentiality. If the Commission does not approve the Settlement Agreement, both parties must continue to keep the terms of the Settlement Agreement confidential, unless they agree in writing not to do so or if required by law.

PART X – EXECUTION OF SETTLEMENT AGREEMENT

40. The parties may sign separate copies of this agreement. Together, these signed copies will form a binding agreement.

41. A fax copy of any signature will be treated as an original signature.

Dated this 30th day of May, 2013.

"Paul Law"
Respondent

"Christina Lai Wah Cheng"
Witness

"Tom Atkinson"
Director, Enforcement Branch

SCHEDULE "A"

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

AND

IN THE MATTER OF
BOYUAN CONSTRUCTION GROUP, INC.

ORDER

WHEREAS on May 30, 2013, 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 Boyuan Construction Group, Inc. (the "Respondent");

AND WHEREAS the Respondent and Staff of the Commission ("Staff") entered into a settlement agreement dated May 30, 2013 (the "Settlement Agreement") in which they agreed to a settlement of the proceeding commenced by the Notice of Hearing dated May 30, 2013, subject to the approval of the Commission;

AND UPON reviewing the Settlement Agreement, the Notice of Hearing and Statement of Allegations of Staff of the Commission, and upon hearing submissions from counsel for Staff and the Respondent;

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

IT IS HEREBY ORDERED THAT:

1. The Commission will make an order pursuant to section 127(1) and section 127.1 of the Act that:

   (a) the settlement agreement is approved;

   (b) the Respondent be required to retain Control Solutions International, Inc. or such other consultant not unacceptable to Staff (the "Consultant"), at Boyuan's expense, to conduct a comprehensive examination and review of its internal controls over financial reporting, policies and procedures, training, ethics and compliance with financial and other reporting requirements of Ontario securities law, as set out in the Consultant Terms of Reference attached hereto. The Consultant would be required to provide reports to the Boyuan Board of Directors, Audit Committee and Staff, and Boyuan would be required to implement such changes;

   (c) the Respondent shall, contemporaneously with the signing of this Order, pay to the Commission the sum of $200,000, which is designated for allocation to or for the benefit of third parties or for use by the Commission for the purpose of educating investors or promoting or otherwise enhancing knowledge and information of persons regarding the operation of the securities and financial markets, in accordance with subsection 3.4(2)(b) of the Act; and; and

   (d) the Respondent shall , contemporaneously with the signing of this Order, pay Staff's investigation costs, in the amount of $100,000.

DATED AT TORONTO this _____day of June, 2013.

SCHEDULE "B"

TERMS OF REFERENCE FOR THE CONSULTANT

Respondent agrees to comply with the following undertakings:

A. Retention of a Consultant

i. Boyuan shall retain, pay for, and enter into an agreement with an independent consultant ("Consultant"), not unacceptable to Staff, to conduct a comprehensive examination and review of the areas specified below and to make recommendations to Boyuan's board of directors and Staff. The Consultant's compensation and expenses shall be borne exclusively by Boyuan, and shall not be deducted from any amount due under the provisions of the Order at Schedule "A" of the Settlement Agreement (the "Order").

ii. The agreement with the Consultant ("Agreement") shall provide that the Consultant examine:

a. The policies, procedures and effectiveness of Boyuan's internal accounting controls and its internal controls over financial reporting and disclosure, including, but not limited to, related party transactions and cash receipts and disbursements;

b. The policies, procedures, and effectiveness of Boyuan's regulatory and compliance functions, including the operations of any committees or other mechanisms established to review and approve transactions or for the purpose of preventing the recording of transactions or financial reporting results in a manner that is not in compliance with International Financial Reporting Standards ("IFRS");

c. Boyuan's training of its accounting staff concerning financial reporting and IFRS and compliance with the financial and other reporting requirements of Ontario securities law;

d. Boyuan's ethics and compliance policies, including the adequacy and effectiveness of any whistleblower procedures designed to allow employees and others to report confidentially matters that may bear on Boyuan's financial reporting obligations;

e. Boyuan's records management and retention policies and procedures, including without limitation such procedures with respect to e-mail and other electronically stored information;

f. The functioning of Boyuan's audit committee, including the audit committee's policies and procedures and the methods for the selection of its members; and

g. Boyuan's policies and procedures concerning its communications with its outside auditors.

B. Consultant's Reporting Obligations

i. The Consultant shall issue a report to Boyuan's board of directors, its audit committee, and to Staff in English within three months of appointment, provided however, that the Consultant may seek to extend the period of review for one additional three-month term by requesting such an extension from Staff. After consultation with Boyuan, Staff shall have discretion to grant such extension for the period requested if deemed reasonable and warranted.

ii. The Consultant's report shall address the Consultant's review of the areas specified in paragraph A.ii above and shall include a description of the review performed, the conclusions reached, the Consultant's recommendations for any changes or improvements to Boyuan's policies and procedures for a company of its size and industry, as the Consultant reasonably deems necessary to conform to the law and best practices, and a procedure for implementing the recommended changes or improvements.

iii. Boyuan shall adopt all recommendations contained in the Consultant's report, provided, however, that within forty-five days of its receipt of the report, Boyuan shall in writing advise the Consultant and Staff of any recommendation that it considers to be unnecessary or inappropriate. With respect to any recommendation that Boyuan considers unnecessary or inappropriate, Boyuan need not adopt that recommendation at that time but shall propose in writing to the Consultant an alternative policy, procedure, or system designed to achieve the same objective or purpose, for consideration by the Consultant.

iv. As to any recommendations of the Consultant with respect to which Boyuan and the Consultant do not agree, including any recommendations that Boyuan considers unnecessary or inappropriate, such parties shall attempt in good faith to reach an agreement within ninety days of the issuance of the Consultant's report. In the event Boyuan and the

Consultant are unable to agree on an alternative proposal, Boyuan shall abide by the determinations of the Consultant, or apply to the Commission to resolve the disagreement.

v. Boyuan shall retain the Consultant for a period of twelve months from the date of appointment in accordance with paragraph C below. After the Consultant's recommendations become final pursuant to paragraph B above, the Consultant shall oversee the implementation of such recommendations and provide a report to Boyuan's board of directors, its audit committee, and to Staff twelve months after appointment concerning the progress of the implementation. If, at the conclusion of this twelve-month period, less than all the recommendations of the consultant (to the extent deemed significant by Staff) have been substantially implemented for at least two successive fiscal quarters, Staff may, in its discretion, direct Boyuan to extend the Consultant's term of appointment until such time as all recommendations (to the extent deemed significant by Staff) have been substantially implemented for at least two successive fiscal quarters.

vi. In addition to the reports identified above, the Consultant shall provide Boyuan's board of directors, its audit committee, and Staff with such documents or other information concerning the areas specified in paragraph A.ii above as any of them may request during the pendency or at the conclusion of the review.

C. Terms of Consultant's Retention

i. Within forty-five days after the date of entry of the Order, Boyuan will submit to Staff a proposal setting forth the identity, qualifications, and proposed terms of retention of the Consultant. Staff, within thirty days of such notice, will either (a) deem Boyuan's choice of Consultant and proposed terms of retention not unacceptable or (b) require Boyuan to propose an alternative Consultant and/or revised proposed terms of retention within fifteen days. This process will continue, as necessary, until the proposed Consultant and retention terms are not unacceptable to Staff.

ii. The Consultant shall have reasonable access to all of Boyuan's books and records and the ability to meet privately with Boyuan's personnel and auditors. Boyuan shall instruct and otherwise encourage its officers, directors, and employees to cooperate fully with the review conducted by the Consultant, and inform its officers, directors, and employees that failure to cooperate with the review may be grounds for dismissal, other disciplinary actions, or other appropriate actions.

iii. The Consultant shall have the right, as reasonable and necessary in his or her judgment, to retain, at Boyuan's expense, legal counsel, accountants, and other persons or firms, other than officers, directors, or employees of Boyuan, to assist in the discharge of the Consultant's obligations. Boyuan shall pay all reasonable fees and expenses (as reasonably documented) of any persons or firms retained by the Consultant.

iv. The Consultant shall make and keep notes of interviews conducted, and keep a copy of documents gathered, in connection with the performance of his or her responsibilities, and require all persons and firms retained to assist the Consultant to do so as well.

iv. If the Consultant determines that he or she has a conflict with respect to one or more of the areas described in paragraph A.ii above, he or she shall delegate his or her responsibilities with respect to that subject to a person who is chosen by the Consultant and who is not unacceptable to Staff.

vi. For the period of engagement and for a period of two years from completion of the engagement, the Consultant shall not enter into any employment, consultant, solicitor-client, auditing, or other professional relationship with Boyuan, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such, and shall require that any firm with which the Consultant is affiliated or of which the Consultant is a member, or any person engaged to assist the Consultant in performance of the Consultant's duties under the Order, not, without prior written consent of Staff, enter into any employment, consultant, solicitor-client, auditing, or other professional relationship with Boyuan, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such for the period of the engagement and for a period of two years after the engagement.

3.1.2 Investment Allocation International Inc. and Marshall Miller

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

AND IN THE MATTER OF
THE RECOMMENDATION BY STAFF
OF THE ONTARIO SECURITIES COMMISSION TO SUSPEND
THE REGISTRATION OF
INVESTMENT ALLOCATION INTERNATIONAL INC. AND
MARSHALL MILLER

SETTLEMENT AGREEMENT

Introduction

1. This settlement agreement (the **Settlement Agreement**) relates to the registration status under the *Securities Act* (Ontario) (the **Act**) of Investment Allocation International Inc. (**IAI**) and Marshall Miller (**Miller**) (the **Registrants**).

Agreed Statement of Facts

2. Staff (Staff) of the Ontario Securities Commission (the OSC) and the Registrants agree to the facts as stated herein.

The Registrants

3. Except for a period of approximately one year in the mid-1990s, IAI has been registered under the Act continuously since 1990, first as an adviser in the category of investment counsel and portfolio manager, and since 2009, as an adviser in the category of portfolio manager.

4. Miller is IAI's president, majority shareholder, ultimate designated person, chief compliance officer, and sole registered advising representative.

5. At the time of the events described in this Settlement Agreement, IAI and Miller managed investment accounts for eighteen clients, all on a discretionary basis.

6. Except for the matters referred to in this Settlement Agreement, neither IAI nor Miller has been the subject of any regulatory proceedings by the OSC.

The Compliance Review

7. In 2012, Staff conducted a compliance review of IAI pursuant to section 20 of the Act (the **Compliance Review**).

8. The Compliance Review found that IAI had an insufficient compliance system that did not meet the requirements of section 11.1 of National Instrument 31-103 – *Registration Requirements, Exemptions, and Ongoing Registrant Obligations* (**NI 31-103**).

9. Staff found the following deficiencies in IAI's compliance system, which the Registrants acknowledge:

   (a) Certain client accounts were not invested in accordance with the governing investment policy statement.

   (b) IAI did not have a process for updating its clients' know-your-client (**KYC**) information.

   (c) Some of IAI's KYC forms did not record the client's age, investment knowledge, or financial circumstances, or whether they were an insider of a reporting issuer.

   (d) The Registrants were unable to locate the investment management agreement for one of their clients, and were unable to locate the investment policy statement for a number of other clients.

   (e) The Registrants did not deliver account statements to their clients, but instead relied on the custodian of the client's securities to send account statements.

(f) Miller did not disclose to the OSC his outside business activity regarding a company known as iCanTrade Corporation (**iCanTrade**) on the National Registration Database on a timely basis.

10. The Compliance Review also found issues regarding the financial condition of IAI, and Miller's sale of securities of iCanTrade to his portfolio management clients. These issues are described below.

Financial Condition

11. On November 9, 2012, IAI provided Staff with a Form 31-103F1 – *Calculation of Excess Working Capital* (the **Form F1**) as at September 30, 2012, which included among the firm's current assets certain receivables from iCanTrade and Miller totaling $244,949 (the **Receivables**).

12. The Receivables are not readily convertible into cash for the purposes of the Form F1 and therefore should have been deducted from the current assets for the purpose of calculating IAI's excess working capital in the Form F1.

13. When the Receivables are deducted from the current assets for the purpose of calculating excess working capital in the Form F1, the firm has an excess working capital of negative $113,451 as at September 30, 2012.

14. IAI's capital deficiency has not been rectified, and the firm continues to have an excess working capital of less than zero.

15. IAI entered into an agreement with another registered adviser to transfer its clients to that firm (the **Acquiring Firm**). Notice of this transaction was provided to the OSC on March 12, 2013 in accordance with section 11.9 of NI 31-103, and on April 23, 2013 the Director provided notice that the Director did not object to the transaction.

iCanTrade Corporation

16. Miller is the founder of iCanTrade, a small company developing a product known as "iCanTrade.com", which it advertises as a web-based personal portfolio management system.

17. Miller is the president and majority owner of iCanTrade.

18. As of the date of this Settlement Agreement, iCanTrade.com is in the development stage and has no paying customers or other revenue.

19. Miller raised approximately $500,000 to fund the operations of iCanTrade by selling common and preferred shares of the company to sixteen of his portfolio management clients.

20. The sale of iCanTrade securities proceeded in two rounds. In the first round, Miller sold common shares of iCanTrade, and in the second round he sold preferred shares of the company.

21. The sale of iCanTrade securities constituted a distribution of securities for the purpose of section 53 of the Act, and no preliminary prospectus or prospectus for iCanTrade was filed with the OSC or a receipt issued for them by the Director. In order to sell securities of iCanTrade to his portfolio management clients, Miller relied on the fully managed account component of the accredited investor exemption to the prospectus requirement (the **AI exemption**), as provided for in paragraph (q) of the definition of "accredited investor" in section 1.1 of National Instrument 45-106 – *Prospectus and Registration Exemptions*.

22. Miller's sale of iCanTrade securities to his portfolio management clients constituted a material conflict of interest (the **Conflict of Interest**) for the purposes of Division 2 of Part 13 of NI 31-103.

23. In accordance with subsection 13.4(2) of NI 31-103, IAI was required to respond to the Conflict of Interest. Miller responded to the Conflict of Interest by disclosing it, as described below. It is the position of Staff that the appropriate response to the Conflict of Interest in the circumstances of this case was to avoid it by not trading in securities of iCanTrade with clients of IAI or not advising such clients with respect to the buying, selling, or investing in securities of iCanTrade.

24. If one of his portfolio management clients was interested in investing in iCanTrade, Miller generally required the client to sign a document acknowledging the Conflict of Interest and providing their consent to the transaction (the **Notice and Consent**) pursuant to subsection 13.5(2) of NI 31-103.

25. Miller did not obtain a separate Notice and Consent for the second round of sales of iCanTrade securities (*i.e.*, the sale of preferred shares), and instead relied on the client's Notice and Consent given in the first round of sales (*i.e.*, the sale of common shares).

26. For Miller's portfolio management clients who invested in securities of iCanTrade, those securities represented, on average, 6.7% of their portfolio managed by Miller.

27. The securities of iCanTrade constituted a speculative and high-risk investment. It is Miller's position that he properly explained the risks associated with iCanTrade to his clients before they invested. Having interviewed some of these clients, it is Staff's position that Miller did not properly explain the risks associated with iCanTrade to some of his clients.

28. To date, iCanTrade has earned no revenue from any business operations, and its sole source of funding has been investor capital.

29. On May 17, 2011, iCanTrade and IAI entered into a management services agreement whereby iCanTrade would pay IAI management fees in the amount of $7,500 per month (the **Management Fees**).

30. During the period July 1, 2011 to September 30, 2012, IAI earned $99,558 in Management Fees from iCanTrade, which amounted to 14.6% of all investment monies received during that period. Some of the Management Fees were paid by iCanTrade to IAI, and others were accrued but not paid.

31. Miller prepared written business plans for iCanTrade, which he made available to investors if they were interested in receiving the document. The business plans identified five uses of investor funds, and the Management Fees were not among these uses.

32. It is Miller's position that at the time IAI accrued the Management Fees, he did not consider the Management Fees to be a specific use of investor funds, but rather a normal operating expense that did not call for disclosure in the business plans. However, Miller now acknowledges and agrees that the Management Fees should have been disclosed in the business plans.

33. The success or failure of iCanTrade as a going concern has yet to be determined. In addition, Staff has raised concerns with Miller that the activities of iCanTrade require registration under the Act, and these concerns have yet to be addressed to the satisfaction of Staff.

34. As of the date of this Settlement Agreement, Staff is not aware of any complaints from any investor in iCanTrade.

Staff Recommends Suspension of Registration

35. On January 24, 2013, Staff sent a report to the Registrants setting out its findings from the Compliance Review, including the issues relating to IAI's financial condition and Miller's sale of securities of iCanTrade.

36. Also on January 24, 2013, Staff sent a letter to the Registrants informing them that as a result of the findings of the Compliance Review, Staff had recommended to the Director that their registrations be suspended pursuant to section 28 of the Act, and informing them of their right to request an opportunity to be heard (an **OTBH**).

37. On February 5, 2013, the Registrants notified Staff in writing that the Registrants wished to have an OTBH before the Director made a decision regarding Staff's recommendation.

38. An OTBH was convened before the Director on April 2, 2013.

39. At the OTBH, Miller advised that he consented to the suspension of IAI, but that he wished to be able to carry on as a registered advising representative in the future with another registered adviser. As the Registrants were not represented by counsel at the OTBH, the Director adjourned the OTBH to permit Miller the opportunity to discuss his position with counsel, and to afford Miller and Staff a further opportunity to discuss whether a resolution of Miller's individual registration status could be reached.

Admission of Non-Compliance with Ontario Securities Law

40. On the basis of the Agreed Statement of Facts, the Registrants admit the following:

    (a) IAI did not adequately establish, maintain, and apply policies and procedures to establish a system of controls and supervision sufficient to provide reasonable assurance that the firm and each individual acting on its

behalf complied with securities legislation and to manage the risks associated with its business in accordance with prudent business practices, contrary to section 11.1 of NI 31-103.

(b) Miller did not adequately discharge the duties of an ultimate designated person, contrary to section 5.1 of NI 31-103.

(c) Miller did not adequately discharge the duties of a chief compliance officer, contrary to section 5.2 of NI 31-103.

(d) IAI has excess working capital that is less than zero, and which has been less than zero since at least September 30, 2012, contrary to section 12.1 of NI 31-103.

(e) By failing to adequately disclose that iCanTrade would use investor proceeds to fund the Management Fees, the Registrants did not comply with section 2.1 of OSC Rule 31-505 – *Conditions of Registration*.

41. With respect to Miller's sale of securities of iCanTrade to his portfolio management clients, it is the position of Staff that the appropriate response to the Conflict of Interest in the circumstances of this case was avoidance, and it is the position of Miller that he properly responded to the Conflict of Interest by disclosing it in accordance with subsection 13.4(2) of NI 31-103.

Undertakings by Miller

42. Miller gives the following undertakings to Staff:

(a) The payment or accrual of Management Fees shall cease immediately.

(b) Within fourteen days of the Director's approval of this Settlement Agreement, Miller will deliver to Staff an accounting of all amounts for the period May 17, 2011 to the date of the Director's approval of this Settlement Agreement:

(i) paid to IAI by iCanTrade as Management Fees;

(ii) accrued by IAI as Management Fees but not yet paid;

(iii) paid by Miller or IAI to iCanTrade as capital contributions; and

(iii) paid by Miller or IAI on behalf of iCanTrade for iCanTrade's normal operating expenses.

This accounting shall be in a form acceptable to Staff, shall be prepared by IAI's auditor, shall be accompanied by appropriate supporting documentation, and shall be subject to comment and approval by Staff.

(c) Within a time period to be agreed upon by Miller and Staff, Miller will:

(i) for the period May 17, 2011 to the date of the Director's approval of this Settlement, reimburse iCanTrade for the Management Fees paid to IAI, net of any capital contributions to iCanTrade by Miller or IAI and any amounts paid by Miller or IAI on behalf of iCanTrade for iCanTrade's normal operating expenses, as determined by IAI's auditor and approved by Staff;

(ii) for the period May 17, 2011 to the date of the Director's approval of this Settlement, cause IAI to forgive iCanTrade's debt to IAI related to the Management Fees accrued but not yet paid and discharge iCanTrade from any obligation to pay such Management Fees; and

(iii) provide Staff with written evidence of this reimbursement and debt forgiveness.

(d) Within fourteen days of the Director's approval of this Settlement Agreement, Miller will deliver to each investor in iCanTrade written evidence of the client's investment, including the date of the investment, the amount invested, the number of securities acquired by the client, the name of the entity with custody of the client's securities, and the terms of the investment, and shall furnish Staff with written evidence that this notice has been provided.

(e) Within fourteen days of the Director's approval of this Settlement Agreement, Miller will deliver to each investor in iCanTrade a copy of this Settlement Agreement and the Director's decision approving it, and shall furnish Staff with written evidence that this has been done.

43. Miller acknowledges that his failure to comply with the spirit and intent of any of these undertakings may impugn his suitability for registration in the future.

Joint Recommendation to the Director

44. In order to resolve the OTBH, and on the basis of the Agreed Statement of Facts, the admission of non-compliance with Ontario securities law, and the undertakings by Miller set out in this Settlement Agreement, Staff and the Registrants (the **Parties**) have agreed to the following terms, and make the following joint recommendation to the Director:

(a) IAI's registration as an adviser in the category of portfolio manager shall be permanently suspended pursuant to section 28 of the Act;

(b) Miller's registration as an ultimate designated person shall be permanently suspended pursuant to section 28 of the Act;

(c) Miller's registration as a chief compliance officer shall be permanently suspended pursuant to section 28 of the Act;

(d) Miller's registration as an advising representative in the category of portfolio manager will be suspended pursuant to section 28 of the Act, and he may apply for a reinstatement of registration as an advising representative in the category of portfolio manager after a period of six months from the effective date of the suspension, and Staff will not recommend to the Director that his application be refused, unless Staff becomes aware after the date of this Settlement Agreement of conduct impugning Miller's suitability for registration, and provided he meets all other applicable criteria for registration at the time he applies for registration. Miller currently has discretionary relief from the proficiency requirements for an advising representative in the category of portfolio manager as set out in NI 31-103. Miller agrees that if he applies for a reinstatement of registration later than two years from the effective date of his suspension, he shall not rely on any discretionary relief previously granted to him or apply for any new discretionary relief;

(e) Miller shall successfully complete the *Conduct and Practices Handbook Course* before applying for a reinstatement of registration; and

(f) In order to facilitate an orderly transfer of client accounts to the Acquiring Firm or to another registered firm, the Parties recommend that the suspensions of the Registrants become effective at 5:00 p.m. on the tenth business day after the date the Director approves this Settlement Agreement.

45. The Parties submit that their joint recommendation is reasonable, having regard to the following factors:

(a) The Registrants have not previously been the subject of any regulatory action by the OSC relating to allegations of misconduct;

(b) Staff is not aware of any complaints to the OSC by investors regarding their investment in iCanTrade or about Miller's management of their investment portfolios generally;

(c) Miller has co-operated with Staff, in particular during the Compliance Review process;

(d) Miller voluntarily entered into an agreement to transfer his book of business to the Acquiring Firm; and

(e) By agreeing to this Settlement Agreement, the Registrants have saved the Director the time and resources that would have been required to complete the OTBH.

46. The Parties acknowledge that if the Director does not accept this joint recommendation:

(a) This joint recommendation and all discussions and negotiations between the Parties in relation to this matter shall be without prejudice to the Parties; and

(b) The Registrants will be entitled to resume the OTBH in accordance with section 31 of the Act.

47. The Registrants acknowledge that they have consulted, or have had the opportunity to consult, with legal counsel regarding this Settlement Agreement.

"Mark Skuce"	"M.E. Miller"
Mark Skuce, Legal Counsel, Compliance and Registrant Regulation	Marshall Miller, on his own behalf and on behalf of Investment Allocation International Inc.
June 3, 2013	*May 31, 2013*
Date	Date

Decision of the Director

Having reviewed and considered the agreed facts, admissions, representations, submissions, and undertakings contained in the settlement agreement (the **Settlement Agreement**) entered into between Investment Allocation International Inc. (**IAI**), Marshall Miller (**Miller**), and staff of the Ontario Securities Commission (**Staff**), and on the basis of those agreed facts, admissions, representations, submissions, and undertakings, I, Erez Blumberger, in my capacity as Director under the *Securities Act* (Ontario) (the **Act**), accept the joint recommendation of the parties, and make the following decision:

(a) IAI's registration as an adviser in the category of portfolio manager is permanently suspended pursuant to section 28 of the Act;

(b) Miller's registration as an ultimate designated person is permanently suspended pursuant to section 28 of the Act;

(c) Miller's registration as a chief compliance officer is permanently suspended pursuant to section 28 of the Act;

(d) Miller's registration as an advising representative in the category of portfolio manager is suspended pursuant to section 28 of the Act, and he may apply for a reinstatement of registration after a period of six months from the date of this decision; and

(e) The suspensions of the Registrants shall be effective at 5:00 p.m. on the tenth business day after the date of this decision for the purpose of facilitating an orderly transfer of client accounts to a different registered firm.

June 4, 2013
Date

"Erez Blumberger"
Erez Blumberger
Deputy Director
Compliance and Registrant Regulation

3.1.3 Michael Robert Shantz and Canada Pacific Consulting Inc. – ss. 127(1), (10)

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

AND

IN THE MATTER OF
MICHAEL ROBERT SHANTZ AND
CANADA PACIFIC CONSULTING INC.

REASONS AND DECISION
(Subsections 127(1) and 127(10) of the Securities Act)

Decision: June 7, 2013

Panel: James D. Carnwath, Q.C. - Commissioner and Chair of the Panel

Counsel: Donna E. Campbell - For Staff of the Commission

- No one appeared for the Respondents

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I. OVERVIEW

[1] This was a hearing conducted in writing before the Ontario Securities Commission (the **"Commission"**) pursuant to subsections 127(1) and 127(10) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the **"Act"**) to consider whether it is in the public interest to make an order imposing sanctions against Michael Robert Shantz (**"Shantz"**) and Canada Pacific Consulting Inc. (**"Canada Pacific"**) (collectively, the **"Respondents"**).

[2] A Notice of Hearing in this matter was issued by the Commission on March 22, 2013 in relation to a Statement of Allegations filed by Staff of the Commission (**"Staff"**) on March 21, 2013.

[3] On April 12, 2013, the Commission heard an application by Staff to convert this matter to a written hearing in accordance with Rule 11.5 of the Commission's *Rules of Procedure* (2012), 35 O.S.C.B. 10071 ***("Rules of Procedure")***, and subsection 5.1(2) of the *Statutory Powers Procedures Act*, R.S.O. 1990, c. S. 22, as amended (the ***"SPPA"***). The Respondents did not appear at the application hearing, despite being served with the Notice of Hearing, Statement of Allegations and disclosure as evidenced by the Affidavit of Service of Lee Crann, sworn April 2, 2013.

[4] The Commission granted Staff's application to proceed by way of written hearing and set a schedule for submission of materials by the parties (*Michael Robert Shantz and Canada Pacific Consulting Inc.* (2013), 36 O.S.C.B. 4223 (the **"April 12 Order"**)).

[5] Staff filed the Affidavit of Service of Lee Crann, sworn April 29, 2013, confirming service of the April 12 Order on Shantz, personally and in his capacity as sole director and officer of Canada Pacific.

[6] Staff provided written submissions, a hearing brief and a brief of authorities. The Respondents did not file any responding materials. I am satisfied that the Respondents were served with notice of this hearing. Pursuant to Rule 7.1 of the Commission's *Rules of Procedure* and subsection 7(2) of the *SPPA*, I may proceed in the absence of the Respondents.

[7] Staff relies on paragraph 4 of subsection 127(10) of the *Act*, which permits the Commission to make an order under subsection 127(1) of the *Act* in respect of a person or company who is subject to an order made by a securities regulatory authority, derivatives regulatory authority or financial regulatory authority, in any jurisdiction, that imposes sanctions, conditions, restrictions or requirements on the person or company.

[8] These are my reasons and decision for sanctions imposed pursuant to subsections 127(1) and 127(10) of the *Act*.

[9] On March 13, 2012, a panel of the British Columbia Securities Commission (the **"BCSC"**) made findings on the liability of the Respondents (*Re Canada Pacific Consulting Inc. and Michael Robert Shantz*, 2012 BCSECCOM 86 (the **"BCSC Findings"**)). Shantz appeared on his own behalf and on behalf of Canada Pacific, but he did not cross-examine the witness, enter evidence or make any submissions.

[10] In the BCSC Findings, the panel found that:

(a) Canada Pacific engaged in unregistered trading contrary to subsection 34(1) of the British Columbia *Securities Act*, R.S.B.C. 1996, c. 418 (the **"BC Act"**);

(b) Shantz as sole director and officer of Canada Pacific, contravened subsection 34(1) by operation of subsection 168.2(1) of the *BC Act*; and

(c) the Respondents perpetrated a fraud contrary to section 57 of the *BC Act*.

(BCSC Findings, above at paras. 37, 39 and 49)

[11] The Respondents are subject to an order made by the BCSC dated May 22, 2012 that imposes sanctions, conditions, restrictions or requirements on them within the meaning of paragraph 4 of subsection 127(10) of the *Act* (*Re Canadian Pacific Consulting Inc. and Michael Robert Shantz*, 2012 BCSECCOM 195 (the **"BCSC Order"**)).

[12] In imposing sanctions, I rely on the BCSC Order. It is not appropriate in exercising my jurisdiction to revisit or question the BCSC Findings or the BCSC Order.

II. SANCTIONS OF THE BRITISH COLUMBIA SECURITIES COMMISSION

The BCSC Order

[13] The BCSC Order imposed the following sanctions, conditions, restrictions or requirements:

(a) upon Shantz:

i. pursuant to subsection 161(1)(b) of the *BC Act*, that Shantz cease trading in, and is prohibited from purchasing, securities and exchange contracts, permanently;

ii. pursuant to subsections 161(1)(d)(i) and (ii) of the *BC Act*, that Shantz resign any position he holds as, and is permanently prohibited from becoming or acting as, a director or officer of any issuer or registrant;

iii. pursuant to subsection 161(1)(d)(iii) of the *BC Act*, that Shantz is permanently prohibited from becoming or acting as a registrant or promoter;

iv. pursuant to subsection 161(1)(d)(iv) of the *BC Act*, that Shantz is permanently prohibited from acting in a management or consultative capacity in connection with activities in the securities market;

v. pursuant to subsection 161(1)(d)(v) of the *BC Act*, that Shantz is permanently prohibited from engaging in investor relations activities;

vi. pursuant to subsection 161(1)(g) of the *BC Act*, that Shantz pay to the BCSC any amount obtained, or payment or loss avoided, directly or indirectly as a result of the Respondents' contraventions of the *BC Act*, which the BCSC panel found to be not less than $1,530,004; and

vii. pursuant to section 162 of the *BC Act*, that Shantz pay an administrative penalty of $630,000;

(b) upon Canada Pacific:

i. pursuant to subsection 161(1)(b) of the *BC Act*, that all persons permanently cease trading in, and are prohibited from purchasing, securities of Canada Pacific;

ii. pursuant to subsection 161(1)(b) of the *BC Act*, that Canada Pacific cease trading in, and is prohibited from purchasing, securities and exchange contracts, permanently; and

iii. pursuant to section 161(1)(g) of the *BC Act*, that Canada Pacific pay to the BCSC any amount obtained, or payment or loss avoided, directly or indirectly as a result of the Respondents' contraventions of the *BC Act*, which the BCSC panel found to be not less than $1,530,004;

(c) Maximum disgorgement:

i. that the aggregate amount paid to the BCSC under the disgorgement orders not exceed the greater of $1,530,004 and the actual amount obtained, or payment or loss avoided, directly or indirectly as a result of the Respondents' contraventions of the BC Act.

(BCSC Order, above at para. 21; Re Canada Pacific Consulting Inc. et al, 2012 BCSECCOM 227)

III. ANALYSIS

A. Inter-jurisdictional Enforcement

[14] Subsection 127(10) of the Act provides in part as follows:

> **127 (10) Inter-jurisdictional enforcement** – Without limiting the generality of subsections (1) and (5), an order may be made under subsection (1) or (5) in respect of a person or company if any of the following circumstances exist:
>
> […]
>
> 4. The person or company is subject to an order made by a securities regulatory authority, derivatives regulatory authority or financial regulatory authority, in any jurisdiction, that imposes sanctions, conditions, restrictions or requirements on the person or company. […]

[15] The BCSC Order makes the Respondents subject to an order of the BCSC that imposes sanctions, conditions, restrictions or requirements on them, within the meaning of paragraph 4 of subsection 127(10) of the *Act*.

[16] Based on the BCSC Order, the Commission may make one or more orders under subsection 127(1) of the *Act*, if in its opinion it is in the public interest to do so.

[17] In *Re Euston Capital Corp*. (2009), 32 O.S.C.B. 6313 (***"Euston Capital"***), the Commission concluded that subsection 127(10) of the *Act* can be the grounds for an order in the public interest under subsection 127(1) of the *Act*, based on a decision and order made in another jurisdiction:

> … we conclude that we can make an order against the Respondents pursuant to our public interest jurisdiction under section 127 of the Act on the basis of decisions and orders made in other jurisdictions, if we find it necessary in order to protect investors in Ontario and the integrity of Ontario's capital markets.
>
> (*Euston Capital*, above at para. 46)

[18] I therefore find that I have the authority to make a public interest order under subsections 127(1) and 127(10) of the *Act*, based on the BCSC Findings and the BCSC Order.

B. Submissions of the Parties

Staff's Submissions

[19] To adequately protect Ontario's capital markets, Staff seeks to impose sanctions that are consistent with the sanctions imposed pursuant to the BCSC Order.

[20] Staff requests the following sanctions against the Respondents:

(a) against Shantz that:

i. pursuant to paragraph 2 of subsection 127(1) of the *Act*, trading in any securities or derivatives by Shantz shall cease permanently;

ii. pursuant to paragraph 2.1 of subsection 127(1) of the *Act*, the acquisition of any securities by Shantz shall cease permanently;

iii. pursuant to paragraph 7 of subsection 127(1) of the *Act*, Shantz shall resign any positions that he holds as a director or officer of an issuer;

iv. pursuant to paragraph 8 of subsection 127(1) of the *Act*, Shantz shall be prohibited permanently from becoming or acting as an officer or director of an issuer;

v. pursuant to paragraph 8.1 of subsection 127(1) of the *Act*, Shantz shall resign any positions that he holds as a director or officer of a registrant;

vi. pursuant to paragraph 8.2 of subsection 127(1) of the *Act*, Shantz shall be prohibited permanently from becoming or acting as director or officer of a registrant; and

vii. pursuant to paragraph 8.5 of subsection 127(1) of the *Act*, Shantz shall be prohibited permanently from becoming or acting as a registrant or as a promoter.

(b) against Canada Pacific that:

i. pursuant to paragraph 2 of subsection 127(1) of the *Act*, all trading in securities of Canada Pacific shall cease permanently; and

ii. pursuant to paragraph 2 of subsection 127(1) of the *Act*, trading in any securities or derivatives by Canada Pacific shall cease permanently.

Respondents' Submissions

[21] The Respondents did not appear and did not make any submissions in this proceeding.

C. Should an Order for Sanctions be Imposed?

[22] When exercising the public interest jurisdiction under section 127 of the *Act*, I must consider the purposes of the *Act*. Those purposes, set out in section 1.1 of the *Act*, are:

(a) to provide protection to investors from unfair, improper or fraudulent practices; and

(b) to foster fair and efficient capital markets and confidence in capital markets.

[23] In pursuing these purposes, I must have regard for the fundamental principles described in section 2.1 of the *Act*. That section provides that one of the primary means for achieving the purposes of the *Act* is to restrict fraudulent and unfair market practices and procedures.

[24] I find that it is necessary to protect Ontario investors and the integrity of Ontario's capital markets to order sanctions against the Respondents in the public interest.

D. The Appropriate Sanctions

[25] In determining the nature and duration of the appropriate sanctions, I must consider all of the relevant facts and circumstances before me, including:

(a) the seriousness of the conduct and the breaches of the BC Act;

(b) the level of a respondent's activity in the marketplace;

(c) whether or not the sanctions imposed may serve to deter not only the Respondents but any like-minded people from engaging in similar abuses of the Ontario capital markets;

(d) the effect any sanctions may have on the ability of the Respondents to participate without check in the capital markets; and

(e) any mitigating factors.

(*Re Belteco Holdings Inc.* (1998), 21 O.S.C.B. 7743 at 7746; *Re M.C.J.C. Holdings Inc.* (2002), 25 O.S.C.B. 1133)

[26] The following facts and circumstances are particularly relevant in determining the sanctions that should be ordered against the Respondents:

(a) the Respondents were found by a panel of the BCSC to have breached British Columbia securities law;

(b) the terms of the BC Order; and

(c) the conduct for which the Respondents were sanctioned in the BCSC Order would constitute contraventions of Ontario securities law if they had occurred in Ontario, including contraventions of subsections 25(1) and 126.1(b) of the *Act*.

[27] In my view, there are no mitigating factors or circumstances.

[28] I find that the BCSC Order imposed significant sanctions on the Respondents and that the Commission should exercise its discretion to impose sanctions consistent with those imposed by the BCSC Order.

[29] I find that the sanctions imposed by the BCSC Order are appropriate to the misconduct by the Respondents, and serve as both specific and general deterrence. I further find that a protective order imposing market conduct restrictions on the Respondents that are substantially similar to those imposed by the BCSC Order are required to protect Ontario investors and Ontario capital markets from similar misconduct by the Respondents.

[30] Based on the foregoing, I have concluded that it is in the public interest to make an order under subsection 127(1) of the *Act*.

IV. CONCLUSION

[31] Accordingly, I find it is in the public interest to issue the following orders:

(a) against Shantz that:

i. pursuant to paragraph 2 of subsection 127(1) of the *Act*, trading in any securities or derivatives by Shantz shall cease permanently;

ii. pursuant to paragraph 2.1 of subsection 127(1) of the *Act*, the acquisition of any securities by Shantz shall cease permanently;

iii. pursuant to paragraph 7 of subsection 127(1) of the *Act*, Shantz shall resign any positions that he holds as a director or officer of an issuer;

iv. pursuant to paragraph 8 of subsection 127(1) of the *Act*, Shantz shall be prohibited permanently from becoming or acting as director or officer of an issuer;

v. pursuant to paragraph 8.1 of subsection 127(1) of the *Act*, Shantz shall resign any positions that he holds as a director or officer of a registrant;

vi. pursuant to paragraph 8.2 of subsection 127(1) of the *Act*, Shantz shall be prohibited permanently from becoming or acting as a director or officer of a registrant; and

vii. pursuant to paragraph 8.5 of subsection 127(1) of the *Act*, Shantz shall be prohibited permanently from becoming or acting as a registrant or as a promoter;

(b) against Canada Pacific that:

i. pursuant to paragraph 2 of subsection 127(1) of the *Act*, all trading in securities of Canada Pacific shall cease permanently; and

ii. pursuant to paragraph 2 of subsection 127(1) of the *Act*, trading in any securities or derivatives by Canada Pacific shall cease permanently.

Dated at Toronto this 7th day of June, 2013.

James D. Carnwath, Q.C.

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
Rusoro Mining Ltd.	24 May 13	05 Jun 13	05 Jun 13	

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
dynaCERT Inc.	07-May-13	17-May-13	17-May-13	06-Jun-13	

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
Argentium Resources Inc.	13-May-13	24-May-13	24-May-13		
dynaCERT Inc.	07-May-13	17-May-13	17-May-13	06-Jun-13	
Mint Technology	13-May-13	24-May-13	24-May-13		
Northland Resources S.A.	05-Apr-13	17-Apr-13	17-Apr-13		
ProSep Inc.	17-Apr-13	29-Apr-13	29-Apr-13		

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5.1.1 CSA – Implementation of Stage 2 of Point of Sale Disclosure for Mutual Funds – Delivery of Fund Facts – Notice of Amendments to NI 81-101 Mutual Fund Prospectus Disclosure, Form 81-101F3 Contents of Fund Facts Document, Companion Policy 81-101CP to National Instrument 81-101 Mutual Fund Prospectus Disclosure and Consequential Amendments

CSA/ACVM Canadian Securities Administrators Autorités canadiennes en valeurs mobilières

CANADIAN SECURITIES ADMINISTRATORS IMPLEMENTATION OF STAGE 2 OF POINT OF SALE DISCLOSURE FOR MUTUAL FUNDS *– DELIVERY OF FUND FACTS*

NOTICE OF AMENDMENTS TO NATIONAL INSTRUMENT 81-101 *MUTUAL FUND PROSPECTUS DISCLOSURE*, FORM 81-101F3 *CONTENTS OF FUND FACTS DOCUMENT*, COMPANION POLICY 81-101CP *TO NATIONAL INSTRUMENT 81-101 MUTUAL FUND PROSPECTUS DISCLOSURE* AND CONSEQUENTIAL AMENDMENTS

June 13, 2013

Introduction

The Canadian Securities Administrators (the CSA or we) are making amendments (the Amendments) to

- National Instrument 81-101 *Mutual Fund Prospectus Disclosure* (the Rule or NI 81-101), including Form 81-101F3 *Contents of Fund Facts Document* (the Form); and
- Companion Policy 81-101CP *to National Instrument 81-101 Mutual Fund Prospectus Disclosure* (the Companion Policy).

Also incorporated in the Amendments are consequential amendments (the Consequential Amendments) to National Instrument 81-102 *Mutual Funds* (NI 81-102), Form 81-101F1 *Contents of Simplified Prospectus* and Form 81-101F2 *Contents of Annual Information Form*. The Amendments will require delivery of the Fund Facts instead of the simplified prospectus to satisfy the prospectus delivery requirements under securities legislation to deliver a prospectus within two days of buying a conventional mutual fund. Subject to Ministerial approval requirements for rules, the coming into force of the Amendments will be phased in beginning on September 1, 2013.

Adopting the Amendments complete Stage 2 of the CSA's implementation of the point of sale disclosure framework (the Framework) published in October 2008 by the CSA and the Canadian Council of Insurance Regulators, as members of the Joint Forum of Financial Market Regulators (the Joint Forum).[1] The CSA is implementing the Framework in three stages, as set out

[1] The goal of the Joint Forum is to continuously improve the financial services regulatory system through greater harmonization, simplification and co-ordination of regulatory activities. Under the framework, investors would receive more meaningful information about a mutual fund or segregated fund at a time that is relevant to their investment decision.

in CSA Staff Notice 81-319 *Status Report on the Implementation of Point of Sale Disclosure for Mutual Funds* (CSA Staff Notice 81-319) published on June 18, 2010.

The Fund Facts document (the Fund Facts) is central to the Framework. The CSA designed the Fund Facts to make it easier for investors to find and use key information. It is in plain language, no more than two pages double-sided and highlights key information important to investors, including past performance, risks and the costs of investing in a mutual fund. For illustrative purposes, a sample Fund Facts is set out in Annex A to this Notice.

Under securities legislation, a prospectus is required to be delivered to investors within two days of buying a mutual fund. Stage 2 replaces delivery of the simplified prospectus with delivery of the Fund Facts in order to satisfy this requirement. The prospectus will continue to be available to investors upon request.

Proposed amendments to the Rule and the Companion Policy, together with consequential amendments, were first published for comment by the CSA on August 12, 2011. In response to stakeholder feedback, particularly investor advocates, changes were made to this proposal which focused primarily on the presentation of risk and past performance in the Fund Facts. Those changes were published for further comment on June 21, 2012 (the 2012 Proposal). In the 2012 Proposal, the CSA committed that before finalizing any changes to the Fund Facts content, the CSA would test the changes with investors.

A description of the key changes we have made in the 2012 Proposal is set out in Annex B to this Notice. You can find a summary of the comments we received on the 2012 Proposal, together with our responses, in Annex C to this Notice.

The text of the Amendments is also included in annexes to this Notice and is available on the websites of members of the CSA.

In some jurisdictions, legislative amendments required for the Amendments to be fully effective have been sought and enacted prior to adopting the Amendments. We anticipate that the required legislative amendments relating to the delivery and statutory right of action and of withdrawal in respect of the Fund Facts will be in force in all jurisdictions by the effective date under the Amendments for implementation of the requirement to deliver the Fund Facts.

Testing of Fund Facts

In the 2012 Proposal, the CSA committed to testing the proposed changes to the Fund Facts with investors before proceeding with any changes to the document. During September and October 2012, Allen Research Corporation of Toronto, Ontario, tested investors' understanding of the proposed changes to the Fund Facts, particularly the presentation of risk and past performance in the 2012 Proposal.

The research was conducted in 2 phases: (1) qualitative research conducted through 21 one-on-one in-depth interviews and (2) quantitative research conducted through an online questionnaire with 532 retail investors. The Fund Facts was tested both in English and French.

The testing showed that investors generally find the Fund Facts contains important information, and that it is expressed in easy-to-read language. Investors also indicated they would favour receiving the Fund Facts at or before the point of sale. Other key findings specific to the 2012 Proposal changes to the Fund Facts included:

- investors did not always understand the explanation of the risk scale and the relationship between risk and losses;
- investors did not understand the three to four main risks of the mutual fund that were listed;
- investors did not generally view the comparison of the return on a one-year GIC to the past performance of the mutual fund as an illustration of the relationship between risk and return, but rather, as a tool to assess potential future performance;
- investors thought it was useful to see the worst 3-month return of the mutual fund but also wanted to see the best 3-month return; and
- investors wanted to know about trailing commissions but did not fully understand the language related to potential representative conflicts of interest.

The results of this testing helped to inform the changes we have made to the Fund Facts. The final report, "*CSA Point of Sale Disclosure Project: Fund Facts Document Testing,"* is available on the websites of the Ontario Securities Commission and the Autorité des marchés financiers at www.osc.gov.on.ca and www.lautorite.qc.ca, respectively. Copies are also available from any CSA member.

Substance and Purpose of the Amendments

We know that many investors do not use the information in the simplified prospectus because they have trouble finding and understanding the information they need. Research on investor preferences for mutual fund information, including our own testing of the Fund Facts, indicates investors prefer to receive a concise summary of key information.[2] Financial literacy research further reinforces the need for clear and simple disclosure.

The CSA designed the Fund Facts to make it easier for investors to find and use key information. It is in plain language, no more than two pages double-sided and highlights key information important to investors. The format provides investors with basic information about the mutual fund, followed by a concise explanation of mutual fund expenses and fees, dealer compensation and investor rights. Introductory text specifies that more detailed information about the mutual fund is available in its prospectus.

The Amendments are an important step in the implementation of this investor-focused initiative.

With delivery of the Fund Facts, investors will be able to review key information about the potential benefits, risks and costs of investing in a mutual fund in an accessible format within two days of buying a mutual fund when they still may change their investment decision. We also think familiarity with the Fund Facts may assist investors in their decision-making process and in discussions with their representatives, and highlight for investors where they can find further information about the mutual fund.

Background

CSA Staff Notice 81-319 outlines the CSA's decision to implement the Framework in three stages.

Stage 1 was completed on January 1, 2011, when amendments to NI 81-101 came into force. These amendments, published on October 6, 2010, require mutual funds subject to NI 81-101 to produce and file a Fund Facts and make it available on the mutual fund's or mutual fund manager's website. The Fund Facts must also be delivered or sent to investors free of charge upon request.

With the adoption of the Amendments, Stage 2 will be completed on June 13, 2014. The Amendments will require delivery of the Fund Facts instead of the prospectus to satisfy the prospectus delivery requirements under securities legislation to deliver a prospectus within two days of buying a mutual fund. A description of the phase-in of Stage 2 is set out below under the heading "Transition".

In Stage 3, the CSA will publish for comment proposed requirements that will require point of sale delivery of the Fund Facts for conventional mutual funds. As part of Stage 3, we will also consider the applicability of a similar document to Fund Facts and point of sale delivery for other types of publicly offered investment funds, including exchange-traded funds (ETFs).

You can find additional background information and other Joint Forum publications on the topic of point of sale disclosure for mutual funds and segregated funds on the Joint Forum website at www.jointforum.ca and on the websites of members of the CSA.

Summary of Written Comments Received by the CSA

We received 33 comment letters on the 2012 Proposal. We thank everyone who provided comments. Copies of the comment letters are posted on the websites of the Ontario Securities Commission and the Autorité des marchés financiers at www.osc.gov.on.ca and www.lautorite.qc.ca, respectively. Copies are also available from any CSA member. You can find the names of the commenters and a summary of the comments and the CSA responses in Annex C to this Notice.

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[2] You can find a list of the research, studies and other sources that the Joint Forum reviewed and relied on in developing the point of sale disclosure framework in Appendix 4 to the proposed framework (the proposed Framework), published in June 2007. The proposed Framework is available on the Joint Forum website and on the websites of some members of the CSA. The *Fund Facts Document Research Report* prepared by Research Strategy Group can be found in Appendix 5 to the proposed Framework.

More recent research on investor understanding and preferences can be found on the websites of some members of the CSA: The *CSA Point of Sale Disclosure Project: Fund Facts Document Testing* prepared by Allen Research Corporation can be found on the websites of some members of the CSA accompanying this publication. See also the investor research reports and document testing that accompanied the publication of Proposed Amendments to National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* and to Companion Policy 31-103CP *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (2nd publication), June 14, 2012: *Exempt Market Investors – Account Reporting Practices Online Survey Final Report* prepared by The Brondesbury Group, *Results of Investor Focus Groups and Personal Interviews – Background Report for Online Survey of Exempt Market Investors* prepared by The Brondesbury Group, *Telephone Survey of Retail Investors – Account Reporting Practices – Omnibus Final Report* prepared by The Brondesbury Group, *Canadian Securities Administrators Performance Report Testing* prepared by Allen Research Corporation, and *Report: Performance Reporting and Cost Disclosure prepared by The Brondesbury Group.* See also the *2012 CSA Investor Index* prepared by Innovative Research Group, Inc.

Commenters generally support the delivery of Fund Facts instead of the prospectus within two days of buying a mutual fund. However, a large number of commenters indicated that a six month transition period is not enough time to make changes to both the Fund Facts template and operational systems. We also received a number of comments on the proposed changes to the risk and past performance disclosure in the Fund Facts.

Commenters generally supported the CSA development of a risk classification methodology. Based on the feedback we received, we are continuing to consider the development of a CSA risk classification methodology. We intend to consult on this methodology and to publish any proposals for comment.

Summary of Changes to the 2012 Proposal

We have not made any changes to the delivery requirements related to the Fund Facts as contemplated in the 2012 Proposal, except to extend the transition period for implementation of delivery of the Fund Facts to 12 months after the publication of the Amendments. In response to the comments we received on the proposed changes to the Fund Facts and the results of the testing, we have made a number of changes to the Form.

A more detailed description of the key changes we have made to the 2012 Proposal is set out in Annex B to this Notice.

Summary of the Amendments

Application

The Amendments continue to apply only to conventional mutual funds subject to NI 81-101.

Fund Facts

The Fund Facts document set out in Form 81-101F3 is central to the Amendments. A separate Fund Facts document continues to be required for each class or series of a mutual fund.

Some of the changes we have made to the Fund Facts content include:

- adding an explanation of “volatility” in the risk section to provide greater explanation of the risk scale;
- removing the requirement to include a list of main risks of the mutual fund;
- removing the comparison to the mutual fund’s performance with the one-year Guaranteed Investment Certificate (GIC);
- adding the best 3-month returns to the performance section in addition to the worst 3-month returns; and
- refining the disclosure about potential conflicts arising from the payment of commissions to refer to investments in general rather than mutual funds specifically.

A description of all the key changes we have made to the Fund Facts is set out in Annex B to this Notice.

Delivery of Fund Facts Instead of the Prospectus

Currently, under NI 81-101, the requirement under securities legislation to deliver a prospectus of a mutual fund is satisfied by delivery of the simplified prospectus. The Amendments will require delivery of the most recently filed Fund Facts for the applicable class or series of securities of the mutual fund in all instances where the prospectus would otherwise be required to be delivered. Delivery of the Fund Facts will satisfy the current prospectus delivery requirements under securities legislation.

The Amendments will restrict the documents that may be attached to, or bound with, the Fund Facts on delivery.

We have not made any changes to a mutual fund’s obligation to file its simplified prospectus and annual information form with the CSA. These documents will continue to be made available to investors on the mutual fund’s or mutual fund manager’s websites and upon request, delivered or sent at no cost.

The delivery provisions in the Amendments are drafted to reflect the current differences in the legislative authority of members of the CSA. While drafting may differ among the members of the CSA, we anticipate that each jurisdiction will achieve the same outcome of requiring delivery of the Fund Facts to satisfy legislative requirements to deliver the prospectus. By the time delivery provisions of the Amendments are implemented, we anticipate that the required legislative amendments will be in force in all jurisdictions in order to achieve a harmonized provision.

No Effect on Investor Rights

Right for failure to deliver the Fund Facts

If the Fund Facts is to be delivered instead of the simplified prospectus, some jurisdictions may require legislative amendments in order to preserve an investor's right of damages or to rescind the purchase if the investor does not receive the Fund Facts. The CSA expect that required legislative amendments will be in force in all jurisdictions by the effective date under the Amendments for implementation of delivery of the Fund Facts.

Right for withdrawal of purchase

If the Fund Facts is to be delivered instead of the simplified prospectus, some jurisdictions may require legislative amendments in order to preserve an investor's right to withdraw from the purchase within two business days after receiving the Fund Facts. The CSA expect that required legislative amendments will be in force in all jurisdictions by the effective date under the Amendments for implementation of delivery of the Fund Facts.

Right for misrepresentation

The right for misrepresentation related to the Fund Facts has not changed. The Fund Facts is incorporated by reference into the simplified prospectus. This means that the existing statutory rights of investors that apply for misrepresentations in a prospectus will apply to misrepresentations in the Fund Facts.

No Change to Filing Requirements

The filing requirements related to the Fund Facts have not changed. The Fund Facts must continue to be filed concurrently with the mutual fund's simplified prospectus and annual information form. The certificate for the mutual fund, which certifies the disclosure in the simplified prospectus and annual information form, applies to the Fund Facts just as it applies to all documents incorporated by reference into the simplified prospectus.

If a material change to the mutual fund relates to a matter that requires a change to the disclosure in the Fund Facts, an amendment to the Fund Facts must be filed. If managers want to provide more current information in the Fund Facts, they may choose to amend the Fund Facts at any time. In all instances, an amendment to a mutual fund's Fund Facts must be accompanied by an amendment to the mutual fund's annual information form.

Any Fund Facts filed after the date of the simplified prospectus is intended to supersede the Fund Facts previously filed. Once filed, the Fund Facts must be posted to the mutual fund's or the mutual fund manager's website.

Transition

Fund Facts

The Amendments to the Form requirements take effect January 13, 2014. This means, from the time of publication of this Notice, a conventional mutual fund will have six months to make any changes to compliance and operational systems that are necessary to produce the Fund Facts in the amended Form.

As of January 13, 2014, a mutual fund that files a preliminary or pro forma simplified prospectus and annual information form must concurrently file a Fund Facts, under the Amendments, for each class or series of the mutual fund offered under the simplified prospectus and post the Fund Facts to the mutual fund's or mutual fund manager's website.

In order to fully implement the Amendments within a reasonable time period, the Amendments require that a mutual fund must, if it has not already done so, file a Fund Facts under the Amendments for each class or series of the mutual fund by May 13, 2014. This may occur either concurrently with the mutual fund's filing of its simplified prospectus and annual information form, or by the mutual fund filing a Fund Facts separately on SEDAR. A separate SEDAR filing category has been created for this purpose, named "Stage 2 Fund Facts."

A Fund Facts filed separately on SEDAR will be superseded by the Fund Facts that is subsequently filed concurrently with the mutual fund's pro forma simplified prospectus and annual information form.

Delivery of Fund Facts Instead of the Simplified Prospectus

The requirement in the Amendments for delivery of the Fund Facts within two days of buying a conventional mutual fund takes effect on June 13, 2014. This means, from the time of publication of this Notice, a mutual fund will have 12 months to make any changes to compliance and operational systems that are necessary to effect Fund Facts delivery. From June 13, 2014, delivery

of the Fund Facts will satisfy the legislative requirement to deliver a prospectus within two days of buying a conventional mutual fund.

Any existing exemptive relief to allow for the early use of the Fund Facts to satisfy the current prospectus delivery requirements will expire in accordance with the sunset provisions of such relief. These sunset provisions generally expire on the date the Amendments come into force.

The CSA continue to encourage applications to permit the early use of the Fund Facts instead of the prospectus. For early delivery of the Fund Facts in the amended Form, please speak to CSA staff.

Transition Timeline

June 13, 2013 ➡	**September 1, 2013** ➡	**January 13, 2014** ➡	**May 13, 2014** ➡	**June 13, 2014**
Publication of Amendments	Amendments come into force	Amended Fund Facts Form takes effect	Filing deadline for Amended Fund Facts Form	Requirement to deliver Funds Facts within 2 days of purchase takes effect

Alternatives Considered

The earlier publications by the Joint Forum outlined the alternatives we considered, as members of the Joint Forum, in developing the point of sale disclosure regime for mutual funds contemplated by the Amendments. These publications also set out the pros and cons of each alternative. You can find these documents on the Joint Forum website and on the websites of members of the CSA.

Anticipated Costs and Benefits

The earlier publications by the Joint Forum and CSA outlined some of the anticipated costs and benefits of implementation of the point of sale disclosure regime for mutual funds contemplated by the Framework. We consider these costs and benefits to still be valid. Overall, we continue to believe that the potential benefits of the changes to the disclosure regime for mutual funds as contemplated by the Amendments are proportionate to the costs of making them.

You can find these documents on the Joint Forum website and on the websites of members of the CSA.

Consequential Amendments

National amendments

Amendments to NI 81-102 are set out in Annex F to this Notice.

Local amendments

Elements of local securities legislation may need to be amended in conjunction with the implementation of the Amendments. The provincial and territorial securities regulatory authorities may publish these local amendments separately in their jurisdictions. These local changes may be to rules or regulations, or to statutes. If statutory amendments are necessary in a jurisdiction, these changes will be initiated and published by the local provincial government.

Consequential amendments to rules or regulations in a particular jurisdiction or publication requirements of a particular jurisdiction are in an Annex G to this Notice published in that particular jurisdiction.

Some jurisdictions may need to modify the application of the Amendments using a local implementing rule. Jurisdictions that must do so will separately publish the implementing rule.

Unpublished Materials

In developing the Amendments, we have not relied on any significant unpublished study, report or other written materials.

Next Steps

The CSA remains committed to a staged approach to implementation of the point of sale disclosure framework.

We will begin work on proposed requirements that would implement delivery of the Fund Facts at the point of sale for mutual funds. These proposed requirements will be published for further comment.

As part of Stage 3, we stated that we will also consider the applicability of a summary disclosure document and point of sale delivery for other types of publicly offered investment funds not captured by NI 81-101, including ETFs. Related to this work, we are considering applications from ETF providers and a group of dealers for exemptive relief from the existing prospectus delivery requirements under securities legislation in order to permit the delivery of a summary disclosure document.

Generally, the prospectus delivery requirement under securities legislation applies only to an investor's purchase if the order is filled from a dealer's "creation units". "Creation units" are issued by ETFs to dealers that are authorized to purchase newly issued securities directly from the ETF. The dealers, in turn, re-sell securities from their "creation units" on an exchange.[3] The CSA take the view that the first re-sale of a "creation unit" on an exchange or another marketplace in Canada will generally constitute a distribution of "creation units" subject to the prospectus delivery requirement. If, however, the ETF investor's purchase order is filled through a secondary market trade of previously issued existing ETF securities, the prospectus delivery requirement does not apply. This means that investors who purchase ETF securities that are trading in the secondary market may not be entitled to receive a prospectus under securities legislation unless they specifically request it.

The proposed exemptive relief would require dealers that are parties to the relief to deliver to investors a summary disclosure document within two days of the investor buying an ETF, whether or not the investor's purchase order is filled from "creation units".[4] This obligation would apply to dealers acting as agent of the purchaser on the "buy" side of the transaction, rather than to dealers acting in a distribution on the "sell" side of the transaction, as currently required under securities legislation.

We think the proposed exemptive relief would improve the consistency with which disclosure is provided to ETF investors and help create a more consistent disclosure framework between conventional mutual funds and ETFs.

We expect that the exemptive relief will be effective by Fall 2013. We then anticipate initiating rule-making and seeking legislative amendments to codify the concepts of the proposed exemptive relief to make it applicable to all dealers who act as agent of the purchaser of an ETF security. This would include a summary disclosure document for ETFs, similar to the Fund Facts. The sunset provisions of the exemptive relief are intended to expire once rule-making and legislative amendments are in place. At the same time as the work to codify this exemptive relief is underway, we will begin to develop requirements to implement delivery of the Fund Facts at the point of sale for mutual funds.

As the CSA's implementation of the point of sale disclosure framework continues to progress, we should achieve the Joint Forum's vision described in the Framework:

- providing investors with key information about a fund;
- providing the information in a simple, accessible and comparable format; and
- providing the information before investors make their decision to buy.

These principles keep pace with developing global standards on point of sale disclosure and delivery, which we consider essential to the continued success of the Canadian investment fund industry.

Questions

Please refer your questions to any of the following CSA staff:

Bob Bouchard
Director and Chief Administration Officer
Manitoba Securities Commission
Phone: 204-945-2555
Email: bob.bouchard@gov.mb.ca

Chantal Leclerc
Lawyer / Senior policy advisor
Autorité des marchés financiers
Phone: 514-395-0337, ext. 4463
Email: chantal.leclerc@lautorite.qc.ca

[3] This initial re-sale from a "creation unit" on an exchange will generally constitute a distribution under securities legislation as it would be considered a trade in the securities of an issuer that have not been previously issued and a purchase and re-sale by the dealer in the course of or incidental to a distribution.

[4] Similar to delivery of the Fund Facts, delivery would only be required in instances where the investor has not previously received the latest summary disclosure document of the ETF.

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Ontario Securities Commission
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The text of the Amendments is contained in the following annexes to this Notice and is available on the websites of members of the CSA:

Annex D – Amendments to National Instrument 81-101 *Mutual Fund Prospectus Disclosure*
Annex E – Amendments to Companion Policy 81-101CP *to National Instrument 81-101 Mutual Fund Prospectus Disclosure*
Annex F – Amendments to National Instrument 81-102 *Mutual Funds*
Annex G – Local Information

[Editor's note: Appendix A – *Sample Fund Facts Document* follows on unnumbered pages.]

XYZ Mutual Funds

FUND FACTS

XYZ Canadian Equity Fund – Series B

June 30, 20XX

This document contains key information you should know about XYZ Canadian Equity Fund. You can find more details in the fund's simplified prospectus. Ask your representative for a copy, contact XYZ Mutual Funds at 1-800-555-5556 or investing@xyzfunds.com, or visit www.xyzfunds.com.

Before you invest in any fund, consider how the fund would work with your other investments and your tolerance for risk.

Quick facts

Fund code:	XYZ123	**Fund manager:**	XYZ Mutual Funds
Date series started:	March 31, 2000	**Portfolio manager:**	Capital Asset Management Ltd.
Total value of fund on June 1, 20XX:	$1 billion	**Distributions:**	Annually, on December 15
Management expense ratio (MER):	2.25%	**Minimum investment:**	$500 initial, $50 additional

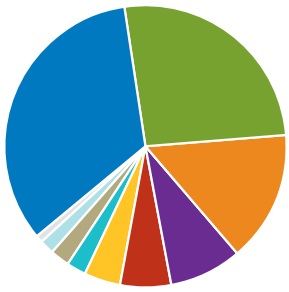
What does the fund invest in?

The fund invests in a broad range of stocks of Canadian companies. They can be of any size and from any industry.
The charts below give you a snapshot of the fund's investments on June 1, 20XX. The fund's investments will change.

Top 10 investments (June 1, 20XX)

1.	Royal Bank of Canada	7.5%
2.	Toronto-Dominion Bank	7.1%
3.	Canadian Natural Resources	5.8%
4.	The Bank of Nova Scotia	4.1%
5.	Cenovus Energy Inc.	3.7%
6.	Suncor Energy Inc.	3.2%
7.	Enbridge Inc.	3.1%
8.	Canadian Imperial Bank of Commerce	2.9%
9.	Manulife Financial Corporation	2.7%
10.	Canadian National Railway Company	1.9%
Total percentage of top 10 investments		**42.0%**
Total number of investments		**93**

Investment mix (June 1, 20XX)



Industry	
Financial services	34.0%
Energy	26.6%
Industrial goods	16.5%
Business services	6.4%
Telecommunication	5.9%
Hardware	3.7%
Healthcare services	2.3%
Consumer services	2.1%
Media	1.9%
Consumer goods	0.6%

How risky is it?

The value of the fund can go down as well as up. You could lose money.

One way to gauge risk is to look at how much a fund's returns change over time. This is called "volatility".

In general, funds with higher volatility will have returns that change more over time. They typically have a greater chance of losing money and may have a greater chance of higher returns. Funds with lower volatility tend to have returns that change less over time. They typically have lower returns and may have a lower chance of losing money.

Risk rating

XYZ Mutual Funds has rated the volatility of this fund as **medium**.

This rating is based on how much the fund's returns have changed from year to year. It doesn't tell you how volatile the fund will be in the future. The rating can change over time. A fund with a low risk rating can still lose money.

Low	Low to medium	**Medium**	Medium to high	High

For more information about the risk rating and specific risks that can affect the fund's returns, see the Risk section of the fund's simplified prospectus.

No guarantees

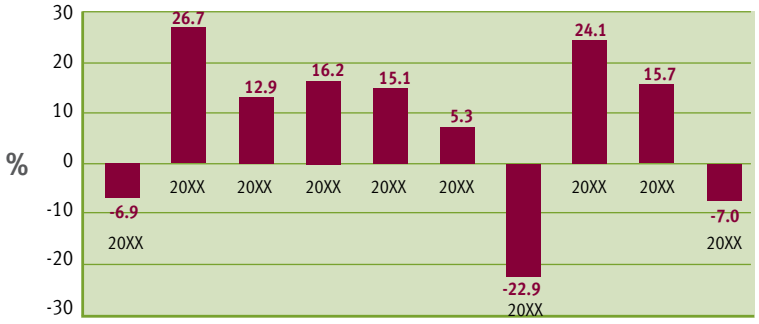
Like most mutual funds, this fund doesn't have any guarantees. You may not get back the amount of money you invest.

How has the fund performed?

This section tells you how Series B units of the fund have performed over the past 10 years. Returns are after expenses have been deducted. These expenses reduce the fund's returns.

Year-by-year returns

This chart shows how Series B units of the fund performed in each of the past 10 years. The fund dropped in value in 3 of the 10 years. The range of returns and change from year to year can help you assess how risky the fund has been in the past. It does not tell you how the fund will perform in the future.



Best and worst 3-month returns

This table shows the best and worst returns for Series B units of the fund in a 3-month period over the past 10 years. The best and worst 3-month returns could be higher or lower in the future. Consider how much of a loss you could afford to take in a short period of time.

	Return	3 months ending	If you invested $1,000 at the beginning of the period
Best return	32.6%	April 30, 2003	Your investment would rise to $1,326.
Worst return	-24.7%	November 30, 2008	Your investment would drop to $753.

Average return

The annual compounded return of Series B units of the fund was 6.8% over the past 10 years. If you had invested $1,000 in the fund 10 years ago, your investment would now be worth $1,930.

Who is this fund for?

Investors who:

- are looking for a long-term investment
- want to invest in a broad range of stocks of Canadian companies
- can handle the ups and downs of the stock market.

! Don't buy this fund if you need a steady source of income from your investment.

A word about tax

In general, you'll have to pay income tax on any money you make on a fund. How much you pay depends on the tax laws where you live and whether or not you hold the fund in a registered plan, such as a Registered Retirement Savings Plan or a Tax-Free Savings Account.

Keep in mind that if you hold your fund in a non-registered account, fund distributions are included in your taxable income, whether you get them in cash or have them reinvested.

How much does it cost?

The following tables show the fees and expenses you could pay to buy, own and sell Series B units of the fund. The fees and expenses — including any commissions — can vary among series of a fund and among funds. Higher commissions can influence representatives to recommend one investment over another. Ask about other funds and investments that may be suitable for you at a lower cost.

1. Sales charges

You have to choose a sales charge option when you buy the fund. Ask about the pros and cons of each option.

Sales charge option	What you pay		How it works
	in per cent (%)	in dollars ($)	
Initial sales charge	0% to 4% of the amount you buy	$0 to $40 on every $1,000 you buy	• You and your representative decide on the rate. • The initial sales charge is deducted from the amount you buy. It goes to your representative's firm as a commission.
Deferred sales charge	**If you sell within:** 1 year of buying 6.0% 2 years of buying 5.0% 3 years of buying 4.0% 4 years of buying 3.0% 5 years of buying 2.0% 6 years of buying 1.0% After 6 years nothing	$0 to $60 on every $1,000 you sell	• The deferred sales charge is a set rate. It is deducted from the amount you sell. • When you buy the fund, XYZ Mutual Funds pays your representative's firm a commission of 4.9%. Any deferred sales charge you pay goes to XYZ Mutual Funds. • You can sell up to 10% of your units each year without paying a deferred sales charge. • You can switch to Series B units of other XYZ Mutual Funds at any time without paying a deferred sales charge. The deferred sales charge schedule will be based on the date you bought the first fund.

2. Fund expenses

You don't pay these expenses directly. They affect you because they reduce the fund's returns.
As of March 31, 20XX, the fund's expenses were 2.30% of its value. This equals $23 for every $1,000 invested.

	Annual rate (as a % of the fund's value)
Management expense ratio (MER) This is the total of the fund's management fee (which includes the trailing commission) and operating expenses. XYZ Mutual Funds waived some of the fund's expenses. If it had not done so, the MER would have been higher.	2.25%
Trading expense ratio (TER) These are the fund's trading costs.	0.05%
Fund expenses	**2.30%**

More about the trailing commission

The trailing commission is an ongoing commission. It is paid for as long as you own the fund. It is for the services and advice that your representative and their firm provide to you.

XYZ Mutual Funds pays the trailing commission to your representative's firm. It is paid from the fund's management fee and is based on the value of your investment. The rate depends on the sales charge option you choose.

Sales charge option	Amount of trailing commission	
	in per cent (%)	in dollars ($)
Initial sales charge	0% to 1% of the value of your investment each year	$0 to $10 each year on every $1,000 invested
Deferred sales charge	0% to 0.50% of the value of your investment each year	$0 to $5 each year on every $1,000 invested

How much does it cost? cont'd

3. Other fees

You may have to pay other fees when you buy, hold, sell or switch units of the fund.

Fee	What you pay
Short-term trading fee	1% of the value of units you sell or switch within 90 days of buying them. This fee goes to the fund.
Switch fee	Your representative's firm may charge you up to 2% of the value of units you switch to another XYZ Mutual Fund.
Change fee	Your representative's firm may charge you up to 2% of the value of units you switch to another series of the fund.

What if I change my mind?

Under securities law in some provinces and territories, you have the right to:

- withdraw from an agreement to buy mutual fund units within two business days after you receive a simplified prospectus or Fund Facts document, or
- cancel your purchase within 48 hours after you receive confirmation of the purchase.

In some provinces and territories, you also have the right to cancel a purchase, or in some jurisdictions, claim damages, if the simplified prospectus, annual information form, Fund Facts document or financial statements contain a misrepresentation. You must act within the time limit set by the securities law in your province or territory.

For more information, see the securities law of your province or territory or ask a lawyer.

For more information

Contact XYZ Mutual Funds or your representative for a copy of the fund's simplified prospectus and other disclosure documents. These documents and the Fund Facts make up the fund's legal documents.

XYZ Mutual Funds
123 Asset Allocation St.
Toronto, ON M1A 2B3

Phone: (416) 555-5555
Toll-free: 1-800-555-5556
Email: investing@xyzfunds.com
www.xyzfunds.com

To learn more about investing in mutual funds, see the brochure **Understanding mutual funds**, which is available on the website of the Canadian Securities Administrators at **www.securities-administrators.ca.**

ANNEX B

SUMMARY OF CHANGES TO THE 2012 PROPOSAL

This Annex describes the key changes we made to the 2012 Proposal. We have made a number of revisions to the content of the Fund Facts. The changes respond to comments received and the testing of the Fund Facts with investors, specifically regarding the presentation of risk and performance. The changes include the following:

Fund Facts

GENERAL

- We replaced all references to "dealer representative" with "representative".
- We have permitted greater flexibility to include disclosure regarding a material change or a proposed fundamental change, such as a proposed merger.
- We extended the time frame for certain information disclosed in the Fund Facts from 45 days to 60 days.

PART I – Information about the Fund

Introduction

- We moved the statement "Before you invest in any fund, consider how the fund would work with your other investments and your risk for tolerance" to the "Introduction" section from the "Who is this fund for?" section.

Quick Facts

- We revised the Quick Facts by adding "Fund code" and removing "Date fund started" and "Total value of series".

Risks

- We changed to heading "What are the risks of this fund?" back to "How risky is it?".
- We removed the sub-heading "Investment risk" and revised the language to explain the concept of "volatility" in plain language.
- We added the sub-heading "Risk rating" and added wording to clearly disclose it is the manager's risk rating of the mutual fund. We modified the explanation of the risk scale and the relationship between risk and losses and also added a cross-reference to the simplified prospectus for more information about the risk rating of the mutual fund.
- We removed the sub-heading "Other specific risks" along with the requirement to include a list of no more than four main risks of the fund.
- We changed the heading "Are there any guarantees?" to "No guarantees," and moved this disclosure under the heading "How risky is this fund?".

Past Performance

- Under the heading "How has the fund performed?", we removed the comparison to the mutual fund's performance with the one-year Guaranteed Investment Certificate (GIC).
- We changed the sub-heading back to "Year-by-year returns" and clarified explanation of the year-by-year performance of the mutual fund.
- We removed the sub-heading "Things you should know:" and replaced the sub-heading "Worst return" to "Best and worst 3-month returns". We then added the best 3-month return to this section and revised the wording and format. We also limited the best and worst 3-month returns to the past 10 years to be consistent with the "Year-by-year returns."
- Under the sub-heading "Average return", we clarified the language describing the mutual fund's annual compounded return in the last 10 years. We also removed the annual compounded return for the one-year GIC.

PART II – Costs, Rights and Other Information

Costs of Buying, Owning and Selling the Fund

- Under the heading "How much does it cost?", we refined the disclosure about potential conflicts arising from the payment of commissions that may occur upon the sale of a fund, expanding the explanation to refer investments in general rather than to mutual funds specifically.

- We changed the sub-heading "Trailing commission" to "More about the trailing commission" and also modified the wording in this section.

Binding

We revised the Instrument to allow a single Fund Facts to be attached to a transaction confirmation without a table of contents.

Transition

Fund Facts

We amended the Instrument to provide a four month transition period following the Instrument coming into force. As of January 13, 2014, at the end of the transition period, a mutual fund that files a preliminary or pro forma simplified prospectus and annual information form must concurrently file a Fund Facts, in the amended Form, for each class or series of the mutual fund offered under the simplified prospectus and post the Fund Facts to the mutual fund's or mutual fund manager's website.

In order to fully implement the delivery of the amended Fund Facts within a reasonable period of time following the coming into force of the Instrument, we further amended the Instrument to require that a mutual fund must, if it has not already done so, file a Fund Facts in the amended Form for each class or series of the mutual fund by May 13, 2014. This may occur either as part of the mutual fund's simplified prospectus and annual information form filing, or by the mutual fund filing a Fund Facts, in the revised Form, separately on SEDAR under a specified SEDAR filing category.

Delivery

We amended the Instrument and consequential amendments so that the requirement to deliver the Fund Facts to satisfy the current legislative requirements to deliver a prospectus within two days of buying a mutual fund takes effect on June 13, 2014. This transition period allows all jurisdictions needing legislative amendments time for the amendments to come into force.

ANNEX C

**SUMMARY OF PUBLIC COMMENTS ON
IMPLEMENTATION OF STAGE 2 OF POINT OF SALE (POS) DISCLOSURE FOR MUTUAL FUNDS
(2nd PUBLICATION)**

Table of Contents	
PART	**TITLE**
Part 1	**Background**
Part 2	**Comments on the Stage 2 Amendments**
Part 3	**Comments on the Fund Facts**
Part 4	**Other general comments**
Part 5	**List of commenters**

Part 1 – Background

Summary of Comments

On June 21, 2012, the Canadian Securities Administrators (CSA) published a notice entitled *Implementation of Stage 2 of Point of Sale (POS) Disclosure for Mutual Funds* (2nd publication), which proposed amendments to National Instrument 81-101 *Mutual Fund Prospectus Disclosure* (NI 81-101), Form 81-101F3 (the Form), Companion Policy 81-101CP (the Companion Policy) and National Instrument 81-102 *Mutual Funds* (NI 81-102) (NI 81-101, the Form, the Companion Policy and NI 81-102, collectively, the Stage 2 Amendments). The comment period expired on September 6, 2012. We received submissions from 33 commenters, which are listed in Part 5 of this document.

We thank everyone who took the time to prepare and submit comment letters. This document contains a summary of the comments we received in relation to the specific disclosure changes we made to the Fund Facts in the 2nd publication and the CSA's responses. We received suggestions for additional disclosure items that are not related to the Stage 2 amendments, but we are not considering any additional disclosure items at this time As we move forward with our staged implementation of our POS proposals, the CSA will continue to consider all comments received.

Part 2 – Comments on the Stage 2 Amendments

Issue	Comments	Responses
1. General comments	We received support from investor advocates for the proposed amendments to the Fund Facts, particularly the changes that the CSA has made in response to feedback from this group of commenters.	We thank the commenters for their feedback.
	Many industry commenters also expressed support for the CSA's goal of providing concise and clear regulated disclosure for investors to help them make informed investment decisions. One industry commenter noted that the proposed changes are generally a move in the right direction, and appreciate that the CSA is continuously trying to make Fund Facts a better tool for investors. In changing the Fund Facts form, however, another industry commenter encouraged us to remain focused on the goals of creating a document that "is in plain language, no more than two pages double-sided and highlights key information that is important to investors." In so doing, this will assist the CSA with its stated objective of harmonization with other types of	We continue to move ahead with implementing delivery of Fund Facts in a form that communicates key information about a mutual fund in a concise manner. The Fund Facts will remain a two page double sided document and will serve as a template that may be extended to other investment fund products in Stage 3 of the POS project. The requirement for preparing Fund Facts and making them available on the fund manager's website has been in place since April 2011. Since then, we have received considerable positive feedback from investors and dealer participants. Our document testing with investors suggests that the Fund Facts is

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	investment funds in Stage 3 of this initiative. Some industry commenters expressed concern with the timing of the proposed amendments to the Fund Facts. Given that the Fund Facts has been in use for only a short period of time, these commenters told us it is premature to make changes to the form of the document without meaningful feedback as to its effectiveness. If the CSA imposes all or most of the proposed Fund Facts changes, we were asked not to make further changes until the document gains wider usage. A few industry commentators expressed the view that the combination of the various proposed changes to the Fund Facts place mutual funds in a more negative light than other types of investments because there is no requirement for other investment products (other than segregated funds) to produce Fund Facts, leaving investors with no equivalent basis for comparison.	viewed as a well organized and easy to read document. We have also been informed by dealers and advisers that it provides a good starting point for detailed discussions with their clients regarding the client's financial situation and risk tolerances, and assists in the investment decision making process. The staged approach to POS was conducted precisely to allow industry participants and stakeholders to become familiar with the Fund Facts, and to allow CSA staff to further review any issues or concerns that arise. In response to investor advocates, industry commenters and document testing with investors, we are making some changes to the document. These changes are outlined under Part 3 of this document.
2. Comments on delivery of the Fund Facts instead of the SP	A number of industry commenters expressed support for the CSA's proposal to mandate delivery of the Fund Facts in lieu of the simplified prospectus within two days after purchasing a mutual fund. One industry commenter asked us to clarify that delivery of the Fund Facts in lieu of the prospectus under securities legislation is applicable where an investor purchases under a preauthorized contribution arrangement and has previously requested annual delivery of the fund's simplified prospectus. We also heard concern from one investor advocate about the removal of the requirement to deliver the simplified prospectus to investors until the Fund Facts content is strengthened. If the CSA is going to proceed, it was requested that the Fund Facts include a link to a fund's simplified prospectus and clearly state that it contains important information and should be consulted prior to investing in the fund.	We appreciate the support from commenters. We encourage filers to review their exemptive relief granted in respect of preauthorized contribution arrangements and to speak with CSA staff for further clarification if necessary. The Fund Facts states on the first page that the document is intended to provide key information. The first page of the Fund Facts refers investors to the fund's simplified prospectus for more detailed information. Investors can request a copy of the simplified prospectus from their representative and/or obtain a copy from the fund manager.
3. Binding (s. 5.1.1 of NI 81-101)	Some industry commenters welcomed the proposed revisions to section 5.2 of NI 81-101 to allow the Fund Facts to be attached to, or bound with application documents, registered tax plan documents, transaction confirmations and other documents relating to transactions listed on the confirmations. One commenter asked for more clarity about the types of documents that may be bound with the Fund Facts. One investor advocate reiterated the importance	The CSA continues to support restricting the documents which may be attached to, or bounds with, the Fund Facts, so as not to distract investors from key information about their mutual fund investments. We have specified which documents may be bound with the Fund Facts. We do not propose to expand the list of documents that may be bound with the Fund Facts to include educational materials.

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	that the CSA continue to restrict the documents that can be bound to the Fund Facts or provided to investors at point of sale and they expressed reservations about permitting account application documents and registered tax plan documents to be bound with the Fund Facts. Still other industry commenters questioned why it will be necessary to include a table of contents bound with or attached to the Fund Facts if the only other document in the package is the transaction confirmation, as proposed by the new subsection. We were told the transaction confirmation and the Fund Facts are very clearly identified such that there is no need to add a table of contents. Also, one commenter said that the change to General Instruction 16 prohibiting different Fund Facts from sharing the same piece of paper will likely increase mailing costs as many Fund Facts will be 3 pages, which means that a blank page must be inserted between each Fund Facts when bound together for delivery. One Fund Facts provider commented that the proposal to allow transaction confirmations of purchase of securities be changed to allow binding of the Fund Facts to transaction confirmations of purchase, as well as sale and for investments of all types such as GICs, ETFs, bonds and equities. Another industry commenter asked whether the provision would include switches of mutual funds. Some industry commenters also asked that the list of documents that can be attached or bound to the Fund Facts also include client statements and documents relevant to the transaction, such as the letter of instruction and disclosure required by law regarding fees, commissions, tax consequences and related issuers. Finally, one industry commenter expressed a concern that the proposed binding restrictions will prevent the delivery of additional educational materials intended to promote financial literacy in the same package as the Fund Facts.	In response to comments, we will not require a table of contents in the instance where a transaction confirmation is bound to a single Fund Facts. We are not allowing for multiple Fund Facts to be printed together on the same piece of paper. The Fund Facts is intended to be a stand alone document so investors can easily identify a Fund Facts for a particular fund. For greater clarity, Fund Facts can be bound with transaction confirmations of purchases and/or sale for other types of investments, provided that the investments are referenced in the same transaction confirmation. Switches of mutual funds are technically a sale followed by a purchase transaction. Delivery of a Fund Facts would therefore be required for the fund that the investor is switching into and the restrictions on binding would apply to such a transaction. We do not propose to allow educational materials to be attached to Fund Facts. The Fund Facts, however, does include a reference to the **Understanding mutual funds** brochure prepared by the CSA. During investor document testing, a number of investors expressed an interest in going to the CSA website and consulting this document.
4. Transition period	A number of industry commenters told us that a six month transition period is not sufficient to allow for both the implementation of systems to facilitate the delivery of the Fund Facts and the necessary changes to be made to the Fund Facts template. Many of these commenters stated that it is unrealistic to expect systems development to begin before a final rule is in place.	In response to comments we have revised the transition period. There will now be a six month transition period for complying with the revised Fund Facts form requirements. As suggested by commenters, six month after the rule amendments come into force, any fund filing

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	While one industry service provider indicated that from a technical perspective, the proposed changes to the Fund Facts template are reasonably straightforward and can be accomplished in the proposed 6-month transition period, another industry service provider told us that the concurrent conversion of all its dealer clients to the new delivery system within a six-month period would not be practical. The group of commenters suggested that a transition period of at least 12 months, and up to 18 months, would be more appropriate. However, we did hear from some industry commenters who agreed that a six month transition period for implementation of delivery of the current Fund Facts would be appropriate. But they asked for a longer transition period of 18 months to deal with Fund Facts content changes. Many industry commenters agreed that the CSA should follow the same approach it used in respect of the introduction of Fund Facts under stage 1 by requiring immediate compliance (after the effective date) for new Fund Facts, but allow existing Fund Facts to be updated upon their next amendment or renewal, rather than mandating that all Fund Facts be re-filed upon the effective date. We were told that allowing fund companies to include the content changes during the normal course of a prospectus renewal rather than through the amendment process would help to significantly lessen the administrative burden of implementing the content changes, as well as help lessen the costs that are ultimately borne by investors. Finally, one commenter stated that after this round of amendments, no further significant changes should occur until after investors have had the chance to review, use and comment on these documents.	either a (i) preliminary prospectus, (ii) pro forma prospectus or (iii) prospectus amendment would be required to file a Fund Facts document that complies with the revised form requirements. There will be a 12 month transition period for complying with the revised delivery requirement. In order to ensure that all Fund Facts have been updated by the time that the revised delivery requirement comes into effect, we are requiring that each fund that has not already filed the revised Fund Facts do so one month prior to the new delivery requirement coming into effect. We think this timeline is responsive to industry concerns regarding timing required for a technology build, as well as investor advocate concerns that any decision to proceed with the requirement to deliver the Fund Facts should be on the basis of the new Fund Facts requirements. The CSA encourages early adoption of the new Fund Facts form and early adoption of delivery of the revised Fund Facts in lieu of the simplified prospectus to investors.
5. Investor Testing	We received support for the CSA's intention to test the proposed changes to the Fund Facts with investors. One commenter requested that the CSA make its investor testing findings publicly available upon completion. We were also asked to consider undertaking some form of advisor testing as well since effectively engaging the advisory layer is critical to improving investor understanding of investment risk.	The final report of the Fund Facts document testing is available on the websites of the members of the CSA. Advisor testing of the Fund Facts is not contemplated at this time.

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6. Improving clarity and consistency in the Fund Facts	Some industry commenters noted that the fund manager name is repeated throughout the Fund Facts and that repetition of the name is redundant and not an efficient use of space. It was suggested that the prescribed wording reference the word 'manager' rather than the specific name of the manager other than in the first instance to aid in investor understanding and avoid misrepresentations.	We do not propose any change.
7. References to Dealer Representative vs. Advisor	An industry association representing advisors submitted that it is a mistake to replace the references to the term "advisor" in the Fund Facts, with "dealer representative." While the rationale provided for this change is to ensure consistency of terminology in securities legislation, the commenter noted the Fund Facts is meant to inform and educate the investor and changing every reference to an advisor in the Fund Facts to "dealer representative" robs the document of meaning in terms of the characterization of an individual who is a vital resource in the investor's decision process. Still another industry commenter suggested that if “dealer representative” is used in the Fund Facts, Form 81-101Fl *Contents of Simplified Prospectus* and Form 81-101F2 *Contents of Annual Information Form* should be amended to similarly reference "dealer representative" rather than "advisor".	The document testing with investors indicated that investors understood the term “financial advisor” better than the term “dealer representative”. However, due to legislative restrictions for dealer representatives to refer to themselves as advisors, we have decided to use the term “representative” in the Fund Facts, which is consistent with the terminology used under the second phase of the client relationship model program currently underway. Consistent use of terminology should help lessen potential investor confusion as to who the reference pertains to.
8. Future material changes and mergers	A number of industry commenters expressed support for permitting greater flexibility to disclose proposed fundamental changes and material changes in the Fund Facts, thus eliminating the need to file an exemptive relief application to include such additional information. However, some of these commenters noted that there are some challenges in terms of disclosing material changes since each section of the template has embedded space constraints. Although there may be instances where a material change will naturally fit in one of the already-existing sections of the Form, there may also be instances where significant space may be required in order to describe a material change. Most commenters on this issue, therefore, asked for additional flexibility on where to include disclosure of material changes and proposed fundamental changes. One commenter suggested that it would be better if the CSA permitted an option to put the disclosure in a separate prominent location anywhere in the document. However, we also heard from a commenter that fund managers should be allowed to identify the most appropriate	Upon further review, the CSA’s preference would be to require that material changes and proposed fundamental changes be identified in a standard location at the beginning of the document. In particular, such disclosure could be provided in a separate textbox, immediately prior to the Quick Facts section of the Fund Facts. We recognize, however, that templates that have been created to help facilitate the fund facts creation process may not have sufficient flexibility to accommodate this type of formatting change. Furthermore, we understand that our original proposal may also create some difficulties since templates may not have sufficient space in a particular section of the document to accommodate the additional disclosure necessary to explain the material change or the proposed fundamental change. As a result, we are adding additional flexibility into the requirement.

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	and/or relevant location for disclosure. Still, another commenter recommended allowing disclosure of a material change or proposed fundamental change in the existing white space at the top of the Fund Facts rather than requiring that the most relevant section of the Fund Facts be revised. This would have the added benefit of drawing extra attention to this important information.	
9. Fund codes	A number of industry commenters expressed support for permitting the fund codes to be disclosed on the first page of the Fund Facts. They commented that this will help avoid confusion among advisors and investors. One commenter questioned why the fund codes have to be 'recognized and publicly available' since certain fund companies use codes for tracking and identification purposes that may not necessarily be considered as widely 'recognized and publicly available'. Another commenter asked the CSA to amend Form 81-101F3 to explicitly permit the inclusion of marketing stock codes or other non-obtrusive marketing stock codes and trademark references at the bottom of the final page of the Fund Facts.	In order to more readily identify the fund code, we are including disclosure of fund codes under the “Quick Facts” section of the Fund Facts on the first page. The CSA will permit inclusion of stock codes and trademark references on the bottom of the Fund Facts.
10. Date of Information	A number of industry commenters appreciated the proposed changes to Items 2, 3 and 4 of Part I of Form 81-101F3 to allow the inclusion of data that is within 45 days of the date of the Fund Facts instead of the current 30 days, since this would help facilitate data gathering and validation processes, and will permit funds more flexibility to file their final prospectus renewals up to 10 days after the lapse date. A number of these commenters, however, stated that an extension to 60 days would be a more appropriate period to allow adequate time to collect, verify and present the financial data and would provide additional flexibility in terms of filing prospectus renewals. Given that financial data is generally calculated for month-end periods only, we were told calculating financial data for periods other than month-end would be more complicated from a gathering/validation perspective and would require significant and expensive systems changes on the part of mutual fund managers. Some of these commenters noted that a 60 day time frame is also consistent with those for other disclosure documents that present financial and/or performance data such as MRFPs and financial	To allow for consistency with National Instrument 81-106 *Investment Fund Continuous Disclosure* (NI 81-106) disclosure documents, as well as provide additional flexibility, we are allowing for the date of the information in the Fund Facts to be within 60 days of the document.

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	statements. A couple of these commenters also stated that 60 days would better coincide with the prospectus renewal process and would provide additional flexibility in terms of dealing with filing timelines.	
11. Quick facts	We were also asked to consider changing all references to “fund” with the “class or series” of the fund and changing the introductory sentence under the heading "How has the fund performed?" to state "This chart shows you how *this series of the* fund has performed over the past 10 years."	Under the “How has the fund performed?” section, we are including an introductory statement that clarifies that the chart shows the performance of a particular series of the fund.
	Many industry commenters welcomed the addition of the “Date class/series started” to the “Quick facts” section of the Fund Facts which they believe will provide greater clarity. Some commenters suggested that this information be mandatory even where the fund and series started on the same date. Some commenters noted that there are other instances in the form in which references to “fund” should be references to “series” and recommended that the language in the form be amended to ensure consistency and clarity.	We have amended the language throughout the form to ensure that references are consistent.
	Many industry commenters did not support the addition of the size of the series to the “Quick facts” section, arguing that it would not be useful or relevant for an investor and may cause confusion given that a mutual fund’s assets are referable to the fund as a whole, and not a particular series.	We agree with the comment and are not requiring separate disclosure of the value of the series.
	One commenter thought the addition of the “Fund manager” to the “Quick facts” section was redundant since the fund manager’s name is usually disclosed with the fund’s logo. Alternatively, the CSA could amend Item 1(e) of Part I of Form 81-101F3 to include a sentence stating "XYZ Funds is the Fund Manager of this fund".	We propose no change. We think it is important to state the name of the fund manager under “Quick facts”.
	Another industry commenter indicated that the instructions for “Portfolio Manager” in the “Quick facts” section makes it difficult to inform investors about sub-advisors and underlying fund of fund investments, which can be important to investors when making an informed investment decision.	Mutual funds may disclose the names of specific individuals and/or sub-advisers if they so wish under “Portfolio Manager”.
	One investor advocate suggested that the “Quick facts” section include applicable CIFSC Fund Category. Another suggested that the “Quick facts” section show the highest capitalization value of the fund and the date that this was achieved.	We do not propose adding any additional information in the Quick Facts section.
12. What does the fund invest in?	While we received investor advocate support for the disclosure of the percentage of each of the top 10 holdings, a number of industry commenters did not support the percentage of net assets	We will require disclosure of the percentage of each holding in the Top 10 holdings in the Fund Facts, as well as the total number of holdings of the fund. This is intended to

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	represented by each of the fund's top 10 positions. A concern was expressed that increasing the frequency of portfolio disclosure could alert other investors to a fund's trading strategy, particularly less liquid stocks. In fact, a few commenters noted that the proposed 45 day period for the disclosure of percentage holdings by position may violate the portfolio disclosure policies of fund managers. The commenters reminded the CSA that extensive representations were made by the industry when NI 81-106 was adopted, and again when the Fund Facts requirements were under discussion during Stage 1, that funds should not be required to disclose their portfolio holdings earlier than 60 days. The 60 day period currently applies for purposes of the Quarterly Portfolio Disclosure Statement in section 6.2(2) of NI 81-106, and should apply for these purposes as well. Therefore, the usefulness of this information, we were told, does not outweigh the risk of harm to a fund's portfolio. The commenter supported using already publicly disclosed information from the quarterly portfolio disclosures. Two commenters also noted that this information quickly becomes dated and more accurate and up-to-date information can be found elsewhere, like the fund's website, the management report of fund performance (MRFP) or quarterly portfolio disclosure, or that investors can ask their advisor. Some industry commenters also indicated that the top ten investments and the pie chart are not necessary in the Fund Facts because the total mix of the portfolio provides a complete picture of what the investor has purchased. The percentages for the top ten investments may change and the pie chart duplicates what is already provided in the "Investment mix" list. Removing these items results in a more concise document.	provide the investor with information about the types of holdings, as well as the concentration risk of the fund. We are allowing for the date of the information in the Fund Facts to be within 60 days of the document. The document testing with retail investors suggested that the top 10 holdings and the investment mix were well received by investors. Many spent time studying the holdings of the fund and sector exposures. They believed this information allowed them to assess the riskiness and diversification of the fund, and suggested this was key information. Therefore, we do not propose to remove any information from this section.
	One industry commenter gave support for the percentage of net assets represented by each of the fund's top 10 positions, but suggested that the requirement provide the total number of positions be deleted because it does not provide key information, and it is often inaccurate as there is no industry consensus with respect to the methodology used for counting certain derivative and swap positions.	The total number of positions is not a new requirement. We do not propose to make any changes.
	Another industry commenter pointed out that the disclosure of percentage of net assets represented by each of the fund's top 10 positions compromises compliance with OSC Staff Notice 81-717 – *Report on Staff's*	OSC Staff Notice 81-717 suggests that the categories used to break down fund portfolios under the Investment mix section of the Fund Facts should be consistent with the disclosure in the MRFP. We do not

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	Continuous Disclosure Review of Portfolio Holdings by Investment Funds (OSC Staff Notice 81-717) which says that this section of the Fund Facts should provide consistent disclosure with that of the annual MRFP. Many funds disclose their asset classifications in multiple tables in the MRFP. This commenter said the Fund Facts, as currently designed, will need the space proposed for percentages in order to include multiple tables and will also migrate from pie charts to tables to fit the space allotted.	believe requiring disclosure of percentage of net assets represented by the fund's top 10 positions compromises space required for investment mix disclosure.
13. Development of CSA Risk Methodology	Investor advocates stressed the importance of a standardized risk measure in the Fund Facts and told us that the use of a low to high risk "scale" that is self-assessed by the fund is an ongoing concern. A measure prescribed by the CSA, we were told, would be more useful to investors, as it would provide an objective and consistent baseline against which the risks of different products could be compared. It was suggested, therefore, that the CSA should consider further ways to improve the present risk measure as part of Stage 3 of the POS initiative. One investor commenter noted that we should implement a standard methodology similar to the methodology used for investment funds in Europe that would make it possible for third parties to calculate and verify the risk rating. Some industry commenters also agreed with the CSA development of a single risk classification method to be used by the entire industry, as this would facilitate comparisons between mutual funds, which, in turn, would benefit investors. Alternatively, a few industry commenters strongly urged the CSA to adopt the risk rating methodology used by The Investment Funds Institute of Canada (IFIC) for the purposes of the risk level classification chart. However, investor advocates stated that a scale that has been developed by the IFIC, without public comment or regulatory oversight, should not be adopted. Finally, one commenter expressed support for assessing risk based on potential for loss, instead of focusing on volatility. This commenter is of the view that risk is the potential for permanent loss of capital over a long-term investment horizon, focused on how much money could be lost and the probability of that loss.	We appreciate the feedback from commenters. The CSA is currently considering development of a standardized risk classification methodology on a separate timeline from Stage 2 of the POS project. If the CSA decides to mandate a risk classification methodology, it will be published for public comment before implementation.
14. What are the risks of this fund? - *Inclusion of*	Most commenters agreed that it is important for investors to understand exactly what is being measured or quantified and how this translates into an assessment of "risk" for a fund. On this basis, they supported in concept the inclusion of	Given that the majority of fund managers use volatility of past returns in assessing the risk classification of their funds, CSA staff have clarified the disclosure in the Fund Facts to state that the risk scale is meant to measure

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Additional Explanatory Text for the Risk Scale	additional warning language, as well as a plain language explanation of what the risk rating means. One commenter said the new explanation of the risk scale and the relationship between risk and losses is an improvement over the current disclosure. However, a number of the commenters questioned the effectiveness of the proposed disclosure. A number of commenters were of the view that risk should be discussed in the context of performance and suggested the disclosure concerning Risk should be better integrated with the Past Performance. From this perspective, moving the Past Performance section to a different page of the Fund Facts was viewed as being a step backwards in terms of assisting investor understanding. Given that most fund companies use volatility as their primary measure for determining the risk rating for a fund, a number of commenters further suggested that the risk scale be described in terms of volatility or variability of returns rather than as a measure of the risk of losses. Some of these commenters also suggested that in addition to the fund's risk rating and a plain language description of volatility, there should also be a discussion of the typical range of variability in annual returns for each rating. For example, the standard deviation range or scale for the risk category that the fund is assigned to, as set out in the IFIC Risk Classification Methodology, could be used. Still another commenter questioned whether the proposed disclosure adequately reflected its approach to measuring and disclosing risk and suggested that the Fund Facts form require the manager to disclose how it assesses risk and what the risk rankings mean, but not mandate language. While one industry commenter urged the CSA to strike a proper task force, involving regulators, academics, industry representatives and investor advocates to devise a risk classification scale (or to decide that such a simplistic approach is inadequate) and only then to mandate explanatory language. One investor advocate told us that despite some proposed improvements to risk disclosure, many investors will not likely understand standard deviation or its limitations. Providing investors with a risk scale may tempt them to rely on that rating as the sole source of information about a fund's risks. Some industry commenters took issue with the	volatility risk. Volatility risk is explained in concise and understandable language and the risk-return linkage is clarified i.e. funds with higher volatility risk may have a greater chance of losing money and may have a greater chance of higher returns. Disclosure of the relationship between risk and chances of losses was positively received by commenters as well as by investors during the document testing. A majority of investors commented that this information clearly explains the relationship between risk, returns and potential for losses. Mutual funds will be required to state that low risk mutual funds can still lose money. This was in response to testing that showed that some investors believed that mutual funds carry no risk of losses. Overall, in response to the investor document testing, we have modified the disclosure around volatility risk and the risk-return linkage to make it more focused, concise and plain language. Studies have revealed that the average retail investor is not familiar with statistical concepts such as standard deviation or range of returns. Therefore, we do not propose to include these concepts in the Fund Facts. Investors are referred to the simplified prospectus for more detailed information on the risk classification methodology. In response to comments, we changed the

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	high number of warnings related to risk, which may unnecessarily discourage the purchase of mutual funds. One commenter expressed concern about the change to the title "What are the risks of this fund?" from the original "How risky is it?". The original language, said this commenter, emphasized the level of risk, while the new language alters the emphasis to the focus on the various factors that comprise the risk but a complete list of risks is not disclosed in the Fund Facts.	title to "How risky is this fund?"
	One commenter suggested adding a cross-reference to the prospectus for further information about the manager's fund risk classification methodology, or alternatively, indicating that investor may request a copy of the methodology by contacting the manager of the fund. This could be done by revising the reference indicating that investors can learn more about the fund's risk factors in the fund's simplified prospectus to also incorporate a reference to a more detailed description of the risk scale in the simplified prospectus. Another commenter suggested that the general risk disclosure refer to investing in general rather than specifically to investing in mutual funds. Some of the commenters provided specific suggestions for revised disclosure in their comment letters.	The Fund Facts now refers investors to the simplified prospectus for more detail of specific risks as well as the risk classification methodology used by the fund manager.
	Finally, one commenter also noted that the connection between the scale and the rating by a fund's manager, which is currently set out in Item 5(1) of Part I of the Form, has been omitted from the Proposed Amendments. This commenter recommended including this information as the last paragraph in Item 4(2) of Part I of the Form.	This disclosure was inadvertently dropped in Item 5(1) of Part 1 of the Form at the time of 2nd publication. We have now required a specific reference to the risk rating that the fund manager has assigned to the fund.
15. What are the risks of this fund? - *Identification of top fund risks*	A number of industry commenters support retaining the current Form requirement to reference the simplified prospectus for a full list of the risks of the fund and their descriptions. One commenter suggested that an explanation for *all material and probable* risks should be provided in plain language within the Fund Facts. Ultimately, an investor is better informed when they are aware of the complete range of risks that a fund could encounter rather than a limited number of 'top' risks selected at a particular point in time. <u>List of Top Risks Without Narrative Descriptions</u>	The list of top risks did not test well with investors during the document testing. In response to this testing and commenter's concerns, the CSA have decided to remove the requirement to list the top risks of the fund in the Fund Facts. The document testing revealed that a majority of investors did not understand the specific risks very clearly or at all. The investors were more likely to ask their representative to explain the specific risks of the fund or to obtain this information from the simplified prospectus, than to try to obtain information about these risks from the Fund Facts. We have included a cross reference to the Risk

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	A number of industry commenters opposed disclosing a list of "top" four risks without a narrative description in addition to the risk scale because it could be misleading to investors. Among the reasons we heard were: • listing the top risks beside the risk scale suggests to investors that there is a direct link between risk rating and key risks; • different fund managers may use different terminology to name and describe the same risk; listing the risks may make comparability difficult without a standardized definition of the risks; • risks are subjective to the specific investor. Consequently, a fund manager's view of the main risks of the fund is subjective, and may not necessarily align with what risks may influence a particular investor's investment decisions; • listing 4 top risks without narrative descriptions is likely not useful information for investors; • liability could attach from not naming all relevant risks; by limiting the number of risks in the Fund Facts, a fund manager must assess not only the factual reasons for choosing a risk but must also consider what risks may affect a fund in the future based on possible market conditions; and • selecting the "top" four risks downplays the actual range of risks that a fund could face in changing market conditions. If the CSA proceeds with requiring a ranked list of risk factors, among the recommendations made by those commenters were the following: • replacing the reference to the phrase "top risks" with the phrase "important risks" in the introductory language; • establishing a CSA working group to develop a precise methodology for assessing risks, common names and definitions for risk factors disclosed in the Fund Facts; and • continuing to refer investors to the simplified prospectus for more information on specific risks.	section of the simplified prospectus for investors who would like more information about specific risks that affect a fund's value. After further consideration, in our view, for the specific risks to be meaningful, detailed explanations of each of the risks would have to be provided. This, however, would add considerable length to the Fund Facts. During document testing, investors suggested that either detailed explanations should be provided or a reference to the simplified prospectus should be included. In keeping with the guiding principles of simple, accessible and comparable information, the CSA has decided to provide a cross-reference to the specific risks of the mutual fund described in the simplified prospectus.

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	Commenters also asked the CSA to clarify in the Rule or the Companion Policy whether a fund manager will have to amend its Fund Facts if the list of risks changes materially throughout the year but is still consistent with the list of risks disclosed in its simplified prospectus. List of Top Risks with Narrative Descriptions Some industry commenters also expressed a concern with the option to permit narrative descriptions of the top risks. These commenters remarked there is not enough space for narrative descriptions as many risk factors require multiple paragraphs to adequately be explained. Moreover, some of those commenters also are concerned about a fund manager's liability for failing to properly disclose the nature and complexity of each risk factor in the Fund Facts. While one investor advocate supported disclosing the top risks of a fund with brief one line descriptions being permitted, still another investor advocate commented that a list of top risks would not be meaningful. This commenter suggested not including a detailed risk narrative in Fund Facts. We were also provided with additional recommendations of content for this section by commenters in their letters. One investor advocate suggested we require a disclosure line which answers the question, 'To what extent does this fund rely on one or a small group of key portfolio managers?' It was also suggested that we add, for Ontario investors, a link to the Investor Education Fund's website, since it contains a number of useful tools and calculators that would assist investors in learning more about risk assessment. Still another commenter suggested that the risks section of the Fund Facts be expanded to include at least some reference to the benefits of diversification and professional management that investing in mutual funds offer in comparison with other types of investments.	
16. How has the fund performed? - *General Comments*	One industry commenter asked that the CSA consider allowing a partial year return for the fund as is allowed in the MRFP and provide guidance in the companion policy that this is acceptable. An investor advocate suggested stronger warning language about choosing funds based on past performance. This commenter also suggested de-emphasizing past performance by placing the	We are not proposing any changes to the current requirements. We have revised the warning language in the Fund Facts to state "It [the performance] does not tell you how the fund will perform in the future". In order to de-emphasize the

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Issue	**Comments**	**Responses**
	section "How has the fund performed?" lower down in the Fund Facts.	performance section, we have moved it after the Risk section of the Fund Facts. There is a linkage between the risk section and the performance section of the Fund Facts. The returns section allows for a pictorial depiction of the volatility risk measured by the risk section of the Fund Facts.
17. How has the fund performed? - *Inclusion of Worst Return*	Many industry commenters expressed concern about the proposed addition of the worst three month return to the performance section. These commenters believed that instead of better informing investors about the possible loss of investing in a fund, such requirement has a potential to be misleading for the investors. Among the feedback we heard was: • it focuses on short-term performance, which is at odds with the long-term nature of most mutual funds (other than money market funds); • it will cause confusion because the worst three month performance does not match the risk level classification disclosure under Item 4; • such performance is an aberration and past performance is not necessarily indicative of future performance; and • it would be based on the inception date of the fund; this information would be biased against funds with long histories relative to newly created funds because of the greater chance that those with long histories at some point experienced a significant down-turn. These commenters suggested that it should be limited to the worst 3 month return over the past 10 years. Still another industry commenter noted that the existing performance disclosure in the Fund Facts adequately indicates the range of fund volatility, and is not enhanced by requiring a 3-month "worst return" disclosure section. Many of these commenters also indicated that collecting the information will be expensive and will result in operational challenges for mutual funds that have long histories and questioned the benefit of this disclosure. Those industry commenters which supported the inclusion of the worst quarterly return added their suggestions for improvement. Among them: • that the Fund Facts also present the length	The CSA propose to retain the worst 3 month return, and in response to comments, that it be supplemented by the best 3 month return. We also propose to provide a dollar illustration of the worst and best returns. The investor document testing showed that investors preferred actual dollar figures compared to percentages. The worst return disclosure was received very favourably by investors with the majority finding it to be pertinent information. These investors used this information to assess whether they would be comfortable withstanding such a loss. Investors found this information to be "honest" and that it allowed them to be better prepared should the fund not perform as expected. We are including appropriate warning language that the best and worst 3 month return could be different in the future. We have also specifically included wording that indicates that the worst 3 month return is meant to allow the investor to assess if they would be comfortable with such a loss over a *short period of time*. We are limiting the best and worst 3 month return over the past 10 years, to be consistent with the year-by-year chart in the Fund Facts. We do not propose to include the best and worst returns over varying time periods. The best and worst 3 month returns is intended to provide investors with an idea of the possible gains and losses over a *very short period of time*, so they can assess their comfort withstanding short term variability in asset values.

Part 3 – Comments on the Fund Facts		
Issue	**Comments**	**Responses**
	and duration of the biggest decline over one year, three year, five year and ten year periods for the fund; • that the worst three month return be balanced by a requirement to add the best three month return for the same time period; • that if the 3 month worst and best returns are shown in the Fund Facts, they should be on a broader 12-month and 3-year scale; and • that the term "worst return" be replaced with the term "lowest return" or "poorest return", which does not have as negative a connotation. It was also suggested that for mutual funds that have been in existence prior to the recent financial crisis and therefore will record the three-months leading to March 2009 as their poorest performing quarter ever, a footnote or additional disclosure help clarify this to investors in this section. Investor advocates supported the inclusion of the worst three month return, noting that providing a visual illustrates the historical downside risk, which is very valuable information for an investor and is likely to be more meaningful than the risk indicator. One investor advocate suggested the disclosure of the worst 12 month return also be added.	We do not propose to include any footnotes or additional disclosure at this time. The best and worst 3 month returns will be provided for the past 10 years, or since inception, whichever is shorter. We do not propose any additional period. The year-by-year return chart already shows past performance for a 12 month period. We are concerned that adding additional data points may prove confusing to investors.
18. How has the fund performed? - *Comparing the fund's performance to a benchmark of a one-year GIC*	There was support from investor advocates for us to adopt a one-year GIC as a benchmark to illustrate the fund's performance and the risk/reward proposition. GICs, we were told, are a familiar investment vehicle to most retail investors and the use of this benchmark will inform investors about the fund's volatility and rate of return, and the relationship between these concepts, in a fairly simple and straightforward manner. An industry commenter agreed, telling us the one-year GIC is an easy-to-understand indicator, which will help investors choose the right products to achieve their objectives. However, most industry commenters opposed comparing a fund's performance to a benchmark of a one-year GIC. We were told the comparison would not assist investors in assessing the performance of a fund relative to its associated risk. Rather, one industry commenter noted, over time, mutual funds will compare favourably to GICS, and therefore, it is not a useful benchmark.	As a result of the document testing and in response to comments, the CSA have decided to remove the GIC performance comparison. The document testing revealed that a number of investors did not understand the purpose of the GIC comparison. While it was intended to illustrate the relationship between risk and reward, many investors believed the bar chart illustrated that the mutual fund had outperformed GICs in the past and would outperform GICs in the future, rather than illustrating the difference in volatility of the two investments.

Part 3 – Comments on the Fund Facts		
Issue	**Comments**	**Responses**
	Among the reasons these commenters provided for their opposition to the inclusion of the GIC benchmark were: • a one-year GIC is a short-term deposit instrument (not a security) which is a fundamentally different investment product from a mutual fund, which have medium to long-term investment objectives ; if the objective is to 'assess performance of the fund relative to the associated risk', a one-year GIC comparison across the range of risk categories is not appropriate; • if the intention is to provide investors with a comparison to a "risk free rate of return", the proposed comparison to a one-year GIC is not appropriate; GICs are subject to their own risks, including inflation risk, which are not disclosed; • a comparison of returns would require substantial disclosure setting out all of the material differences between the two instruments consistent with Part 15 of National Instrument 81-102 *Mutual Funds*; • the proposal is to use the Bank of Canada GIC rate, which is a nominal rate; actual GIC rates depend on the terms of the issuing financial institution; • there is no disclosure to explain why the mutual fund's performance is being compared to a GIC so investors may not understand that the objective of showing the performance of the fund compared to the one-year GIC is to help them assess performance of the fund relative to the associated risk; • the GIC competes with mutual funds for savings dollars and prescribing disclosure regarding a competitive product is commercially unfair; • if adding the comparison to a one-year GIC is intended to demonstrate volatility of fund returns, this information is already captured in the existing performance chart which demonstrates the volatility of fund returns over the last 10 years; • the use of a benchmark such as a one-year GIC would run contrary to other disclosure documents, such as the MRFP, in which investment funds are required to provide a comparison of performance relative to a widely accepted and investible broad based index;	

Part 3 – Comments on the Fund Facts		
Issue	**Comments**	**Responses**
	• a comparison to a one-year GIC undermines the intention of section 13.1(7) in the Companion Policy to NI 81-102 which requires the performance of a mutual fund to be compared to another investment or benchmark if the comparison clearly sets out the factors that are necessary to ensure that the comparison is fair and not misleading; and • employing a benchmark of any type when considering a single fund out of the context of an investor's overall portfolio characteristics is unnecessary and potentially misleading. Other appropriate benchmarks While some industry commenters said the Fund Facts should not include any benchmark as it would add to investor confusion and complexity and is already provided in the MRFP, other industry commenters suggested alternative benchmarks. One suggested that a 90-Day T-Bill is a more appropriate "risk-free" benchmark as it is a more liquid security than a 1-year GIC and therefore has lower liquidity risk and also a lower interest rate risk. Still another commenter suggested that instead of using a one-year GIC, a staggered five-year GIC program should be used. Other suggestions included requiring that a fund be compared to another fund with a similar or lower risk rating, the use of an appropriate broad-based securities market index, or the CSA providing a range of benchmarks that fund managers could use to compare against the fund's performance. Two other industry commenters proposed that rather than showing the worst three month period, it would be more meaningful for investors if the worst and best three-month, one, three, five and ten-year returns of a general benchmark were shown.	We do not propose to add any benchmarking information. Our proposal to provide a GIC comparison was for risk comparison purposes and not for relative performance evaluation of the portfolio manager or the fund. Since investor testing revealed that the GIC comparison failed to meet this objective, we are proposing to remove the performance comparison.
19. How much does it cost?	While one commenter appreciated the additional clarification provided in the disclosure required for "other fees", and for identifying the appropriate section in a Fund Facts for disclosure of a fixed administration fee, some commenters thought that the proposed requirement to disclose any fixed administration fees payable by a Fund was out of context and could confuse investors.	It is only in the case of a new mutual fund that does not yet have MER information available that we would expect the actual administration fee to be disclosed. We have revised the instruction accordingly.

Part 3 – Comments on the Fund Facts		
Issue	**Comments**	**Responses**
	One investor advocate commented that retail investors are known to ignore fund costs yet the MER is accepted as the most robust predictor of fund performance. The commenter recommended that cost information should precede performance data, which would be consistent with published behavioural finance research and IOSCO recommendations. Given the potential long-term impact of fees on an investor's total returns, relocation of the fee table will place fee information in a more prominent location and encourage investors to give greater attention to costs and cost comparisons.	We propose no further changes to the layout of the Fund Facts at this time. The flow and organization of the content has been carefully considered. The first part of the Fund Facts focuses on information about the fund. The second part of the document focuses on fees and expenses associated with investing in the fund. We note, however, that the MER is highlighted in the Quick Facts section of the Fund Facts.
	One investor advocate indicated that sales commissions should always be stated as a quantitative range rather than a limit "up to xx%".	Sales commissions are currently required to be stated as a range. We will clarify that trailing commissions that are payable under different sales charge options should also be disclosed as a range.
20. Conflict of interest disclosure	Investor advocates appreciated the inclusion of additional conflict of interest disclosure under the "Trailing commission" section of the Fund Facts. However, one advocate told us they thought that the CSA could go further and noted that other jurisdictions, such as Australia and the United Kingdom, have completely banned the payment of such commissions to financial services representatives.	The CSA is currently examining the mutual fund fee structure in Canada more broadly. See CSA Discussion Paper and Request for Comment 81-407 *Mutual Fund Fees.*
	Noted another commenter, it is important, however, to focus on the dollar cost of charges to the extent possible, and not simply a percentage figure, which may not resonate as thoroughly with investors.	We have proposed to include a dollar amount beside percentage figures where possible throughout the Fund Facts.
	Most industry commenters, on the other hand, disagreed with the proposal to include additional conflict of interest disclosure. They thought it would be unfair to single out trailing commissions for this type of disclosure, since the placement of any investment for commission or fees could presumably have the same influence. The proposed language was viewed as being unduly prejudicial to mutual funds and could improperly bias the way investors view the product by creating undue suspicion, particularly since there a multitude of other investment products that also pay commissions but that are not required to provide similar disclosure in their offering documents. Most of these commenters stated that, since investment funds have no involvement in the remuneration arrangements between dealers and their advisors, conflict of interest disclosure is more properly addressed in discussions between the dealer representative and their client. To this end, they noted that issues relating to potential or perceived conflicts of interest in	The document testing with investors found that references to 'conflict of interest' were not well understood by investors and caused confusion. In response to the testing, and to the comments received, we are proposing to simplify the language by stating that "Higher commissions can influence a representative to recommend one investment over another. Ask about other funds and investments that may be suitable for you at a lower cost". This language is intended to prompt investors to ask questions about the various fee options available to them, while continuing to highlight the potential conflict of interest that exists in their representative's compensation arrangement with the fund manager. Since this conflict arises in the context of trailing commissions as well as sales charges, we are proposing to move this disclosure directly under the "How much does it cost?" heading. We think the revised placement of the disclosure addresses concerns that trailing

Part 3 – Comments on the Fund Facts		
Issue	**Comments**	**Responses**
	respect of advisor compensation are already dealt with through existing MFDA and IIROC processes and rules which govern the opening and supervision of accounts, as required by National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*. One of these commenters submitted that the CSA should instead consider amending the Companion Policy to NI 31-103 to clarify that the requirements in s. 13.4(3) of NI 31-103 include the disclosure of trailing commissions received from investment fund managers, and the conflicts of interest that could occur as a result of such arrangements. Others noted that the presence of a trailing commission does not necessarily lead to a conflict so one-size fits all boilerplate disclosure would not be helpful to investors. Noted one commenter, it does not take into account situations where a conflict of interest does not exist (or is mitigated), such as where a fund is distributed through a dedicated distribution network. Many industry commenters were of the view that the current disclosure on trailing commissions in the Fund Facts is sufficiently clear so no further disclosure should be necessary. A few commenters proposed adding: "Ask your dealer representative for more information". However, there were some industry commenters who did not object to the additional disclosure but provided suggestions for improving the proposed conflict of interest language, which they felt would convey more balanced and fair understanding of potential conflicts of interest.	commissions alone are not the sole source of potential conflicts. Such conflicts may also arise in the context of the sales charge option that is selected. In addition, we are referencing commissions that may be payable on investment products generally.
21. For more information	An industry association representing financial advisors agreed it would be helpful to include a reference to the CSA's Understanding Mutual Funds brochure in the Fund Facts (the "Brochure"). This commenter also suggested that the CSA put a link to the Brochure on their home page, to make it easier for investors to find this document. We also received support from IFIC for the inclusion of a cross-reference to the Brochure. Still, one industry commenter opposed the cross-reference to the Brochure as the Fund Facts is a liability document and the fund manager does not control the content of the Brochure. Additionally, one investor advocate expressed concern that the Brochure is not sufficient and suggested that the Fund Facts reference a guide which would help investors interpret and use each	We do not consider inclusion of the reference to the Brochure to present any liability issues for fund managers. The Brochure was developed by the CSA and contains general educational material about mutual funds. As we have previously stated, while we agree that investor education is a key aspect of investor protection, we do not propose to create a user guide for the Fund Facts as we

Part 3 – Comments on the Fund Facts		
Issue	**Comments**	**Responses**
	section of the Fund Facts.	think it is unnecessary. The reference to the Brochure is intended to provide investors with a tool to obtain more general information about mutual funds. The Brochure has been revised with the Fund Facts in mind.
22. Exceptions for individual jurisdictions	IFIC commented that in Appendix C of the Notice, the CSA determined not to eliminate provincial differences in the drafting of NI 81-101. The commenter urged the CSA to avoid making any changes to the Fund Facts (or any form that is intended for use in all regions of Canada) that would apply in some, but not all, jurisdictions. The commenter believes the application of different form requirements across jurisdictions will introduce ambiguity and confusion in interpreting the form requirements. This may result in conflicting interpretations based on the jurisdictions to which Fund Facts are being distributed.	The CSA stress that while the delivery requirement in NI 81-101 has been drafted to reflect each jurisdiction's legislation, the result is the same.

Part 4 – Other general comments		
Issue	**Comments**	**Responses**
23. Exemptive Relief to Allow Early Use of Fund Facts	A Fund Facts service provider commented that only a few fund managers and dealers have started to deliver Fund Facts in place of simplified prospectuses because of difficulty complying with exemptive relief conditions and the fact that Stage 2 is not yet final. The commenter asked that we relax the exemptive relief conditions to encourage dealers to deliver the Fund Facts.	We propose no change and encourage the early adoption of the Fund Facts form and delivery.
24. POS delivery	Investor advocates expressed appreciation for the CSA's efforts to move forward quickly with the implementation of Stage 2 of the POS initiative and emphasized future delays should be avoided. While the industry has expressed concerns about the practicality and costs of compliance with this initiative, the point-of-sale delivery of the Fund Facts to investors is a fundamental aspect of the POS regime and should be implemented sooner rather than later to better serve investors. An industry commenter supported delivery of the Fund Facts instead of the simplified prospectus at the point of sale.	We appreciate the support from commenters.
25. Summary disclosure for other types of investment funds	A number of industry commenters stressed the need to (i) achieve consistent and comparable disclosure across all market participants offering products similar to mutual funds (e.g., exchange traded funds, closed end funds, and hedge funds) ; and (ii) promote a level regulatory playing field and reduce the potential for product arbitrage.	We will be considering the development of summary disclosure documents for other types of publicly offered investment funds as part of Stage 3 of the POS initiative.

Part 4 – Other general comments		
Issue	**Comments**	**Responses**
	As indicated by IFIC, on the Canadian household balance sheet, Canadians invest their financial assets in mutual funds as well as in deposit instruments, fixed income and equities and segregated funds. Providing Canadians with access to consistent disclosure materials for all of those products would provide them with the tools to make informed decisions. Finally, investor advocates expressed support for the CSA's plans to consider extending the POS delivery and disclosure requirements to other investment products which are substantively similar to mutual funds with the hope that this will be done as soon as possible. They stressed that investors need clear, simple and meaningful disclosure regardless of the type of product they invest in so there is no principled basis to limit the POS framework to mutual funds. We were asked to collaborate with other regulators to create a more robust and consistent disclosure regime. If the CSA chooses to focus only on those products that it regulates, we were told regulatory arbitrage may result. At a minimum, the CSA must work with insurance regulators to harmonize the disclosure for mutual funds and segregated funds.	
26. Cost Benefit Analysis	One industry commenter told us that the changes proposed will not provide any meaningful enhanced disclosure of benefit to investors. Furthermore, the cost of compliance with the additional disclosure requirements will far outweigh any such marginal benefit. This commenter stated that compliance with the proposals will come at a significant cost to mutual fund companies in terms of information technology, third party service providers, legal, and accounting costs and these costs may ultimately be borne by investors.	The earlier publications by the Joint Forum and CSA outlined the anticipated costs and benefits of implementation of the POS disclosure regime for mutual funds. We consider these costs and benefits to still be valid. We continue to believe that the potential benefits of the changes to the disclosure regime are proportionate to the costs of making them.

Part 5 – List of commenters

- **Advocis**
- **AGF Investments Inc.**
- **Borden Ladner Gervais LLP**
- **Brandes Investment Partners & Co.**
- **Broadridge Financial Solutions Inc.**
- **Canadian Advocacy Council for Canadian CFA Institute Societies (CFA)**

Part 5 – List of commenters

- **Canadian Bankers Association (CBA)**
- **Canadian Foundation for Advancement of Investor Rights (FAIR)**
- **Canadian Imperial Bank of Commerce (CIBC)**
- **Capital International Asset Management (Canada), Inc.**
- **CI Financial Corp.**
- **EdgePoint Wealth Management Inc.**
- **Eric Fandich**
- **Fidelity Investments Canada ULC and RBC Global Asset Management Inc.**
- **Franklin Templeton Investments Corp.**
- **IA Clarington Investments Inc.**
- **Independent Financial Brokers of Canada (IFB)**
- **ING Direct Asset Management Limited**
- **Invesco Canada Ltd.**
- **Investment Funds Institute of Canada (IFIC)**
- **Investment Industry Association of Canada (IIAC)**
- **Investment Planning Counsel Inc. (IPC)**
- **InvestorPOS Inc.**
- **Investors Group Inc.**
- **Kenmar Associates**
- **Le Mouvement des caisses Desjardins (MCD)**
- **Mackenzie Financial Corporation**
- **Manulife Mutual Funds**
- **OSC Investor Advisory Panel (IAP)**
- **PFSL Investments (Canada) Ltd. and PFSL Fund Management Ltd.**
- **Heather Scherloski**
- **Sun Life Global Investments (Canada) Inc.**
- **TD Asset Management Inc.**

ANNEX D

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. Section 1.1 is amended by adding the following definitions:

"statutory right of action" means,

(a) in Alberta, paragraph 206(a) of the *Securities Act* (Alberta),

(b) in British Columbia, section 135 of the *Securities Act* (British Columbia),

(c) in Manitoba, section 141.2 of the *Securities Act* (Manitoba),

(d) in New Brunswick, section 155 of the *Securities Act* (New Brunswick),

(e) in Northwest Territories, section 116 of the *Securities Act* (Northwest Territories),

(f) in Nunavut, section 116 of the *Securities Act* (Nunavut),

(g) in Saskatchewan, section 141(2) of *The Securities Act, 1988* (Saskatchewan), and

(h) in Yukon, section 116 of the *Securities Act* (Yukon);

"statutory right of withdrawal" means,

(a) in Alberta, subsection 130(1) of the *Securities Act* (Alberta),

(b) in British Columbia, subsections 83(3) and (5) of the *Securities Act* (British Columbia),

(c) in Manitoba, sections 1.2 and 1.5 of Local Rule 41-502 *Prospectus Delivery Requirement* (Manitoba),

(d) in New Brunswick, subsection 88(2) of the *Securities Act* (New Brunswick),

(e) in Northwest Territories, section 101(2) of the *Securities Act* (Northwest Territories),

(f) in Nunavut, subsection 101(2) of the *Securities Act* (Nunavut),

(g) in Saskatchewan, section 79(3) of *The Securities Act, 1988* (Saskatchewan), and

(h) in Yukon, subsection 101(2) of the *Securities Act* (Yukon)..

3. Section 3.2 is amended by replacing subsection (2) with the following:

(2) If a prospectus is required under securities legislation to be delivered or sent to a person or company, the fund facts document most recently filed under this Instrument for the applicable class or series of securities must be delivered or sent to the person or company at the same time and in the same manner as otherwise required for the prospectus.

(2.1) The requirement under securities legislation to deliver or send a prospectus does not apply if a fund facts document is delivered or sent under subsection (2).

(2.2) In Nova Scotia, a fund facts document is a disclosure document prescribed under subsection 76(1A) of the *Securities Act* (Nova Scotia).

(2.3) In Ontario, a fund facts document is a disclosure document prescribed under subsection 71(1.1) of the *Securities Act* (Ontario)..

4. The following sections are added after section 3.2:

3.2.1 Fund facts document – purchaser's right of withdrawal

(1) A purchaser has a right of withdrawal in respect of a fund facts document that was delivered or sent under subsection 3.2(2), as the purchaser would otherwise have when a prospectus is required to be delivered or sent under securities legislation and, for that purpose, a fund facts document is a prescribed document under the statutory right of withdrawal.

(2) In Nova Scotia, instead of subsection (1), subsection 76(2) of the *Securities Act* (Nova Scotia) applies.

(3) In Ontario, instead of subsection (1), subsection 71(2) of the *Securities Act* (Ontario) applies.

(4) In Québec, instead of subsection (1), section 30 of the *Securities Act* (Québec) applies..

3.2.2 Fund facts document – purchaser's right of action for failure to deliver or send

(1) A purchaser has a right of action if a fund facts document is not delivered or sent as required by subsection 3.2(2), as the purchaser would otherwise have when a prospectus is not delivered or sent as required under securities legislation and, for that purpose, a fund facts document is a prescribed document under the statutory right of action.

(2) In Nova Scotia, instead of subsection (1), subsection 141(1) of the *Securities Act* (Nova Scotia) applies.

(3) In Ontario, instead of subsection (1), section 133 of the *Securities Act* (Ontario) applies.

(4) In Québec, instead of subsection (1), section 214 of the *Securities Act* (Québec) applies..

5. Section 3.5 is amended by replacing "must***" with "***may***".***

6. Subsection 4.1(1) is amended by replacing "in a format***" with "***be in a format***".***

7. Subsection 5.1(3) is repealed.

8. Section 5.2 is replaced with the following:

5.2 Combinations of Fund Facts Documents for Delivery Purposes

(1) A fund facts document delivered or sent under section 3.2 must not be attached to or bound with any other materials or documents, except that it may be attached to or bound with one or more of the following:

1. A general front cover pertaining to the package of attached or bound materials and documents.

2. A trade confirmation which discloses the purchase of securities of the mutual fund.

3. A fund facts document of another mutual fund if that fund facts document is being delivered or sent under section 3.2.

4. A simplified prospectus or a multiple SP of the mutual fund.

5. Any document incorporated by reference into the simplified prospectus or the multiple SP.

6. Account application documents.

7. Registered tax plan applications and documents.

(2) If a trade confirmation referred to in subsection (1) is attached to or bound with a fund facts document, any other disclosure document required to be delivered or sent to satisfy a regulatory requirement for purchases listed in the trade confirmation may be attached to or bound with the fund facts document.

(3) If a fund facts document is attached to or bound with any of the materials or documents referred to in subsection (1), a table of contents specifying all documents must be attached to or bound with the fund facts

document, except when the only other documents attached to or bound with the fund facts document are the general front cover or the trade confirmation.

(4) If one or more fund facts documents are attached to or bound with any of the materials or documents referred to in subsection (1), only the general front cover, the table of contents and the trade confirmation may be placed in front of those fund facts documents..

9. Form 81-101F1 Contents of Simplified Prospectus is amended

(a) by adding the following after Item 1.1(6) of Part A:

INSTRUCTION

Complete the bracketed information in subsection (3) above by

(a) inserting the name of each jurisdiction of Canada in which the mutual fund intends to offer securities under the prospectus;

(b) stating that the filing has been made in each of the provinces of Canada or each of the provinces and territories of Canada; or

*(c) identifying the filing jurisdictions of Canada by exception (i.e. every province of Canada or every province and territory of Canada, except [excluded jurisdictions]).**;***

(b) by adding the following after Item 1.2(6) of Part A:

INSTRUCTION

Complete the bracketed information in subsection (3) above by

(a) inserting the name of each jurisdiction of Canada in which the mutual fund intends to offer securities under the prospectus;

(b) stating that the filing has been made in each of the provinces of Canada or each of the provinces and territories of Canada; or

*(c) identifying the filing jurisdictions of Canada by exception (i.e. every province of Canada or every province and territory of Canada, except [excluded jurisdictions]).**; and***

(c) by replacing the text following the first paragraph of Item 11 of Part A with the following:

Securities legislation in some provinces and territories gives you the right to withdraw from an agreement to buy mutual funds within two business days of receiving the Simplified Prospectus or Fund Facts, or to cancel your purchase within 48 hours of receiving confirmation of your order.

Securities legislation in some provinces and territories also allows you to cancel an agreement to buy mutual fund [units/shares] and get your money back, or to make a claim for damages, if the Simplified Prospectus, Annual Information Form, Fund Facts or financial statements misrepresent any facts about the fund. These rights must usually be exercised within certain time limits.

For more information, refer to the securities legislation of your province or territory or consult a lawyer..

10. Form 81-101F2 Contents of Annual Information Form is amended

(a) by adding the following after Item 1.1(6):

INSTRUCTION

Complete the bracketed information in subsection (3) above by

(a) inserting the name of each jurisdiction of Canada in which the mutual fund intends to offer securities under the prospectus;

(b) stating that the filing has been made in each of the provinces of Canada or each of the provinces and territories of Canada; or

*(c) identifying the filing jurisdictions of Canada by exception (i.e. every province of Canada or every province and territory of Canada, except [excluded jurisdictions]).**; and***

(b) by adding the following after Item 1.2(6):

INSTRUCTION

Complete the bracketed information in subsection (3) above by

(a) inserting the name of each jurisdiction of Canada in which the mutual fund intends to offer securities under the prospectus;

(b) stating that the filing has been made in each of the provinces of Canada or each of the provinces and territories of Canada; or

(c) identifying the filing jurisdictions of Canada by exception (i.e. every province of Canada or every province and territory of Canada, except [excluded jurisdictions])..

11. Form 81-101F3 Contents of Fund Facts Document is amended

(a) by replacing subsection (8) of the General Instructions with the following:

*(8) Except as permitted by subsection (8.1), a fund facts document must contain only the information that is specifically mandated or permitted by this Form. In addition, each Item must be presented in the order and under the heading or sub-heading stipulated in this Form.**;***

*(8.1) A fund facts document may contain a brief explanation of a material change or a proposed fundamental change. The disclosure may be included in a textbox before Item 2 of Part I or in the most relevant section of the fund facts document. If necessary, the mutual fund may provide a cross-reference to a more detailed explanation at the end of the fund facts document.**;***

(b) by replacing "**section 5.4**" with "**Part 5**" in subsections (15) and (16) of the General Instructions;

(c) by replacing the last sentence of subsection (16) of the General Instructions with the following:

*Each fund facts document must start on a new page, and may not share a page with another fund facts document.**;***

(d) by replacing paragraph (c) of Item 1 of Part I with the following:

(c) the name of the mutual fund to which the fund facts document pertains;**;**

(c.1) if the mutual fund has more than one class or series of securities, the name of the class or series described in the fund facts document;***;***

(e) by deleting "**and**" in paragraph (d) of Item 1 of Part I;

(f) by replacing paragraph (e) of Item 1 of Part I with the following:

(e) a brief introduction to the document using wording substantially similar to the following:

This document contains key information you should know about [insert name of the mutual fund]. You can find more details in the fund's simplified prospectus. Ask your representative for a copy, contact [insert name of the manager of the mutual fund] at [insert if applicable the toll-free number and email address of the manager of the mutual fund] or visit [insert the website of the mutual fund, the mutual fund's family or the manager of the mutual fund] [as applicable]; and

(f) state in bold type using wording substantially similar to the following:

Before you invest in any fund, consider how the fund would work with your other investments and your tolerance for risk.***;***

(g) by replacing the table in Item 2 of Part I with the following:

Fund code: (see instruction 0.1)	**Fund manager:** (see instruction 3.1)
Date [class/series] started: (see instruction 1)	**Portfolio manager:** (see instruction 4)
Total value of the fund on [date]: (see instruction 2)	**Distributions:** (see instruction 5)
Management expense ratio (MER): (see instruction 3)	**Minimum investment:** (see instruction 6)

(h) by adding, immediately before subsection (1), the following to the Instructions under Item 2 of Part I:

*(0.1) At the option of the mutual fund, include all recognized and publicly available identification codes for the class or series of the mutual fund.****;***

(i) by replacing "*30 days****" with "****60 days****" in subsection (2) of the Instructions under Item 2 of Part I;***

(j) by adding, immediately after subsection (3), the following to the Instructions under Item 2 of Part I:

*(3.1) Specify the name of the manager of the mutual fund.****;***

(k) by replacing subsection (4) of the Instructions under Item 2 of Part I with the following:

*(4) Name the mutual fund's portfolio manager. The mutual fund may also name the specific individual(s) responsible for portfolio selection and if applicable, the name of the sub-advisor(s).****;***

(l) by replacing Item 3(4) of Part I with the following:

(4) Include under the sub-heading "Top 10 investments [date]", a table disclosing the following:

(a) the top 10 positions held by the mutual fund, each expressed as a percentage of the net asset value of the mutual fund;

(b) the percentage of net asset value of the mutual fund represented by the top 10 positions; and

(c) the total number of positions held by the mutual fund.***;***

(m) by replacing "*30 days****" with "****60 days****" in subsection (4) of the Instructions to Item 3 of Part I;***

(n) by replacing "*30 days****" with "****60 days****" in subsection (9) of the Instructions to Item 3 of Part I;***

(o) by replacing Items 4 and 5 of Part I with the following:

Item 4: Risks

(1) Under the heading "How risky is it?", state the following:

The value of the fund can go down as well as up. You could lose money.

One way to gauge risk is to look at how much a fund's returns change over time. This is called "volatility".

In general, funds with higher volatility will have returns that change more over time. They typically have a greater chance of losing money and may have a greater chance of higher returns. Funds with lower volatility tend to have returns that change less over time. They typically have lower returns and may have a lower chance of losing money.

(2) Under the sub-heading “Risk rating”,

(a) using the investment risk classification methodology adopted by the manager of the mutual fund, identify the mutual fund’s investment risk level on the following risk scale:

Low	Low to medium	Medium	Medium to high	High

(b) unless the mutual fund is a newly established mutual fund, include an introduction to the risk scale which states the following:

[Insert name of manager of the mutual fund] has rated the volatility of this fund as [insert investment risk level identified in paragraph (a) in bold type].

This rating is based on how much the fund’s returns have changed from year to year. It doesn’t tell you how volatile the fund will be in the future. The rating can change over time. A fund with a low risk rating can still lose money.

(c) for a newly established mutual fund, include an introduction to the risk scale which states the following:

[Insert name of manager of the mutual fund] has rated the volatility of this fund as [insert investment risk level identified in paragraph (a) in bold type].

Because this is a new fund, the risk rating is only an estimate by [insert name of manager of the mutual fund]. Generally, the rating is based on how much the fund’s returns have changed from year to year. It doesn’t tell you how volatile the fund will be in the future. The rating can change over time. A fund with a low risk rating can still lose money.

(d) following the risk scale, state using wording substantially similar to the following:

For more information about the risk rating and specific risks that can affect the fund’s returns, see the [insert cross-reference to the appropriate section of the mutual fund’s simplified prospectus] section of the fund’s simplified prospectus.

(3) Under the sub-heading “No guarantees”, state using wording substantially similar to the following:

Like most mutual funds, this fund doesn’t have any guarantees. You may not get back the amount of money you invest.

INSTRUCTIONS:

(1) Based upon the investment risk classification methodology adopted by the manager of the mutual fund, identify where the mutual fund fits on the continuum of investment risk levels by showing the full investment risk scale set out in Item 4(2)(a) and highlighting the applicable category on the scale. Consideration should be given to ensure that the highlighted investment risk rating is easily identifiable.

Item 5: Past Performance

(1) Under the heading “How has the fund performed?”, include an introduction using wording substantially similar to the following:

This section tells you how [name of class/series of securities described in the fund facts document] [units/shares] of the fund have performed over the past [insert number of calendar years shown in the bar chart required under paragraph (2)(a)] years. Returns are after expenses have been deducted. These expenses reduce the fund’s returns.

(2) Under the sub-heading “Year-by-year returns”,

(a) provide a bar chart that shows the annual total return of the mutual fund, in chronological order with the most recent year on the right of the bar chart, for the lesser of

(i) each of the 10 most recently completed calendar years, and

(ii) each of the completed calendar years in which the mutual fund has been in existence and which the mutual fund was a reporting issuer; and

(b) include an introduction to the bar chart using wording substantially similar to the following:

This chart shows how [name of class/series of securities described in the fund facts document] [units/shares] of the fund performed in each of the past [insert number of calendar years shown in the bar chart required under paragraph (a)]. The fund dropped in value in [for the particular years shown in the bar chart required under paragraph (a), insert the number of years in which the value of the mutual fund dropped] of the [insert number of calendar years shown in the bar chart required in paragraph (a)] years. The range of returns and change from year to year can help you assess how risky the fund has been in the past. It does not tell you how the fund will perform in the future.

(3) Under the sub-heading "Best and worst 3-month returns",

(a) provide information for the period covered in the bar chart required under paragraph (2)(a) in the form of the following table:

	Return	**3 months ending**	**If you invested $1,000 at the beginning of the period**
Best return	(see instruction 8)	(see instruction 10)	Your investment would [rise/drop] to (see instruction 12).
Worst return	(see instruction 9)	(see instruction 11)	Your investment would [rise/drop] to (see instruction 13).

(b) include an introduction to the table using wording substantially similar to the following:

This table shows the best and worst returns for the [name of class/series of securities described in the fund facts document] [units/shares] of the fund in a 3-month period over the past [insert number of calendar years shown in the bar chart required under paragraph (2)(a)]. The best and worst 3-month returns could be higher or lower in the future. Consider how much of a loss you could afford to take in a short period of time.

(4) Under the sub-heading "Average return", show the following:

(a) the final value of a hypothetical $1000 investment in the mutual fund as at the end of the period that ends within 60 days before the date of the fund facts document and consists of the lesser of

(i) 10 years, or

(ii) the time since inception of the mutual fund;

(b) the annual compounded rate of return that equates the hypothetical $1000 investment to the final value.

INSTRUCTIONS

(1) In responding to the requirements of this Item, a mutual fund must comply with the relevant sections of Part 15 of National Instrument 81-102 Mutual Funds as if those sections applied to a fund facts document.

(2) Use a linear scale for each axis of the bar chart required by this Item.

(3) The x-axis and y-axis for the bar chart required by this Item must intersect at zero.

(4) A mutual fund that distributes different classes or series of securities that are referable to the same portfolio of assets must show performance data related only to the specific class or series of securities being described in the fund facts document.

(5) If the information required to be disclosed under this Item is not reasonably available, include the required sub-headings and provide a brief statement explaining why the required information is not available. Information relating to year-by-year returns in the bar chart will generally not be available for a mutual fund that has been distributing securities under a simplified prospectus for less than one calendar year. Information under "Best and worst 3-month returns" and "Average return" will generally not be available for a mutual fund that has been distributing securities under a simplified prospectus for less than 12 consecutive months.

(6) The dollar amounts shown under this Item may be rounded up to the nearest dollar.

(7) The percentage amounts shown under this Item may be rounded to one decimal place.

(8) Show the best rolling 3-month return as at the end of the period that ends within 60 days before the date of the fund facts document.

(9) Show the worst rolling 3-month return as at the end of the period that ends within 60 days before the date of the fund facts document.

(10) Insert the end date for the best 3-month return period.

(11) Insert the end date for the worst 3-month return period.

(12) Insert the final value that would equate with a hypothetical $1000 investment for the best 3-month return period shown in the table.

*(13) Insert the final value that would equate with a hypothetical $1000 investment for the worst 3-month return period shown in the table.**;***

(p) by deleting Item 6 of Part I;

(q) by deleting Item 7(2) of Part I;

(r) by replacing Item 1.1 of Part II with the following:

1.1 Introduction

Under the heading "How much does it cost?", state the following:

The following tables show the fees and expenses you could pay to buy, own and sell [name of the class/series of securities described in the fund facts document] [units/shares] of the fund. The fees and expenses – including any commissions – can vary among [classes/series] of a fund and among funds. Higher commissions can influence representatives to recommend one investment over another. Ask about other funds and investments that may be suitable for you at a lower cost.***;***

(s) by replacing Item 1.3(2) of Part II with the following:

(2) Unless the mutual fund has not yet filed a management report of fund performance, provide information about the expenses of the mutual fund in the form of the following table:

	Annual rate (as a % of the fund's value)
Management expense ratio (MER) This is the total of the fund's management fee (including the trailing commission) and operating expenses. (see instruction 1)	(see instruction 2)
Trading expense ratio (TER) These are the fund's trading costs.	(see instruction 3)
Fund expenses	(see instruction 4)

(t) by replacing Item 1.3(4) of Part II with the following:

(4) For a mutual fund that has not yet filed a management report of fund performance, state the following:

The fund's expenses are made up of the management fee, operating expenses and trading costs. The [class'/series'] annual management fee is [see instruction 7]% of the [class'/series'] value. Because this [class/series] is new, operating expenses and trading costs are not yet available.***;***

(u) in Item 1.3(5) in Part II by replacing "where***" with "***in which***";***

(v) by replacing Items 1.3(6) and (7) of Part II with the following:

(6) Under the sub-heading "More about the trailing commission", state whether the manager of the mutual fund or another member of the mutual fund's organization pays trailing commissions. If trailing commissions are paid, include a description using wording substantially similar to the following:

The trailing commission is an ongoing commission. It is paid for as long as you own the fund. It is for the services and advice that your representative and their firm provide to you.

[Insert name of fund manager] pays the trailing commission to your representative's firm. It is paid from the fund's management fee and is based on the value of your investment. The rate depends on the sales charge option you choose.***;***

(7) If applicable, disclose the range of the rates of the trailing commission for each sales charge option disclosed under Item 1.2.***;***

(w) by adding the following to the Instructions under Item 1.3 of Part II:

*(2.1) If applicable, include a reference to any fixed administration fees in the management expense ratio description required in the table under Item 1.3(2).**;***

(x) by adding the following to the Instructions under Item 1.3 of Part II:

*(7.1) For a mutual fund that is required to include the disclosure under subsection (4), in the description of the items that make up fund fees, include a reference to any fixed administrative fees, if applicable. Also disclose the amount of the fixed administration fee in the same manner as required for the management fee. The percentage disclosed for the fixed administration fee must correspond to the percentage shown in the fee table in the simplified prospectus.**;***

(y) by replacing subsection (8) of the Instructions under Item 1.3 of Part II with the following:

*(8) In disclosing the range of rates of trailing commissions for each sales charge option, show both the percentage amount and the equivalent dollar amount for each $1000 investment.**;***

(z) by replacing Item 1.4(1) of Part II with the following:

(1) Under the sub-heading "Other fees", provide an introduction using wording substantially similar to the following:

You may have to pay other fees when you buy, hold, sell or switch [units/shares] of the fund.***;***

(aa) by adding "buy, hold,***" before "***sell or switch***" to Item 1.4(2) of Part II;***

(bb) by replacing subsections (1) and (2) to the Instructions under Item 1.4 of Part II with the following:

*(1) Under this Item, it is necessary to include only those fees that apply to the particular class or series of securities of the mutual fund. Examples include management fees and administration fees payable directly by investors, short-term trading fees, switch fees and change fees. This also includes 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 securities of the mutual fund. If there are no other fees associated with buying, holding, selling or switching units or shares of the mutual fund, replace the table with a statement to that effect.**;***

*(2) Provide a brief description of each fee disclosing the amount to be paid as a percentage (or, if applicable, a fixed dollar amount) and state who charges the fee. If the amount of the fee varies so that specific disclosure of the amount of the fee cannot be disclosed include, where possible, the highest possible rate or range for that fee.**;***

(cc) by replacing Item 2 in Part II with the following:

Item 2: Statement of Rights

Under the heading "What if I change my mind?", state using wording substantially similar to the following:

Under securities law in some provinces and territories, you have the right to:

- withdraw from an agreement to buy mutual funds within two business days after you receive a simplified prospectus or Fund Facts document, or
- cancel your purchase within 48 hours after you receive confirmation of the purchase.

In some provinces and territories, you also have the right to cancel a purchase, or in some jurisdictions, claim damages, if the simplified prospectus, annual information form, Fund Facts document or financial statements contain a misrepresentation. You must act within the time limit set by the securities law in your province or territory.

For more information, see the securities law of your province or territory or ask a lawyer.***;***

(dd) by replacing Item 3(1) of Part II with the following:

(1) Under the heading "For more information", state using wording substantially similar to the following:

Contact [insert name of the manager of the mutual fund] or your representative for a copy of the fund's simplified prospectus and other disclosure documents. These documents and the Fund Facts make up the fund's legal documents.***; and***

(ee) by adding the following after Item 3(2) of Part II:

(3) State using wording substantially similar to the following:

To learn more about investing in mutual funds, see the brochure **Understanding mutual funds**, which is available on the website of the Canadian Securities Administrators at www.securities-administrators.ca.**.**

12. Expiration of exemptions and waivers

Any exemption from or waiver of a provision of National Instrument 81-101 *Mutual Fund Prospectus Disclosure* in relation to the prospectus delivery requirements for mutual funds, or an approval in relation to those requirements, expires on the date that this Instrument comes into force.

13. Transition

(1) A mutual fund must, on or before May 13, 2014, file a completed Form 81-101F3 Contents of Fund Facts Document for each class or series of securities of the mutual fund that, on that date, are the subject of disclosure under a simplified prospectus.

(2) The date of a fund facts document filed under subsection (1) must be the date on which it was filed.

14. Effective date

(1) Subject to subsection (2), this Instrument comes into force on September 1, 2013.

(2) The provisions of this Instrument listed in column 1 of the following table come into force on the date set out in column 2 of the table:

Column 1 **Provision of this Instrument**	**Column 2** **Date**
11	January 13, 2014
3	June 13, 2014

ANNEX E

CHANGES TO
COMPANION POLICY 81-101CP
TO NATIONAL INSTRUMENT 81-101 MUTUAL FUNDS PROSPECTUS DISCLOSURE

1. ***The changes to Companion Policy 81-101CP To National Instrument 81-101 Mutual Fund Prospectus Disclosure are set out in this Annex.***

2. ***Subsection 2.1.1(4) is replaced by the following:***

The Instrument requires delivery of the fund facts document, which satisfies the prospectus delivery requirements under applicable securities legislation. The CSA also encourages the use and distribution of the fund facts document as a key part of the sales process in helping to inform investors about mutual funds they are considering for investment.*.*

3. ***Section 2.1.1 is changed by adding the following paragraph:***

(5) The CSA generally consider volatility to be a suitable basis for determining the investment risk rating of a mutual fund. For this reason, Form 81-101F3 prescribes specific disclosure in the fund facts document explaining how volatility can be used as a measure to gauge the risk of an investment. If the disclosure is not compatible with the specific investment risk classification methodology that is used by the manager of the mutual fund, the CSA will consider applications for relief from Item 4 of Form 81-101F3. In making the application, the manager must demonstrate the suitability of using an alternative measure in determining the investment risk rating of its mutual fund. The application must also provide sample disclosure in place of the prescribed disclosure that would assist investors in understanding the investment risk rating of the mutual fund.*.*

4. ***Subsection 2.2(1) is replaced by the following:***

(1) A simplified prospectus is the prospectus for the purposes of securities legislation. While the Instrument requires delivery of a fund facts document to an investor in connection with a purchase, an investor may also request delivery a copy of the simplified prospectus, or any other documents incorporated by reference into the simplified prospectus.*.*

5. ***Section 2.7 is changed by adding the following paragraph:***

(2.1) General Instruction (8.1) of Form 81-101F3 permits a mutual fund to disclose a material change and proposed fundamental change, such as a proposed merger, in an amended and restated fund facts document. We would permit flexibility in selecting the appropriate section of the amended and restated fund facts document to describe the material change or proposed fundamental change. However, we also expect that the variable sections of the fund facts document, such as the Top 10 investments and investment mix, to be updated within 60 days before the date of the fund facts document. In addition, if a mutual fund completes a calendar year or files a management report of fund performance prior to the filing of the amended and restated fund facts document, we expect the fund facts document to reflect the updated information.*.*

6. ***Subsection 4.1.3(3) is changed by replacing the reference to "***section 2.3.2***" with "***section 2.3.1***".***

7. ***Subsection 7.1(1) is replaced by the following:***

7.1 Delivery of the Fund Facts Document, Simplified Prospectus and Annual Information Form – (1) The Instrument contemplates delivery to all investors of a fund facts document in accordance with the requirements in securities legislation. It does not require the delivery of the simplified prospectus, or any other documents incorporated by reference into the simplified prospectus, unless requested. Mutual funds or dealers may also provide investors with any of the other disclosure documents incorporated by reference into the simplified prospectus.*.*

8. ***Section 7.4 is replaced by the following:***

7.4 Delivery of Non-Educational Material – The Instrument and related forms contain no restrictions on the delivery of non-educational material such as promotional brochures with either of the simplified prospectus and the annual information form. This type of material may, therefore, be delivered with, but cannot be included within, wrapped around, or attached or bound to, the simplified prospectus and the annual information form. The Instrument does not permit the binding of educational and non-educational material with the Fund Facts Document. The intention of the Instrument is not to unreasonably encumber the Fund Facts with additional documents.*.*

9. The Sample Fund Facts Document in Appendix A – Sample Fund Facts Document is replaced by the following:

[Editor's note: The *Sample Fund Facts Document* follows on unnumbered pages.]

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XYZ Mutual Funds

FUND FACTS

XYZ Canadian Equity Fund – Series B

June 30, 20XX

This document contains key information you should know about XYZ Canadian Equity Fund. You can find more details in the fund's simplified prospectus. Ask your representative for a copy, contact XYZ Mutual Funds at 1-800-555-5556 or investing@xyzfunds.com, or visit www.xyzfunds.com.

Before you invest in any fund, consider how the fund would work with your other investments and your tolerance for risk.

Quick facts

Fund code:	XYZ123	**Fund manager:**	XYZ Mutual Funds
Date series started:	March 31, 2000	**Portfolio manager:**	Capital Asset Management Ltd.
Total value of fund on June 1, 20XX:	$1 billion	**Distributions:**	Annually, on December 15
Management expense ratio (MER):	2.25%	**Minimum investment:**	$500 initial, $50 additional

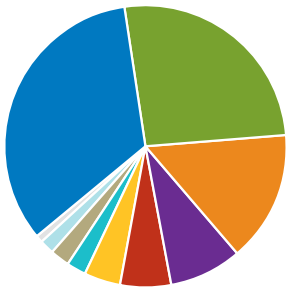
What does the fund invest in?

The fund invests in a broad range of stocks of Canadian companies. They can be of any size and from any industry.
The charts below give you a snapshot of the fund's investments on June 1, 20XX. The fund's investments will change.

Top 10 investments (June 1, 20XX)

1.	Royal Bank of Canada	7.5%
2.	Toronto-Dominion Bank	7.1%
3.	Canadian Natural Resources	5.8%
4.	The Bank of Nova Scotia	4.1%
5.	Cenovus Energy Inc.	3.7%
6.	Suncor Energy Inc.	3.2%
7.	Enbridge Inc.	3.1%
8.	Canadian Imperial Bank of Commerce	2.9%
9.	Manulife Financial Corporation	2.7%
10.	Canadian National Railway Company	1.9%
Total percentage of top 10 investments		**42.0%**
Total number of investments		**93**

Investment mix (June 1, 20XX)



Industry	
Financial services	34.0%
Energy	26.6%
Industrial goods	16.5%
Business services	6.4%
Telecommunication	5.9%
Hardware	3.7%
Healthcare services	2.3%
Consumer services	2.1%
Media	1.9%
Consumer goods	0.6%

How risky is it?

The value of the fund can go down as well as up. You could lose money.

One way to gauge risk is to look at how much a fund's returns change over time. This is called "volatility".

In general, funds with higher volatility will have returns that change more over time. They typically have a greater chance of losing money and may have a greater chance of higher returns. Funds with lower volatility tend to have returns that change less over time. They typically have lower returns and may have a lower chance of losing money.

Risk rating

XYZ Mutual Funds has rated the volatility of this fund as **medium**.

This rating is based on how much the fund's returns have changed from year to year. It doesn't tell you how volatile the fund will be in the future. The rating can change over time. A fund with a low risk rating can still lose money.

Low	Low to medium	**Medium**	Medium to high	High

For more information about the risk rating and specific risks that can affect the fund's returns, see the Risk section of the fund's simplified prospectus.

No guarantees

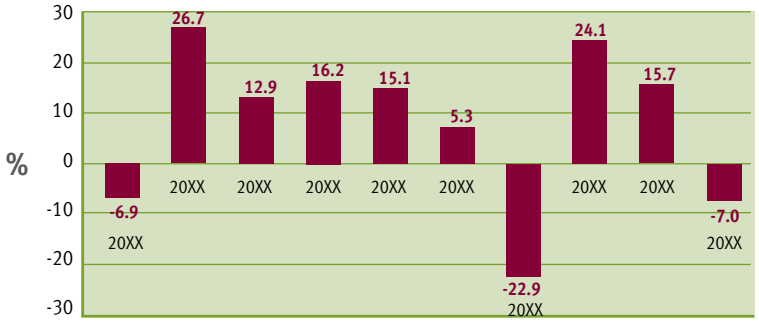
Like most mutual funds, this fund doesn't have any guarantees. You may not get back the amount of money you invest.

How has the fund performed?

This section tells you how Series B units of the fund have performed over the past 10 years. Returns are after expenses have been deducted. These expenses reduce the fund's returns.

Year-by-year returns

This chart shows how Series B units of the fund performed in each of the past 10 years. The fund dropped in value in 3 of the 10 years. The range of returns and change from year to year can help you assess how risky the fund has been in the past. It does not tell you how the fund will perform in the future.



Best and worst 3-month returns

This table shows the best and worst returns for Series B units of the fund in a 3-month period over the past 10 years. The best and worst 3-month returns could be higher or lower in the future. Consider how much of a loss you could afford to take in a short period of time.

	Return	3 months ending	If you invested $1,000 at the beginning of the period
Best return	32.6%	April 30, 2003	Your investment would rise to $1,326.
Worst return	-24.7%	November 30, 2008	Your investment would drop to $753.

Average return

The annual compounded return of Series B units of the fund was 6.8% over the past 10 years. If you had invested $1,000 in the fund 10 years ago, your investment would now be worth $1,930.

Who is this fund for?

Investors who:

- are looking for a long-term investment
- want to invest in a broad range of stocks of Canadian companies
- can handle the ups and downs of the stock market.

! Don't buy this fund if you need a steady source of income from your investment.

A word about tax

In general, you'll have to pay income tax on any money you make on a fund. How much you pay depends on the tax laws where you live and whether or not you hold the fund in a registered plan, such as a Registered Retirement Savings Plan or a Tax-Free Savings Account.

Keep in mind that if you hold your fund in a non-registered account, fund distributions are included in your taxable income, whether you get them in cash or have them reinvested.

How much does it cost?

The following tables show the fees and expenses you could pay to buy, own and sell Series B units of the fund. The fees and expenses — including any commissions — can vary among series of a fund and among funds. Higher commissions can influence representatives to recommend one investment over another. Ask about other funds and investments that may be suitable for you at a lower cost.

1. Sales charges

You have to choose a sales charge option when you buy the fund. Ask about the pros and cons of each option.

Sales charge option	What you pay		How it works
	in per cent (%)	in dollars ($)	
Initial sales charge	0% to 4% of the amount you buy	$0 to $40 on every $1,000 you buy	• You and your representative decide on the rate. • The initial sales charge is deducted from the amount you buy. It goes to your representative's firm as a commission.
Deferred sales charge	**If you sell within:** 1 year of buying 6.0% 2 years of buying 5.0% 3 years of buying 4.0% 4 years of buying 3.0% 5 years of buying 2.0% 6 years of buying 1.0% After 6 years nothing	$0 to $60 on every $1,000 you sell	• The deferred sales charge is a set rate. It is deducted from the amount you sell. • When you buy the fund, XYZ Mutual Funds pays your representative's firm a commission of 4.9%. Any deferred sales charge you pay goes to XYZ Mutual Funds. • You can sell up to 10% of your units each year without paying a deferred sales charge. • You can switch to Series B units of other XYZ Mutual Funds at any time without paying a deferred sales charge. The deferred sales charge schedule will be based on the date you bought the first fund.

2. Fund expenses

You don't pay these expenses directly. They affect you because they reduce the fund's returns.
As of March 31, 20XX, the fund's expenses were 2.30% of its value. This equals $23 for every $1,000 invested.

	Annual rate (as a % of the fund's value)
Management expense ratio (MER) This is the total of the fund's management fee (which includes the trailing commission) and operating expenses. XYZ Mutual Funds waived some of the fund's expenses. If it had not done so, the MER would have been higher.	2.25%
Trading expense ratio (TER) These are the fund's trading costs.	0.05%
Fund expenses	**2.30%**

More about the trailing commission

The trailing commission is an ongoing commission. It is paid for as long as you own the fund. It is for the services and advice that your representative and their firm provide to you.

XYZ Mutual Funds pays the trailing commission to your representative's firm. It is paid from the fund's management fee and is based on the value of your investment. The rate depends on the sales charge option you choose.

Sales charge option	Amount of trailing commission	
	in per cent (%)	in dollars ($)
Initial sales charge	0% to 1% of the value of your investment each year	$0 to $10 each year on every $1,000 invested
Deferred sales charge	0% to 0.50% of the value of your investment each year	$0 to $5 each year on every $1,000 invested

How much does it cost? cont'd

3. Other fees

You may have to pay other fees when you buy, hold, sell or switch units of the fund.

Fee	What you pay
Short-term trading fee	1% of the value of units you sell or switch within 90 days of buying them. This fee goes to the fund.
Switch fee	Your representative's firm may charge you up to 2% of the value of units you switch to another XYZ Mutual Fund.
Change fee	Your representative's firm may charge you up to 2% of the value of units you switch to another series of the fund.

What if I change my mind?

Under securities law in some provinces and territories, you have the right to:

- withdraw from an agreement to buy mutual fund units within two business days after you receive a simplified prospectus or Fund Facts document, or
- cancel your purchase within 48 hours after you receive confirmation of the purchase.

In some provinces and territories, you also have the right to cancel a purchase, or in some jurisdictions, claim damages, if the simplified prospectus, annual information form, Fund Facts document or financial statements contain a misrepresentation. You must act within the time limit set by the securities law in your province or territory.

For more information, see the securities law of your province or territory or ask a lawyer.

For more information

Contact XYZ Mutual Funds or your representative for a copy of the fund's simplified prospectus and other disclosure documents. These documents and the Fund Facts make up the fund's legal documents.

XYZ Mutual Funds
123 Asset Allocation St.
Toronto, ON M1A 2B3

Phone: (416) 555-5555
Toll-free: 1-800-555-5556
Email: investing@xyzfunds.com
www.xyzfunds.com

To learn more about investing in mutual funds, see the brochure **Understanding mutual funds**, which is available on the website of the Canadian Securities Administrators at **www.securities-administrators.ca.**

10. These changes become effective on September 1, 2013 .

ANNEX F

AMENDMENTS TO
NATIONAL INSTRUMENT 81-102 *MUTUAL FUNDS*

1. National Instrument 81-102 Mutual Funds is amended by this Instrument.

2. Subparagraph 5.6(1)(f)(ii) is replaced with the following:

(ii) the most recently filed fund facts document for the mutual fund into which the mutual fund will be reorganized, and***.***

3. This Instrument comes into force on September 1, 2013.

ANNEX G

ADDITIONAL INFORMATION REQUIRED IN ONTARIO

ONTARIO SECURITIES COMMISION

IMPLEMENTATION OF STAGE 2 OF POINT OF SALE DISCLOSURE FOR MUTUAL FUNDS – *DELIVERY OF FUND FACTS*

NOTICE OF AMENDMENTS TO NATIONAL INSTRUMENT 81-101 *MUTUAL FUND PROSPECTUS DISCLOSURE*, FORM 81-101F3 *CONTENTS OF FUND FACTS DOCUMENT*, COMPANION POLICY 81-101CP *TO NATIONAL INSTRUMENT 81-101 MUTUAL FUND PROSPECTUS DISCLOSURE* AND CONSEQUENTIAL AMENDMENTS

Introduction

The Canadian Securities Administrators (the CSA or we) are making amendments (the Amendments) to

- National Instrument 81-101 *Mutual Fund Prospectus Disclosure*, including Form 81-101F3 *Contents of Fund Facts Document*; and
- Companion Policy 81-101CP *to National Instrument 81-101 Mutual Fund Prospectus Disclosure*.

Also incorporated in the Amendments are consequential amendments to National Instrument 81-102 *Mutual Funds*, Form 81-101F1 *Contents of Simplified Prospectus* and Form 81-101F2 *Contents of Annual Information Form*.

The Amendments are described in the related CSA notice (the CSA Notice) to which this Ontario Securities Commission (the Commission) notice is annexed.

The purpose of this Commission notice is to supplement the CSA Notice.

Commission Approval

On March 26, 2013, the Commission approved and adopted the Amendments pursuant to sections 143 and 143.8 of the *Securities Act* (Ontario).

Delivery to the Minister

The Amendments and other required materials were delivered to the Minister of Finance on or about June 6, 2013**.** The Minister may approve or reject the Amendments or return them for further consideration. If the Minister approves the Amendments (or does not take any further action), they will come into force on September 1, 2013.

Substance and Purpose of the Amendments

Please refer to the section entitled “Substance and Purpose of the Amendments” in the CSA Notice.

Summary of Written Comments

We published the Amendments for comment on June 21, 2012. Please refer to Annex C of the CSA Notice for a summary of public comments.

Summary of Changes to the Amendments

Please refer to Annex B of the CSA Notice for a summary of changes made to the Amendments.

Questions

Please refer your questions to:

Rhonda Goldberg
Director, Investment Funds Branch
Ontario Securities Commission
Phone: 416-593-3682
Email: rgoldberg@osc.gov.on.ca

Irene Lee
Legal Counsel, Investment Funds Branch
Ontario Securities Commission
Phone: 416-593-3668
Email: ilee@osc.gov.on.ca

June 13, 2013

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
04/25/2013	21	Alpha Minerals Inc. - Flow-Through Shares	5,280,000.00	1,200,000.00
04/25/2013	15	Alpha Minerals Inc. - Non-Flow Through Units	7,000,000.00	1,750,000.00
04/19/2013	2	Amorfix Life Sciences Ltd. - Units	117,000.00	450,000.00
05/07/2013	3	AU Optronics Corp. - American Depository Shares	2,432,584.00	74,000,000.00
05/14/2013	9	Azabache Energy Inc. - Common Shares	1,646,760.00	10,292,250.00
03/28/2013	4	Bristol Gate US Dividend Growth Fund LP - Limited Partnership Units	766,600.00	5,069.20
04/22/2013	11	Canadian Imperial Venture Corp. - Units	506,870.00	10,137,400.00
06/03/2013	1	Castillian Resources Corp. - Common Shares	2,000,000.00	8,000,000.00
04/30/2013	219	Centurion Apartment Real Estate Investment Trust - Units	5,540,248.68	475,149.83
05/03/2013	51	Digital Shelf Space Corp. - Units	1,204,500.00	9,530,000.00
05/14/2013	3	Equity Solar Inc. - Preferred Shares	70,777.00	32,000.00
05/15/2013	8	Falco Pacific Resource Group Inc. - Flow-Through Shares	1,068,200.00	2,670,500.00
05/03/2013	1	Ferrum Americas Mining Inc. - Common Shares	250,000.00	1,666,666.00
04/23/2013	3	Forum Uranium Corp. - Flow-Through Shares	500,000.00	1,176,470.00
05/16/2013	3	Gatineau Centre Development Limited Partnership - Notes	31,567.91	31,567.91
05/07/2013 to 05/13/2013	30	Golden Cross Resources Inc. - Units	1,390,188.00	9,929,917.00
01/01/2012 to 12/31/2012	2	Goldman Sachs Corporate Credit Investment Fund - Common Shares	1,074,492.00	7,901.98
05/10/2013	1	Goldstrike Resources Ltd. - Common Shares	36,000.00	200,000.00
04/22/2013	2	High 5 Ventures Inc. - Debentures	150,000.00	600,000.00
05/10/2013	2	Hyatt Hotels Corporation - Notes	8,058,542.02	2.00
03/28/2013	2	iCON Infrastructure Partners II L.P. - Limited Partnership Interest	108,900,700.00	2.00
05/08/2013	3	Imaflex Inc. - Common Shares	800,000.00	1,600,000.00
04/15/2013	2	Kingwest Canadian Equity Portfolio - Units	1,000,000.00	80,369.70

Transaction Date	No. of Purchasers	Issuer/Security	Total Purchase Price ($)	No. of Securities Distributed
04/15/2013	3	Kingwest US Equity Portfolio - Units	1,028,757.49	59,366.24
04/01/2012 to 03/31/2013	2	Mackenzie Cundill Emerging Markets Value Class Fund - Units	859,973.58	N/A
04/01/2012 to 03/31/2013	8	Mackenzie Cundill Recovery Fund - Units	41,594,226.13	N/A
04/01/2012 to 03/31/2013	2	Mackenzie Focus Far East Class - Units	8,202,133.74	N/A
04/01/2012 to 03/31/2013	1	Mackenzie Focus Fund - Units	45,103.20	N/A
04/01/2012 to 03/31/2013	2	Mackenzie Founders Income & Growth Fund - Units	161,349.11	N/A
04/01/2012 to 03/31/2013	2	Mackenzie Growth Fund - Units	2,050,076.15	N/A
04/01/2012 to 03/31/2013	3	Mackenzie Ivy Enterprise Fund - Units	13,769,951.83	N/A
04/01/2012 to 03/31/2013	1	Mackenzie Ivy Growth & Income Fund - Units	763,869.41	N/A
04/01/2012 to 03/31/2013	3	Mackenzie Maxxum Canadian Balanced Fund - Units	13,002,204.90	N/A
04/01/2012 to 03/31/2013	6	Mackenzie Maxxum Canadian Equity Growth Fund - Units	5,627,565.22	N/A
04/01/2012 to 03/31/2013	4	Mackenzie Maxxum Dividend Fund - Units	4,634,802.82	N/A
04/01/2012 to 03/31/2013	2	Mackenzie Saxon Balanced Fund - Units	7,115,902.29	N/A
04/01/2012 to 03/31/2013	1	Mackenzie Saxon Micro Cap Fund - Units	281,029.89	N/A
04/01/2012 to 03/31/2013	1	Mackenzie Saxon Small Cap Class - Units	20,508.80	N/A
04/01/2012 to 03/31/2013	2	Mackenzie Sentinel Cash Management Fund - Units	5,899,609.89	N/A
04/01/2012 to 03/31/2013	2	Mackenzie Sentinel Income Fund - Units	12,659,270.74	N/A
04/01/2012 to 03/31/2013	1	Mackenzie Universal Canadian Balanced Fund - Units	910,839.12	N/A
04/01/2012 to 03/31/2013	1	Mackenzie Universal Canadian Growth Fund - Units	46,886.72	N/A
04/01/2012 to 03/31/2013	7	Mackenzie Universal Canadian Resource Fund - Units	46,668,667.25	N/A
04/01/2012 to 03/31/2013	7	Mackenzie Universal Global Growth Fund - Units	31,352,192.38	N/A
04/01/2012 to 03/31/2013	3	Mackenzie Universal Global Infrastructure Income Fund - Units	13,339,385.29	N/A

Transaction Date	No. of Purchasers	Issuer/Security	Total Purchase Price ($)	No. of Securities Distributed
04/01/2012 to 03/31/2013	1	Mackenzie Universal Health Sciences Class - Units	8,990.64	N/A
04/01/2012 to 03/31/2013	5	Mackenzie Universal U.S. Growth Leaders Fund - Units	28,432,351.40	N/A
01/01/2012 to 12/31/2012	39	Manion Wilkins & Associates Ltd. - Units	331,669,910.00	1,648,095.71
04/22/2013	7	Noble Mineral Exploration Inc. - Units	150,000.00	3,000,000.00
05/13/2013	3	Northern Oil & Gas, Inc. - Notes	11,170,603.50	3.00
05/09/2013	29	Northern Shield Resources Inc. - Common Shares	2,699,997.96	25,545,435.00
03/28/2013	2	Offshore Group Investment Limited - Notes	1,523,400.00	2.00
03/18/2013	1	Providence Equity Partners VII-A L.P. - Limited Partnership Interest	25,474,398.59	24,933,345.00
03/28/2013	2	PT Matahari Department Store Tbk - Common Shares	541,500.00	1,342,245,500.00
04/01/2012 to 03/31/2013	4	Quadrus Invesco Canadian Equity Growth Fund - Units	3,204,509.80	N/A
04/01/2012 to 03/31/2013	5	Quadrus Laketon Fixed Income Fund - Units	119,562,854.88	N/A
04/01/2012 to 03/31/2013	5	Quadrus Templeton International Equity Fund - Units	9,961,261.44	N/A
03/11/2013 to 03/19/2013	14	Redstone Investment Corporation - Notes	780,000.00	N/A
03/01/2013 to 03/09/2013	34	Redstone Investment Corporation - Notes	1,450,000.00	N/A
03/11/2013	8	Revive Therapeutics Inc. - Common Shares	330,000.00	1,099,998.00
05/14/2013	37	Rockridge Capital Corp - Units	1,260,000.00	25,200,000.00
05/06/2013	7	Royal Bank of Canada - N/A	15,350,000.00	153,500.00
05/23/2013	7	Sage Gold Inc. - Common Shares	318,250.00	10,608,334.00
05/23/2013	11	Sage Gold Inc. - Flow-Through Units	181,020.00	3,620,396.00
04/23/2013	1	Shoal Point Energy Ltd. - Common Shares	100,000.00	1,000,000.00
05/14/2013	10	Sirios Resources Inc. - Flow-Through Shares	267,179.94	2,627,358.00
05/13/2013	2	Smart Employee Benefits Inc. - Units	1,025,000.00	512,500.00
04/26/2013	29	Solid Resources Ltd. - Common Shares	318,000.00	3,975,000.00
05/14/2013	8	Sona Resources Corp. - Units	269,999.70	899,999.00
04/01/2013	1	Soroban Cayman Fund Ltd. - Common Shares	152,505,000.00	150,000.00
04/26/2013	3	SPIRE US Limited Partnership - Units	401,715.00	3,623.85

Transaction Date	No. of Purchasers	Issuer/Security	Total Purchase Price ($)	No. of Securities Distributed
04/01/2012 to 03/31/2013	6	Symmetry Fixed Income Portfolio Fund - Units	69,715,137.89	N/A
04/01/2012 to 03/31/2013	6	Symmetry Global Bond Fund - Units	157,491,412.10	N/A
04/01/2012 to 03/31/2013	11	Symmetry Global Equity Fund - Units	645,140,813.13	N/A
04/01/2012 to 03/31/2013	11	Symmetry Low Volatility Fund - Units	197,798,623.78	N/A
04/01/2012 to 03/31/2013	9	Symmetry U.S. Small Cap Equity Fund - Units	66,571,451.07	N/A
05/24/2013	11	Timbercreek U.S. Multi-Residential Opportunity Fund #1 - Units	2,811,099.20	270,298.00
05/14/2013	26	Tinka Resources Corp. - Units	2,575,725.00	3,030,265.00
05/16/2013	1	Torch River Resources Ltd. - Common Shares	75,000.00	2,142,857.00
02/14/2013 to 03/15/2013	14	Trend Dealer Services inc. - Notes	5,000,000.00	357,142.85
03/31/2013	68	Vertex Fund - Trust Units	8,113,719.88	N/A
03/31/2013	17	Vertex Managed Value Portfolio - Trust Units	3,477,619.44	N/A
03/31/2013	2	Vertex Strategic Income Fund - Trust Units	932,391.47	N/A
01/01/2012 to 12/31/2012	1	Vontobel: Non-US Equity Offshore L.P. - Common Shares	776,022.00	7,800.00
05/16/2013	19	Walton CA Highland Ridge Investment Corporation - Common Shares	373,130.00	31,313.00
05/16/2013	24	Walton Income 7 Investment Corporation - Common Shares	1,385,000.00	2,400.00
05/09/2013	13	Zaio Corporation - Debentures	931,000.00	931.00

Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:
Allied Nevada Gold Corp.
Principal Regulator - Ontario
Type and Date:
Preliminary MJDS Prospectus dated June 4, 2013
NP 11-202 Receipt dated June 5, 2013
Offering Price and Description:
Common Stock
Preferred Stock
Warrants
Debt Securities
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2072627

Issuer Name:
Atrium Mortgage Investment Corporation
Principal Regulator - Ontario
Type and Date:
Amended and Restated Preliminary Short Form Prospectus dated June 4, 2013
NP 11-202 Receipt dated June 5, 2013
Offering Price and Description:
$30,000,000 - 5.25% Convertible Unsecured Subordinated Debentures due June 30, 2020
Price: $1,000 per Debenture
Underwriter(s) or Distributor(s):
TD Securities Inc.
CIBC World Markets Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
Scotia Capital Inc.
Dundee Securities Ltd.
Canaccord Genuity Corp.
Industrial Alliance Securities Inc.
MacQuarie Capital Markets Canada Ltd.
Raymond James Ltd.
Mackie Research Capital Corporation
M Partners Inc.
Promoter(s):
-
Project #2072117

Issuer Name:
Greenfields Petroleum Corporation
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated June 6, 2013
NP 11-202 Receipt dated June 6, 2013
Offering Price and Description:
$3,400,000.00 - 1,000,000 Common Shares
Price: $3.40 per Common Share
Underwriter(s) or Distributor(s):
FirstEnergy Capital Corp.
Promoter(s):
-
Project #2073409

Issuer Name:
HHT Investments Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary CPC Prospectus dated June 3, 2013
NP 11-202 Receipt dated June 4, 2013
Offering Price and Description:
Maximum Offering: $4,500,000.00 - 45,000,000 Common Shares
Minimum Offering: $2,000,000.00 - 20,000,000 Common Shares
Price: $0.10 per Common Share
Underwriter(s) or Distributor(s):
GMP Securities L.P.
Promoter(s):
Scott Hayes
Project #2072166

Issuer Name:
Lawrence Park Tactical Credit Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated June 4, 2013
NP 11-202 Receipt dated June 5, 2013
Offering Price and Description:
Maximum $* - * Units
Price: $10.00 per Unit
Underwriter(s) or Distributor(s):
BMO NESBITT BURNS INC.
CIBC WORLD MARKETS INC.
RBC DOMINION SECURITIES INC
SCOTIA CAPITAL INC.
TD SECURITIES 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
Promoter(s):
CI INVESMENTS INC.
Project #2072568

Issuer Name:
Marlin Gold Mining Ltd. (formerly Oro Mining Ltd.)
Principal Regulator - British Columbia
Type and Date:
Preliminary Long Form Prospectus dated June 4, 2013
NP 11-202 Receipt dated June 4, 2013
Offering Price and Description:
Rights to Subscribe for up to * Common Shares
Price: $ * per Common Share
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2072638

Issuer Name:
PIMCO Global Advantage Strategy Bond Fund (Canada)
PIMCO Monthly Income Fund (Canada)
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectuses dated May 31, 2013
NP 11-202 Receipt dated June 5, 2013
Offering Price and Description:
Series A(US$), Series F(US$), Series I(US$), Series M(US$) and Series O(US$) units
Underwriter(s) or Distributor(s):
-
Promoter(s):
PIMCO Canada Corp.
Project #2072621

Issuer Name:
Pine Cliff Energy Ltd.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated June 4, 2013
NP 11-202 Receipt dated June 4, 2013
Offering Price and Description:
$25,080,000.00 - 28,500,000 Common Shares
Price: $0.88 per Offered Share
Underwriter(s) or Distributor(s):
Paradigm Capital Inc.
Clarus Securities Inc.
Altacorp Capital Inc.
Haywood Securities Inc.
GMP Securities L.P.
Scotia Capital Inc.
CIBC World Markets Inc.
Promoter(s):
-
Project #2072660

Issuer Name:
Polaris Minerals Corporation
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated June 7, 2013
NP 11-202 Receipt dated June 7, 2013
Offering Price and Description:
11,500,000 Common Shares - Cdn $15,065,000
Price: Cdn $1.31 per Common Share
Underwriter(s) or Distributor(s):
Dundee Securities Ltd
GMP Securities L.P.
Promoter(s):
-
Project #2073621

Issuer Name:
Sun Life BlackRock Canadian Balanced Class
Sun Life BlackRock Canadian Composite Equity Class
Sun Life BlackRock Canadian Equity Class
Sun Life Dynamic Equity Income Class
Sun Life Dynamic Strategic Yield Class
Sun Life Managed Balanced Class
Sun Life Managed Balanced Growth Class
Sun Life Managed Conservative Class
Sun Life Managed Growth Class
Sun Life Managed Moderate Class
Sun Life MFS McLean Budden Canadian Bond Class
Sun Life MFS McLean Budden Canadian Equity Class
Sun Life MFS McLean Budden Dividend Income Class
Sun Life MFS McLean Budden Global Growth Class
Sun Life MFS McLean Budden International Growth Class
Sun Life MFS McLean Budden U.S. Growth Class
Sun Life Money Market Class
Sun Life Sentry Value Class
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectuses dated June 7, 2013
NP 11-202 Receipt dated June 10, 2013
Offering Price and Description:
Series A, Series AT5, AT8 and Series F
Underwriter(s) or Distributor(s):
-
Promoter(s):
Sun Life Global Investments (Canada) Inc.
Project #2073754

Issuer Name:
TitanStar Properties Inc.
Principal Regulator - British Columbia
Type and Date:
Amended and Restated Preliminary Short Form Prospectus dated June 3, 2013
NP 11-202 Receipt dated June 4, 2013
Offering Price and Description:
Maximum: $10,000,000 and Minimum: $5,000,000 8.5% Convertible Redeemable Unsecured Subordinated Debentures
Price: $1,000 per Debenture
Underwriter(s) or Distributor(s):
MACKIE RESEARCH CAPITAL CORPORATION
BURGEONVEST BICK SECURITIES LIMITED
MGI SECURITIES INC.
PI FINANCIAL CORPORATION
Promoter(s):
-
Project #2071792

Issuer Name:
Valeant Pharmaceuticals International, Inc.
Principal Regulator - Quebec
Type and Date:
Preliminary Base Shelf Prospectus dated June 7, 2013
NP 11-202 Receipt dated June 7, 2013
Offering Price and Description:
US$3,000,000,000 - Common Shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2073633

Issuer Name:
Antibe Therapeutics Inc.
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated June 7, 2013
NP 11-202 Receipt dated June 10, 2013
Offering Price and Description:
Minimum Offering: $2,000,000.00 (3,636,363 Common Shares)
Maximum Offering: $3,000,000.00 (5,454,545 Common Shares)
Underwriter(s) or Distributor(s):
Burgeonvest Bick Securities Limited
Promoter(s):
-
Project #2025997

Issuer Name:
Cambridge American Equity Corporate Class
(A, AT5, AT6, AT8, D, E, ET5, ET8, F, FT5, FT8, I, IT8, O, OT5 and OT8 shares)
Cambridge Canadian Equity Corporate Class
(A, AT5, AT6, AT8, D, E, ET5, ET8, F, FT5, FT8, I, IT5, IT8, O, OT5, OT8, W, Y and Z shares)
CI Pacific Corporate Class
(A and F shares)
Signature Canadian Resource Fund
(Class A and F units)
Signature Canadian Resource Corporate Class
(A, E, F, I and O shares)
Principal Regulator - Ontario
Type and Date:
Amendment #5 dated May 27, 2013 to the Simplified Prospectuses and Annual Information Form dated July 26, 2012
NP 11-202 Receipt dated June 6, 2013
Offering Price and Description:
(A, AT5, AT6, AT8, D, E, ET5, ET8, F, FT5, FT8, I, IT5, IT8, O, OT5, OT8, W, Y and Z shares)
(Class A and F units)
Underwriter(s) or Distributor(s):
-
Promoter(s):
CI Investments Inc.
Project #1915829

Issuer Name:
Class A units, Class AN units, Class F units, Class FN units, Class L units, Class M units,
Class W units and Class I units of:
Brandes Global Equity Fund
Brandes International Equity Fund
Sionna Canadian Equity Fund (formerly Brandes Sionna Canadian Equity Fund)
Sionna Canadian Balanced Fund (formerly Brandes Sionna Canadian Balanced Fund)
Class A units, Class AN units, Class F units, Class FN units and Class I units of:
Sionna Monthly Income Fund (formerly Brandes Sionna Monthly Income Fund)
Brandes Global Opportunities Fund
Class A units, Class F units, Class L units, Class M units, Class W units and Class I units of:
Brandes U.S. Equity Fund
Brandes Global Balanced Fund
Class A units, Class F units, Class L units, Class M units and Class I units of:
Brandes Global Small Cap Equity Fund
Brandes Emerging Markets Equity Fund
Brandes U.S. Small Cap Equity Fund
Brandes Canadian Equity Fund
Sionna Canadian Small Cap Equity Fund (formerly Brandes Sionna Canadian Small Cap Equity
Fund)
Sionna Diversified Income Fund (formerly Brandes Sionna Diversified Income Fund)
Class A units, Class AH units, Class F units, Class FH units, Class M units, Class MH units,
Class I units and Class IH units of:
Brandes Corporate Focus Bond Fund
Class A units and Class F units of:
Brandes Canadian Money Market Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated May 29, 2013
NP 11-202 Receipt dated June 6, 2013
Offering Price and Description:
Class A units, Class AN units, Class F units, Class FN units, Class L units, Class M units, Class W units, Class AH units, Class FH units, Class MH units, Class IH units and Class I units @ Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2053656

Issuer Name:
Cambridge Canadian Stock Fund
Cambridge High Income Fund
Principal Regulator - Ontario
Type and Date:
Amendment #2 dated May 27, 2013 to the Simplified Prospectuses and Annual Information Form dated July 26, 2012
NP 11-202 Receipt dated June 6, 2013
Offering Price and Description:
Class A, F and I Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1915734

Issuer Name:
CC&L Core Income and Growth Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus dated June 6, 2013
NP 11-202 Receipt dated June 10, 2013
Offering Price and Description:
Series A, F and C units
Underwriter(s) or Distributor(s):
-
Promoter(s):
Connor, Clark & Lunn Capital Markets Inc.
Project #2062911

Issuer Name:
Colossus Minerals Inc.
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated June 7, 2013
NP 11-202 Receipt dated June 7, 2013
Offering Price and Description:
$25,000,000.00 - 15,625,000 Common Shares Price: $1.60 per Common Share
Underwriter(s) or Distributor(s):
GMP SECURITIES L.P.
DUNDEE SECURITIES LTD.
CANACCORD GENUITY CORP.
CLARUS SECURITIES INC.
TD SECURITIES INC.
Promoter(s):
-
Project #2065952

Issuer Name:
DMP Power Canadian Growth Class (Series A & Series F securities)
Dynamic Emerging Markets Class (Series A, F, I, IP and OP securities)
Dynamic Financial Services Fund (Series A, G, F, I, O and T securities)
Dynamic Power Balanced Fund (Series A, E, F, FT, G, I, IP, O, OP and T securities)
Dynamic Power Balanced Class (Series A, E, F, FT, G, I, IP, IT, O, OP and T securities)
Dynamic Power Canadian Growth Fund (Series A, F, FI, G, I, IP, O, OP and T securities)
Dynamic Power Canadian Growth Class (Series A, E, F, G, I, IP, O, OP and T securities)
Principal Regulator - Ontario
Type and Date:
Amendment #6 dated May 23, 2013 to the Annual Information Forms dated January 30, 2013
NP 11-202 Receipt dated June 6, 2013
Offering Price and Description:
Series A, E, F, FI, FT, G, I, IP, O, OP and T securities
Underwriter(s) or Distributor(s):
GCIC Ltd.
GCIC Ltd.
Promoter(s):
GCIC Ltd.
Project #1997932

Issuer Name:
Enbridge Inc.
Principal Regulator - Alberta
Type and Date:
Final Base Shelf Prospectus dated June 6, 2013
NP 11-202 Receipt dated June 6, 2013
Offering Price and Description:
US$5,000,000,000.00:
DEBT SECURITIES
COMMON SHARES
PREFERENCE SHARES
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2070443

Issuer Name:
Series A, F and I Units of
Jov Leon Frazer Bond Fund
Jov Leon Frazer Dividend Fund
Series A, F, I and T Units of
Jov Leon Frazer Preferred Equity Fund
Jov Hahn Conservative ETF Portfolio
Jov Hahn Income & Growth ETF Portfolio
Jov Hahn Growth ETF Portfolio
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated May 30, 2013
NP 11-202 Receipt dated June 7, 2013
Offering Price and Description:
Series A, F, I and T Units @ Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2049418

Issuer Name:
Manulife Emerging Markets Balanced Fund
Manulife Emerging Markets Debt Fund
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated May 31, 2013 to the Simplified Prospectuses and Annual Information Form dated August 1, 2012
NP 11-202 Receipt dated June 4, 2013
Offering Price and Description:
Advisor Series, Series F, Series FT6, Series I, Series IT and Series T6
Underwriter(s) or Distributor(s):
Manulife Asset Management Limited
Promoter(s):
Manulife Asset Management Limited
Project #1925188

Issuer Name:
NEI Select Balanced Corporate Class Portfolio (formerly NEI Select Canadian Balanced
Corporate Class Portfolio)
(Series A, F and T securities)
Principal Regulator - Ontario
Type and Date:
Amendment #4 dated May 30, 2013 to the Simplified Prospectus and Annual Information Form dated October 31, 2012
NP 11-202 Receipt dated June 4, 2013
Offering Price and Description:
Series A, F and T securities
Underwriter(s) or Distributor(s):
Credential Asset Management Inc.
Promoter(s):
Northwest & Ethical Investments L.P.
Project #1965610

Issuer Name:
(Units of the following Series Regular, Regular F, High Net Worth, High Net Worth F,
Ultra High Net Worth and Institutional Front End Load, Deferred Load and Low Load) of:
NexGen Canadian Cash Registered Fund
NexGen Canadian Bond Registered Fund
NexGen Corporate Bond Registered Fund
NexGen Canadian Diversified Income Registered Fund
NexGen Canadian Balanced Growth Registered Fund
NexGen Canadian Dividend and Income Registered Fund
NexGen U.S. Dividend Plus Registered Fund
NexGen North American Large Cap Registered Fund
NexGen North American Growth Registered Fund
NexGen North American Small / Mid Cap Registered Fund
NexGen Global Value Registered Fund
NexGen Global Resource Registered Fund
NexGen Turtle Canadian Balanced Registered Fund
NexGen Turtle Canadian Equity Registered Fund
(Shares of the Series) of:
NexGen Canadian Cash Tax Managed Fund
(Shares of the Series of Return of Capital 40 Class and Dividend Tax Credit 40 Class) of:
NexGen Canadian Bond Tax Managed Fund
(Shares of the Series of Capital Gains Class, Return of Capital 40 Class, Dividend Tax Credit 40
Class and Compound Growth Class) of:
NexGen Corporate Bond Tax Managed Fund
NexGen U.S. Dividend Plus Tax Managed Fund
NexGen Turtle Canadian Balanced Tax Managed Fund
NexGen Turtle Canadian Equity Tax Managed Fund
(Shares of the Series of Capital Gains Class, Return of Capital Class, Dividend Tax Credit Class
and Compound Growth Class) of:
NexGen Canadian Bond Tax Managed Fund
NexGen Canadian Diversified Income Tax Managed Fund
NexGen Canadian Balanced Growth Tax Managed Fund
NexGen Canadian Dividend and Income Tax Managed Fund
NexGen North American Large Cap Tax Managed Fund
NexGen North American Growth Tax Managed Fund
NexGen North American Small / Mid Cap Tax Managed Fund
NexGen Global Value Tax Managed Fund
NexGen Global Resource Tax Managed Fund
of
NexGen Investment Corporation
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses and Annual Information Form dated May 31, 2013
NP 11-202 Receipt dated June 5, 2013
Offering Price and Description:
Units of Series Regular, Regular F, High Net Worth, Ultra High Net Worth, and Institutional Front End Load, Deferred Load and Low Load
Underwriter(s) or Distributor(s):
NexGen Financial Limited Partnership
Promoter(s):
-
Project #2049281

Issuer Name:
RBC Institutional Cash Fund
RBC Institutional Government - Plus Cash Fund
RBC Institutional Long Cash Fund
RBC Institutional US$ Cash Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated May 29, 2013
NP 11-202 Receipt dated June 4, 2013
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2047598

Issuer Name:
Series A, Series F and Series I securities of:
Sentry Canadian Income Class *
Sentry Canadian Income Fund
Sentry Diversified Equity Class *
Sentry Diversified Equity Fund
Sentry Diversified Income Fund
Sentry Global Growth and Income Class *
Sentry Global Growth and Income Fund
Sentry Growth and Income Fund
Sentry Small/Mid Cap Income Fund
Sentry U.S. Growth and Income Class *
Sentry U.S. Growth and Income Fund
Sentry U.S. Growth and Income Registered Fund
Sentry Canadian Resource Class *
Sentry Energy Growth and Income Fund
Sentry Infrastructure Fund
Sentry Precious Metals Growth Class *
Sentry Precious Metals Growth Fund
Sentry REIT Class *
Sentry REIT Fund
Sentry Conservative Balanced Income Class *
Sentry Conservative Balanced Income Fund
Sentry Global Balanced Income Fund
Sentry U.S. Balanced Income Fund
Sentry Bond Plus Fund
Sentry Enhanced Corporate Bond Capital Yield Class *
Sentry Enhanced Corporate Bond Fund
Sentry Money Market Class *
Sentry Money Market Fund
Sentry Tactical Bond Capital Yield Class *
Sentry Tactical Bond Fund
* A class of shares of Sentry Corporate Class Ltd.
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated June 4, 2013
NP 11-202 Receipt dated June 7, 2013
Offering Price and Description:
Series A, F and I Securities
Underwriter(s) or Distributor(s):
Sentry Investments Inc.
Promoter(s):
Sentry Investments Inc.
Project #2049447; 20595299

Issuer Name:
TD Global Value Fund
Principal Regulator - Ontario
Type and Date:
Amendment #3 dated May 27, 2013 to the Simplified Prospectus and Annual Information Form dated July 25, 2012
NP 11-202 Receipt dated June 6, 2013
Offering Price and Description:
Investor Series and Series O securities
Underwriter(s) or Distributor(s):
TD Investment Services Inc. (for Investor Series units)
TD Investment Services Inc. (for Investor Series and e-Series units)
TD Investment Services Inc.(for Investor Series units)
TD Investment Services Inc. (for Investor Series and e-Series Units)
TD Investment Services Inc. (for Investor Series)
TD Waterhouse Canada Inc.
TD Asset Management Inc. (for Investor Series units)
TD Investment Services Inc. (for Investor Series and Premium Series units)
Promoter(s):
TD Asset Management Inc.
Project #1920544

Issuer Name:
TD Global Value Fund
Principal Regulator - Ontario
Type and Date:
Amendment #3 dated May 27, 2013 to the Simplified Prospectus and Annual Information Form dated July 25, 2012
NP 11-202 Receipt dated June 6, 2013
Offering Price and Description:
Advisor Series and F-Series securities
Underwriter(s) or Distributor(s):
TD Investment Services Inc. (for Investor Series units)
TD Investment Services Inc.(for Investor Series units)
TD Investment Services Inc. (for Investor Series and e-Series Units)
TD Waterhouse Canada Inc. (W-Series and WT-Series only)
TD Investment Services Inc. (for Investor Series and e-Series units)
TD Waterhouse Canada Inc.
TD Asset Management Inc. (for Investor Series units)
Promoter(s):
TD Asset Management Inc.
Project #1920556

Issuer Name:
Toscana Energy Income Corporation
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated June 4, 2013
NP 11-202 Receipt dated June 4, 2013
Offering Price and Description:
$15,000,000.00 - 6.75% Convertible Unsecured Subordinated Debentures
Underwriter(s) or Distributor(s):
NATIONAL BANK FINANCIAL INC.
GMP SECURITIES LP
MACQUARIE CAPITAL MARKETS CANADA LTD.
SPROTT PRIVATE WEALTH LP
Promoter(s):
-
Project #2066255

Issuer Name:
Vanguard U.S. Total Market Index ETF (CAD-hedged)
(formerly Vanguard MSCI U.S. Broad Market Index ETF (CAD-hedged))
Vanguard FTSE Developed ex North America Index ETF (CAD-hedged)
(formerly Vanguard MSCI EAFE Index ETF (CAD-hedged))
Principal Regulator - Ontario
Type and Date:
Amendment #3 dated June 3, 2013 to the Long Form Prospectus dated October 15, 2012
NP 11-202 Receipt dated June 6, 2013
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
Vanguard Investments Canada Inc.
Project #1957989

Issuer Name:
Cline Mining Corporation
Principal Jurisdiction - Ontario
Type and Date:
Preliminary Short Form Prospectus dated April 25, 2013
Withdrawn on June 4, 2013
Offering Price and Description:
$35,071,521 - Offering of Rights to Subscribe for Common Shares
Price of $0.0205 per Common Share and
the issuance of 209,144,977 Warrants each exercisable for one Common Share
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2049739

Issuer Name:
U.S. Cyclicals IncomeSeeker Fund
Principal Jurisdiction - Ontario
Type and Date:
Preliminary Long Form Prospectus dated February 8, 2013
Amended and Restated Preliminary Long Form Prospectus dated March 6, 2013
Withdrawn on June 5, 2013
Offering Price and Description:
Maximum $* - * Class A Units
Maximum U.S. $* - * Class U Units
Price: $10.00 per Class A Unit and U.S. $10.00 per Class U Unit
Minimum purchase: 100 Class A Units or Class U Units
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
National Bank Financial Inc.
Scotia Capital Inc.
TD Securities Inc.
Canaccord Genuity Corp.
GMP Securities L.P.
Macquarie Private Wealth Inc.
Raymond James Ltd.
Desjardins Securities Inc.
Mackie Research Capital Corporation
Promoter(s):
BMO Nesbitt Burns Inc.
Project #2020572

Issuer Name:
U.S. Cyclicals Investment Trust
Principal Jurisdiction - Ontario
Type and Date:
Preliminary Long Form Prospectus dated March 8, 2013
Withdrawn on June 5, 2013
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
BMO Nesbitt Burns Inc.
Project #2025292

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Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
New Business Registration	LSV Asset Management	Portfolio Manager Exempt Market Dealer	June 4, 2013
Voluntary Surrender of Registration	CommunityLend Inc.	Exempt Market Dealer and Portfolio Manager	June 4, 2013
Change in Registration Category	Onex Credit Partners, LLC	From: Exempt Market Dealer and Portfolio Manager To: Investment Fund Manager, Exempt Market Dealer and Portfolio Manager	June 5, 2013
Change in Registration Category	Aventine Management Group Inc.	From: Portfolio Manager To: Portfolio Manager and Investment Fund Manager	June 6, 2013
New Business Registration	iGan Partners Inc.	Exempt Market Dealer	June 6, 2013
Name Change	From: GMP Investment Management L.P. To: CQI Capital Management L.P.	Investment Fund Manager, Portfolio Manager, Exempt Market Dealer and Commodity Trading Manager	June 10, 2013

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Chapter 13

SROs, Marketplaces and Clearing Agencies

13.1 SROs

13.1.1 Notice of Commission Approval – IIROC Dealer Member Rule 43 Personal Financial Dealings with Clients and Amendments to IIROC Dealer Member Rule 18.14 Registered Representatives and Investment Representatives

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA (IIROC)

RULE ON PERSONAL FINANCIAL DEALINGS WITH CLIENTS

AND

AMENDMENTS TO RULE ON REGISTERED REPRESENTATIVES AND INVESTMENT REPRESENTATIVES

NOTICE OF COMMISSION APPROVAL

The Ontario Securities Commission approved IIROC's Dealer Member Rule 43 Personal *Financial Dealings with Clients and amendments to Dealer Member Rule 18.14 Registered Representatives and Investment Representatives* (collectively, the **Amendments**). In addition, the British Columbia Securities Commission did not object to, and the Alberta Securities Commission, the Autorité des marchés financiers, the Saskatchewan Financial Services Commission, the Financial Services Regulation Division of the Department of Government Services of Newfoundland and Labrador, the Nova Scotia Securities Commission and the New Brunswick Securities Commission approved the Amendments.

The Amendments are intended to achieve the following objectives:

(1) to clearly articulate that any personal financial dealings with clients, subject to limited exemptions, is considered inappropriate conduct, a conflict of interest and a violation of the general business conduct standards; and

(2) to codify IIROC's prior position regarding outside business activities, by imposing specific and positive obligations on Registered Representatives and Investment Representatives to disclose any outside business activities to the Dealer Member and obtain the approval of the Dealer Member before engaging in any outside business activities in order for the Dealer Member to ensure that they are not inappropriate or give rise to a conflict of interest.

The Amendments were published for comment on May 28, 2010, at (2010) 33 OSCB 4921 for a 90 day comment period. IIROC made immaterial changes to the May 28, 2010 publication reflecting its responses to public comments and comments from the Recognizing Regulators.

IIROC is also issuing, concurrent with the Amendments, guidance relating to the disclosure and approval of outside business activities.

A copy of the IIROC Notice and guidance note is attached.

RULES NOTICE

NOTICE OF APPROVAL/IMPLEMENTATION –

PERSONAL FINANCIAL DEALING AND OUTSIDE BUSINESS ACTIVITIES

13-0162
June 13, 2013

Introduction

This Rules Notice provides notice of approval by the applicable securities regulatory authorities of amendments to the Dealer Member Rules concerning personal financial dealing and outside business activities (collectively, the "amendments"). The new personal financial dealing rules will be known as Dealer Member Rule 43 – *Personal Financial Dealings with Clients*. Copies of new Dealer Member Rule 43 and revised Dealer Member Rule 18.14, which deals with outside business activities of Registered Representatives and Investment Representatives, are included within Attachment A.

The amendments will take effect on December 13, 2013. In the case of existing arrangements referred to in Dealer Member Rule 43.2(5)(i), such as employees or Approved Persons that may be acting as a Power of Attorney, trustee, executor or otherwise have full or partial control or authority over the financial affairs of a client, such arrangements must be unwound or compliant with Dealer Member Rule 43 by June 13, 2014.

Objectives of the amendments

The amendments are intended to achieve the following objectives:

(1) to clearly articulate that any personal financial dealings with clients, subject to limited exemptions, is considered inappropriate conduct, a conflict of interest and a violation of the general business conduct standards; and

(2) to codify IIROC's prior position regarding outside business activities, by imposing specific and positive obligations on Registered Representatives and Investment Representatives to disclose any outside business activities to the Dealer Member and obtain the approval of the Dealer Member before engaging in any outside business activities in order for the Dealer Member to ensure that they are not inappropriate or give rise to a conflict of interest.

Summary of the new Rules

The new Rules encompass the following:

1. *Personal Financial Dealing with Clients*

As noted in IIROC Rules Notice 10-0155, *Personal Financial Dealing and Outside Business Activities Proposals*, IIROC staff believes that a specific rule which prohibits personal financial dealing with clients is an important step in IIROC's ongoing pursuit of its investor protection objective.

As such, Dealer Member Rule 43 - *Personal Financial Dealings with Clients*, is a principles-based rule that generally prohibits all employees and Approved Persons of a Dealer Member from directly or indirectly engaging in any personal financial dealing with clients. This prohibition is consistent with IIROC staff's view that any personal financial dealing with clients creates an unacceptable conflict of interest between the Dealer Member's employee or agent and the client and as such, it is contrary to both the standards set out in IIROC Dealer Member Rule 29.1 as well as the conflict of interest rules set out in IIROC Dealer Member Rule 42 and National Instrument 31-103, *Registration Requirements, Exemptions and Ongoing Registrant Obligations*. Dealer Members are reminded that, consistent with their general supervisory obligations, adequate policies and procedures and supervision should be in place to address personal financial dealing with clients.

Dealer Member Rule 43 also provides a list of the type of activities that, subject to limited exemptions, would be considered to be personal financial dealing with clients. These activities include, but are not limited to:

- Accepting any consideration from a person, other than the Dealer Member, for any activities conducted on behalf of a client, unless through an approved outside business activity.

- Entering into a settlement agreement with a client without the Dealer Member's prior written consent or paying for client account losses out of personal funds without the Dealer Member's prior written consent.

- Borrowing from clients or lending to clients, unless the client is a Related Person under the *Income Tax Act (Canada)*.

- Acting as a Power of Attorney, trustee, executor or otherwise having full or partial control or authority over the financial affairs of a client, unless the client is a Related Person under the *Income Tax Act (Canada)* or the authority is exercised in accordance with the IIROC rules within a discretionary or managed account.

At the time of issuance of this notice, for the purpose of the *Income Tax Act (Canada)*, "Related Persons" include:

> "(a) individuals connected by blood relationship, marriage or common-law partnership or adoption;
>
> (b) a corporation and (i) a person who controls the corporation, if it is controlled by one person, (ii) a person who is a member of a related group that controls the corporation, or (iii) any person related to a person described in subparagraph 251(2)(b)(i) or 251(2)(b)(ii); and
>
> (c) any two corporations if: (i) they are controlled by the same person or group of persons, (ii) each of the corporations is controlled by one person and the person who controls one of the corporations is related to the person who controls the other corporation, (iii) one of the corporations is controlled by one person and that person is related to any member of a related group that controls the other corporation, (iv) one of the corporations is controlled by one person and that person is related to each member of an unrelated group that controls the other corporation, (v) any member of a related group that controls one of the corporations is related to each member of an unrelated group that controls the other corporation, or (vi) each member of an unrelated group that controls one of the corporations is related to at least one member of an unrelated group that controls the other corporation."

Also under the *Income Tax Act (Canada)*, persons are connected by:

> "(a) blood relationship if one is the child or other descendant of the other or one is the brother or sister of the other;
>
> (b) marriage if one is married to the other or to a person who is so connected by blood relationship to the other;
>
> (b.1) common-law partnership if one is in a common-law partnership with the other or with a person who is connected by blood relationship to the other; and
>
> (c) adoption if one has been adopted, either legally or in fact, as the child of the other or as the child of a person who is so connected by blood relationship (otherwise than as a brother or sister) to the other."

For an official copy of the definition, Dealer Members should refer to section 251 of the *Income Tax Act (Canada)*.

The text of new Dealer Member Rule 43 is included within Attachment A.

2. *Outside business activities*

The amendments to Dealer Member Rule 18.14 expand the scope of the conditions set out in current Dealer Member Rule 18.14 from other gainful occupations to outside business activities and clarifying that Registered Representatives and Investment Representatives must inform the Dealer Member of any outside business activities and obtain the Dealer Member's approval to engage in any such outside business activities prior to engaging in the activity. Consistent with IIROC's prior position and Dealer Member practices, the amendments further clarify that the Dealer Member must notify IIROC of the outside business activity within the time period and manner required by the applicable National Instrument.[1]

The text of revised Dealer Member Rule 18.14 is included within Attachment A.

Related guidance

IIROC is also issuing, concurrent with this Rules Notice, guidance relating to the disclosure and approval of outside business activities. The guidance sets out:

[1] At the time of issuance of this Notice, Dealer Members should refer to National Instrument 33-109 *Registration Information.*

(a) A summary of the requirements relating to the disclosure and approval of all outside business activities;

(b) Some considerations relating to the approval of outside business activities;

(c) Dealer Members' supervisory responsibilities relating to outside business activities; and

(d) Filing requirements – National Registration Database ("NRD") relating to outside business activity.

Please refer to Rules Notice 13-0163 for the guidance on *Disclosure and approval of outside business activities*.

Publication for comment and summary of written comments

The new rules

The amendments to the IIROC Dealer Member rules were published for comment with IIROC Rules Notice 10-0155 on May 28, 2010. IIROC staff has considered all of the comments received and thank all of the commenters. A summary of the comments received, as well as IIROC staff's response to the comments is enclosed as Attachment C.

The scope of the amendments remains the same as the proposed amendments that were published for comment in May, 2010. IIROC has made revisions to the rules to address the comments received and to clarify its expectations with regards to personal financial dealing with clients and outside business activities. None of the revisions are substantive in nature. Therefore, the revisions have not been republished for a further comment period. A black-lined copy of the final rules, detailing the revisions made since the publication for comment of proposed amendments in May, 2010, is enclosed as Attachment B.

The Guidance Note

The Guidance Note was published for comment with IIROC Rules Notice 11-0150 on May 11, 2011. IIROC staff has considered all of the comments received and thank all the commenters. A summary of the comments received and IIROC staff's response to the comments is enclosed as Attachment D. The scope of the Guidance Note remains the same. IIROC staff has, however, made some revisions to address the comments received and to clarify IIROC's position relating to the disclosure and approval of outside business activities.

Summary of changes

In response to CSA and public comments received, IIROC has made some minor revisions to the rules relating to personal financial dealing with clients and outside business activities. Noteworthy changes made since the publication in May, 2010, are as follows:

Personal financial dealing with clients

Wording was added to clarify that the list of types of personal financial dealings set out in Rule 43 is not exhaustive.

Wording was added to clarify that the prohibition against receiving consideration for activities conducted on behalf of a client does not include compensation received in exchange for services provided through an approved outside business activity.

Wording was added to clarify that receiving or providing a guarantee, in relation to borrowing or lending money, is captured by the prohibition against borrowing from or lending to clients any money, securities or other assets.

Outside business activities

Wording was added to clarify that the disclosure of the outside business activities by a Registered Representative or Investment Representative to their Dealer Member, and the Dealer Member's approval of such activities, must be done prior to engaging in such outside business activity.

Implementation plan

The new rule relating to personal financial dealing with clients will be known as Dealer Member Rule 43 – *Personal Financial Dealings with Clients*. Copies of new Dealer Member Rule 43 and revised Dealer Member Rule 18.14 are included within Attachment A. The amendments will take effect on December 13, 2013. In the case of existing arrangements referred to in Dealer Member Rule 43.2(5)(i), such as employees or Approved Persons that may be acting as a Power of Attorney, trustee, executor or otherwise have full or partial control or authority over the financial affairs of a client, such arrangements must be unwound or compliant with Dealer Member Rule 43 by June 13, 2014.

IIROC is issuing guidance relating to the disclosure and approval of outside business activities concurrently with this Rules Notice as Rules Notice 13-0163.

Attachments

Attachment A - Dealer Member Rule 43 - *Personal Financial Dealings with Clients and Dealer* Member Rule 18.14 relating to outside business activities (clean)

Attachment B - Dealer Member Rules 43 and 18.14, black-lined to the previously published version

Attachment C - Summary of public comments received and IIROC staff response to comments on the previously published amendments

Attachment D- Summary of public comments received and IIROC staff response to the comments on the previously published draft Guidance Note

Attachment A

to Rules Notice 13-0162

Rule 43

PERSONAL FINANCIAL DEALINGS WITH CLIENTS

43.1 An employee or Approved Person of a Dealer Member must not, directly or indirectly, engage in any personal financial dealings with clients.

43.2 Personal financial dealings include, but are not limited to, the following types of dealings:

(1) **Accepting any consideration**

(i) Except as described in sub-clauses 43.2(1)(i)(a) and 43.2(1)(i)(b) below, accepting any consideration, including remuneration, gratuity or benefit, from any person other than the Dealer Member for any activities conducted on behalf of a client.

(a) Consideration that is non-monetary, of minimal value, and infrequent such that it will not cause a reasonable person to question whether it created a conflict of interest or otherwise improperly influenced the Dealer Member, its employees or agents would not be considered to be consideration for the purposes of clause 43.2(1)(i).

(b) Compensation received from a client in exchange for services provided through an approved outside business activity would not be considered to be consideration for the purpose of clause 43.2(1)(i).

(2) **Settlement agreements without the Dealer Member's approval**

(i) Entering into a settlement agreement without the Dealer Member's prior written consent; or

(ii) Paying for client account losses out of personal funds without the Dealer Member's prior written consent.

(3) **Borrowing from clients**

(i) Borrowing money or receiving a guarantee in relation to borrowing money, securities or any other assets from a client, unless:

(a) The client is a financial institution whose business includes lending money to the public and the borrowing is in the normal course of the institution's business; or

(b) The client is a Related Person as defined by the Income Tax Act (Canada) and the transaction is addressed in accordance with the Dealer Member's policies and procedures; and

(c) In the case of Registered Representatives and Investment Representatives, the arrangement set out in sub-clause 43.2(3)(i)(b) is disclosed to and approved in writing by the Dealer Member, prior to the transaction.

(4) **Lending to clients**

(i) Lending money, or providing a guarantee in relation to a loan of money, securities or any other assets to a client, unless:

(a) The client is a Related Person as defined by the Income Tax Act (Canada) and the transaction complies with the Dealer Member's policies and procedures; and

(b) In the case of Registered Representatives and Investment Representatives, the arrangement set out in sub-clause 43.2(4)(i)(a) is disclosed to and approved in writing by the Dealer Member, prior to the transaction.

(5) **Control or authority**

(i) Acting as a Power of Attorney, trustee, executor, or otherwise having full or partial control or authority over the financial affairs of a client, unless:

(a) The client is a Related Person as defined by the Income Tax Act (Canada) and the existence of such control is addressed in accordance with the Dealer Member's policies and procedures; and

(b) In the case of Registered Representatives and Investment Representatives, the arrangement in sub-clause 43.2(5)(i)(a) is disclosed to and approved in writing by the Dealer Member, prior to the transaction.

(ii) In the case of discretionary and managed accounts, clause 43.2(5)(i) does not apply to the extent that the control or authority exercised is consistent with the Corporation's applicable requirements for such accounts.

Revised IIROC Dealer Member Rule 18.14 (clean copy)

18.14.

(1) A Registered Representative or Investment Representative may have, and continue in, any business activity outside of the Dealer Member, including another gainful occupation if:

(a) The securities commission in the jurisdiction in which the Registered Representative or Investment Representative acts or proposes to act as a Registered Representative or Investment Representative, or the securities legislation or policies administered by such securities commission, does not prohibit him or her from devoting less than his or her full time to the securities business of the Dealer Member employing him or her;

(b) The Dealer Member establishes and maintains procedures acceptable to the Corporation to ensure continuous service to clients and to address potential conflicts of interest;

(c) The Registered Representative or Investment Representative informs the Dealer Member of the outside business activity and obtains the Dealer Member's approval to engage in such outside business activity prior to engaging in such outside business activity;

(d) The Dealer Member notifies the Corporation of the outside business activity within the time period and manner required by the applicable National Instrument or Regulation; and

(e) The outside business activity is not:

(i) One which would bring the securities industry into disrepute; or

(ii) With another dealer that is a member of a recognized self regulatory organization unless:

(1) Such dealer is a related company of the Dealer Member employing the Registered Representative or Investment Representative and the Dealer Member and related company provide cross-guarantees pursuant to Rule 6.6, and

(2) Such outside business activity is not contrary to the provisions of the applicable securities legislation or any policy made pursuant thereto.

Attachment B

to Rules Notice 13-0162

~~Proposed~~ Rule ~~"X"~~ 43

PERSONAL FINANCIAL DEALINGS WITH CLIENTS

~~X~~43.1 ~~A Registered Representative, Investment Representative, Director, Executive, Supervisor, or employee~~ An employee or Approved Person of a Dealer Member must not, directly or indirectly, engage in ~~or permit any associate to engage in,~~ any personal financial dealings with clients.

~~X~~43.2 Personal financial dealings include, but are not limited to, the following types of dealings:

(1) **~~Benefits or other~~Accepting any consideration**

(i) Except as described in sub-clauses 43.2(1)(i)(a) and 43.2(1)(i)(b) below, ~~A~~accepting any consideration, including remuneration, gratuity or benefit, from any person other than the Dealer Member for any activities conducted on behalf of a client.

(~~ii~~a) Consideration that is non-monetary, of minimal value~~,~~ and infrequent such that it will not cause a reasonable person to question whether it created a conflict of interest or otherwise improperly influenced the Dealer Member, its employees or agents would not be considered to be ~~material~~ consideration for the purposes of clause 43.2(1)(i).

(b) Compensation received from a client in exchange for services provided through an approved outside business activity would not be considered to be consideration for the purpose of clause 43.2(1)(i).

(2) **~~Private s~~Settlement agreements without the Dealer Member's approval**

(i) Entering into a ~~private~~ settlement agreement ~~with a client~~without the Dealer Member's prior written consent; or

(ii) Paying for client account losses out of personal funds without the Dealer Member's prior written consent.

(3) **Borrowing from clients**

(i) Borrowing money or receiving a guarantee in relation to borrowing money, securities or any other assets from a client, unless:

(a) The client is a financial institution whose business includes lending money to the public and the borrowing is in the normal course of the institution's business; or

(b) The client is a Related Person as defined by the Income Tax Act (Canada) and the transaction is addressed in accordance with the Dealer Member's policies and procedures; and

(c) In the case of Registered Representatives and Investment Representatives, the arrangement set out in ~~paragraph~~sub-clause 43.2(3)(i)(b) is disclosed to and approved in writing by the Dealer Member, prior to the transaction.

(4) **Lending to clients**

(i) Lending money, or providing a guarantee in relation to a loan of money, securities or any other assets to ~~a client or incurring any other liabilities for~~ a client, unless:

(a) T~~t~~he client is a Related Person as defined by the Income Tax Act (Canada) and the transaction ~~is addressed in accordance~~complies with the Dealer Member's policies and procedures; and

(b) In the case of Registered Representatives and Investment Representatives, the arrangement set out in sub-clause 43.2(4)(i)(a) is disclosed to and approved in writing by the Dealer Member, prior to the transaction.

(5) ~~Power of Attorney~~ Control or authority

(i) Acting as a ~~power~~Power of ~~attorney~~Attorney, trustee, executor, or otherwise having full or partial control or authority over the financial affairs of a client, unless:

~~(a) The account is a discretionary or managed account and the authority exercised is consistent with the Corporation's applicable requirements; or~~

(~~b~~a) The client is a Related Person as defined by the Income Tax Act (Canada) and the existence of such control is addressed in accordance with the Dealer Member's policies and procedures; and

(~~c~~b) In the case of Registered Representatives and Investment Representatives, the arrangement in ~~Paragraph~~sub-clause 43.2(5)(i)(~~b~~a) is disclosed to and approved in writing by the Dealer Member, prior to the transaction.

(ii) In the case of discretionary and managed accounts, clause 43.2(5)(i) does not apply to the extent that the control or authority exercised is consistent with the Corporation's applicable requirements for such accounts.

Revised IIROC Dealer Member Rule 18.14 (clean copy)

18.14.

(1) A Registered Representative or Investment Representative may have, and continue in, any business activity outside of the Dealer Member, including another gainful occupation if:

(a) The securities commission in the jurisdiction in which the Registered Representative or Investment Representative acts or proposes to act as a Registered Representative or Investment Representative, or the securities legislation or policies administered by such securities commission, ~~specifically permit~~does not prohibit him or her ~~to devote~~from devoting less than his or her full time to the securities business of the Dealer Member employing him or her;

(b) The Dealer Member establishes and maintains procedures acceptable to the Corporation to ensure continuous service to clients and to address potential ~~problems of conflict~~conflicts of interest;

(c) The Registered Representative or Investment Representative informs the Dealer Member of the outside business activity and obtains the Dealer Member's approval to engage in such outside business activity prior to engaging in such outside business activity;

(d) The Dealer Member notifies the Corporation of the outside business activity within the time period and manner required by the applicable National Instrument or Regulation; and

(e) The outside business activity is not:

(i) One which would bring the securities industry into disrepute; or

(ii) With another dealer that is a member of a recognized self regulatory organization unless:

(1) Such dealer is a *related company* of the Dealer Member employing the Registered Representative or Investment Representative and the Dealer Member and related company provide cross-guarantees pursuant to Rule 6.6, and

(2) Such outside business activity is not contrary to the provisions of the applicable securities legislation or any policy made pursuant thereto.

Attachment C

to Rules Notice 13-0162

Re: IIROC response to comments on the proposed personal financial dealings rule and proposed amendments to the IIROC Dealer Member Rule 18.14

This summary responds to the eight comment letters received on the proposed personal financial dealing rule and the proposed amendments to IIROC Dealer Member Rule 18.14 (collectively referred to as the "Proposal") that were published for comment on May 28, 2010. We have considered the comments received and we thank all the commenters for their submissions. The comments specific to the Proposal have been summarized to correspond with the major components of the proposed amendments, followed by IIROC staff response to each specific comment. We have summarized and grouped the comments according to the Dealer Member Rule and issues raised. Our response follows each particular issue.

For ease of reference, in this response to comments, a Registered Representative, Investment Representative, director, executive, supervisor, or employee of a Dealer Member are collectively referred to as a "Dealer Member Representative".

PROPOSED PERSONAL FINANCIAL DEALINGS RULE

1. **Personal Financial Dealing Situations**

One commenter requested that if there are no other dealings meant to be included under the phrase personal financial dealings, then the word "include" should be changed to the word "means" under Section X.2.

IIROC staff response

The drafting of the proposal has been revised to clarify that other dealings may be considered to be personal financial dealings and the list of personal financial dealings set out in X.2 (renumbered as 43.2) is non-exhaustive.

2. **Reference to 'associate'**

One commenter requested further guidance regarding as to who "associate" in Section X.1 refers.

IIROC staff response

The reference to "associate" has been removed as proposed section X.1 (renumbered as 43.1) already prohibits direct or indirect personal financial dealings with clients.

3. ***Private Settlement Agreements***

Mutual agreement between client and advisor setting out the terms of fee for service is a long-standing and well-accepted practice.

IIROC staff response

The private settlement agreements referred to in the Proposal relate to settlement agreements entered into directly between a Dealer Member Representative and a client in response to an actual, or potential, complaint or law suit, and not in reference to service agreements. We have amended the proposed Rule to clarify our intention. The prohibition set out in proposed section X.2(2) (renumbered as 43.2(2)) is consistent with the current requirements set out in Dealer Member Rule 3100 regarding settlement agreements without the prior consent of the Dealer Member.

With respect to service agreements, IIROC staff would like to remind Dealer Member Representatives that pursuant to IIROC Dealer Member Rule 18.15 no Registered Representative or Investment Representative may accept or permit any associate to accept, directly or indirectly, any remuneration, gratuity, benefit or any other consideration from any person other than the Dealer Member or its affiliates or related companies, for the securities related activities he or she conducts on behalf of the Dealer Member or its affiliates or its related companies. This is an existing requirement. Accordingly, any fees paid by the client pursuant to the terms of a service agreement must go through the Dealer Member. To ensure compliance with the provisions of Dealer Member Rule 18.15, the Dealer Member should be able to identify and have access to the service agreement in order to conduct supervision of fee-based accounts. It is common practice for the Dealer Members to approve and control any service agreement, or mandate standard service agreements, between a client and a Dealer Member Representative in order to ensure compliance with the above noted requirements.

4. Benefits or other consideration

(i) One commenter suggested that Section X.2(1)(i) be amended to add "unless the activity has been approved by the Member under Rule 18.14" at the end.

IIROC staff response

We have added a new provision which will clarify that compensation received from a client in exchange for services provided through an approved outside business activity would not be considered to be consideration for the purpose of paragraph X.2(1)(i) (renumbered as 43.2(1)(i)) and therefore would not be considered to be personal financial dealing with clients within the meaning of the rule.

(ii) One commenter requested further guidance on how to determine whether something is considered a material consideration.

IIROC staff response

The Proposed Rule has been amended and the reference to "material" consideration has been omitted. Any consideration received by a Dealer Member Representative from any one, other than the Dealer Member, for any activities conducted on behalf of a client is prohibited. However, consideration that is non-monetary, of minimal value and infrequent such that a reasonable person would not question whether it creates a conflict of interest or improperly influences the Dealer Member or Dealer Member Representative is set out as an exemption from the general prohibition.

(iii) One commenter suggested that it would be more conducive to ethical conduct if the value of work, such as debt management, were recognized openly, the fee disclosed and the client, the only possible source for such fee, would pay for it.

IIROC staff response

To the extent that such activities are outside the scope of activities conducted by a Dealer Member or the Dealer Member Representative, then these activities must be disclosed to and approved by the Dealer Member.

5. Borrowing from and lending to Clients

One commenter suggested that Sections X.2(3) and (4) of the Proposed Rule introduces unnecessary regulatory and administrative burdens where regulatory concerns are not present, particularly with respect to personal financial arrangements, such as a loan from a parent to a child, which may routinely occur. It is recommended that a further exemption be included so as to ensure that those situations not intended to be caught by the rule are excluded.

IIROC staff response

The provisions in question have been included based on current regulatory concerns over the potential for abuse and inappropriate use of the funds.

The Proposal does provide for an exemption for borrowing or lending arrangements involving family members. The disclosure and approval of such familial arrangements is only required when such a loan is between a client who is a related person of a Registered Representative or Investment Representative, as there is a greater risk of inappropriate conduct.

Section X. 2(3) and (4) have been renumbered as 43.2(3) and (4) respectively.

6. Discretionary and Managed Accounts

One commenter suggested that no Registered Representative or Investment Representative should act under a power of attorney over the financial affairs of a client unless it is in furtherance of a discretionary or managed account and the power of attorney specifically limits the power to the affairs directly related to that discretionary or managed account.

IIROC staff response

The exemption in paragraph X.2(5) (renumbered as 43.2(5)) is not intended to allow the use of power of attorneys for those who operate a discretionary or managed account. For further clarification, the proposed Rule has been amended to more clearly state that the general prohibition set out in section X.2(5) does not apply to discretionary or managed accounts provided that the control or authority exercised over such accounts is consistent with IIROC's requirements for such accounts.

7. Power of Attorney, Trustee, Executor and other Authorizations

(i) Four commenters suggested that IIROC investment professionals should have the same abilities as other professionals to accept power of attorney or executor and trustee appointments from all clients under the supervision of their Dealer Member firm and that rather than the proposed prohibition, supervision and control systems should be put in place to protect the clients.

IIROC staff response

IIROC believes that any personal financial dealing with a client creates an unacceptable and material conflict of interest between the Dealer Member Representative and the client that cannot be adequately addressed through disclosure, enhanced supervision and/or additional reporting requirements, and should therefore be avoided.

When a Dealer Member Representative also acts as a client's power of attorney, trustee or executor, a potential conflict of interest is created. To clarify, a conflict of interest clearly arises from the fact that a Dealer Member Representative has a profit motive, whereas a trustee or an executor has a fiduciary obligation to the granter. The profit motive is in conflict with the fiduciary duty imposed upon a trustee or executor. Furthermore, in a power of attorney relationship there is a conflict of interest between the duties of the attorney to the grantor and the duties and interests of the Dealer Member Representative in his/her role with the Dealer Member given that the Dealer Member Representative benefits directly from increasing the size of their book. For instance, if a Dealer Member Representative has authority over a client's assets elsewhere, the Dealer Member Representative would have an incentive to move those assets into the account at the Dealer Member without the client having any control, or knowledge, over such use of the assets. This creates a clear and undeniable conflict of interest in addition to significant potential for abuse, particularly when dealing with vulnerable clients.

Having any type of control or authority over a client's assets, such as in a power of attorney relationship, creates the types of situations where there is a real potential for abuse, such as misappropriation of funds. Abuse has often occurred where a power of attorney has been granted to a Dealer Member Representative by friends or clients. It is therefore IIROC staff's position that such arrangements need to be prohibited, subject to the exemptions provided in the Proposal when dealing with related persons. It should be noted that this prohibition is consistent with current industry practices.

From a broader policy perspective, it is also important to note that allowing Dealer Member Representatives to act as power of attorney, executor or trustee would be inconsistent with other IIROC rules. Current IIROC Dealer Member rules, and other related rules (proposed plain language rule 3271) currently awaiting securities commission approval, do not allow Dealer Member Representatives to have trading authority over a client's account or operate a discretionary account on an on-going basis as such arrangements would be effectively operating a managed account without complying with the requisite requirements (proficiency, supervision, etc.). Clearly, in comparison to an on-going discretionary account or trading authority granted over a client's account, acting as a power of attorney, executor or trustee is broader in scope. As such, it would be unreasonable and inconsistent to allow a broader scope authority, such as power of attorney, over the client's overall financial affairs.

In response to the commenter's comparison to professionals such as lawyers, it is important to note that many of the other professionals cited by the commenter already owe a fiduciary obligation to their clients; Dealer Member Representatives are not necessarily subject to fiduciary standards.

(ii) What qualifications are needed for an IIROC Dealer Representative to be a trustee or executor and who is responsible for ensuring that such credentials are held by the Dealer Representative?

IIROC staff response

As set out in attached proposed Rules, a Dealer Member Representative cannot act as a power of attorney, trustee, executor or otherwise have authority or control over the financial affairs of a client, except when dealing with a related person as defined in the *Income Tax Act* or if authority of a client's accounts is consistent with the Corporation's requirements relating to discretionary accounts and managed accounts.

(iii) One commenter does not believe that this is an area that IIROC can justify regulating and questioned whether there is a demonstrated need for an outright ban by IIROC and suggested that IIROC conduct a study to determine if there is in fact a problem.

IIROC staff response

IIROC is empowered to and responsible for regulating the conduct of its Dealer Members and Dealer Member Representatives, including their business and/or personal financial dealings with clients. In light of that obligation and authority, it is incumbent on IIROC to identify and, where necessary, prohibit specific activities which create, or potentially create, material conflicts of interest between Dealer Members, including

their Dealer Member Representatives, and their clients. IIROC staff is of the view that the conflict of interest and potential conflict of interest arising from the types of personal financial dealing activities set out in the rules is so significant that it is not necessary to undertake a separate study in this area.

As previously mentioned, the types of activities prohibited by the Proposal are activities which give rise to the potential for abuse, particularly when dealing with vulnerable clients.

8. General Comments

(i) One commenter suggested that the role of supervision should be emphasized in the proposals.

IIROC staff response

Dealer Members are expected to adequately supervise all activities of their Dealer Member Representatives. The requirement to supervise is set out in the current IIROC Dealer Member Rules. IIROC will further emphasize the importance of supervision in the Implementation Notice relating to this proposal.

(ii) One commenter questions what constraints should be applied to ensure that the Dealer Member Representatives are acting fairly, honestly and in good faith?

IIROC staff response

Dealer Members must design and implement policies and procedures that promote regulatory compliance and high business conduct standards. These policies and procedures must include supervision and reporting requirements. As well, they need to be clearly communicated to Dealer Member Representatives to ensure that their conduct is fair, honest and in good faith.

(iii) One commenter questions the extent to which Dealer Members will be held accountable for the decisions taken by the Dealer Member Representative?

IIROC staff response

Dealer Members have a general obligation to supervise the activities of their Dealer Member Representatives. The extent of the Dealer Member's liability will depend on the facts of the case and on whether the nature and extent of the supervision was adequate and reasonable in the circumstances.

(iv) One commenter suggested the following: (a) penalty guidelines be provided, (b) an increase in fines that are to the account of the Dealer Member, leaving the Dealer Member to effect collection, and (c) punitive damages be added to the investor protection tool kit.

IIROC staff response

All Dealer Members are monitored for compliance with IIROC Rules. Any Rule breaches are corrected and, in appropriate cases, pursued through an enforcement action. Any changes to the enforcement powers and penalty guidelines are outside the scope of this project.

(v) One commenter requested further clarification as to who IIROC is referring to when describing a "client" throughout the Guidance Notice. Is it a client of the firm or a client of the individual registrant? One commenter suggests that IIROC introduce a distinction between clients of the firm, generally and clients who are directly serviced by the individual registrant. The commenter provides an example in which an advisor makes a personal loan to a friend who has an unrelated discount brokerage account with the advisor's firm and argues that this activity should not be captured under this requirement; in contrast, a higher standard is warranted where the advisor makes a personal loan to a friend who is also a client directly serviced and advised by that advisor.

IIROC staff response

Both the Dealer Member and an individual Dealer Member Representative have obligations to the client and to that extent the client is a client of both the Dealer Member and the individual registrant. With respect to the application of the attached Proposed Rules and Guidance Note, the client is the client of the firm. As such, an Approved Person may not accept any consideration from a client of the Dealer Member, whether or not that Approved Person is the designated Registered Representative on the client's account. Although the real or perceived conflicts are more tangible where the advisor makes a personal loan to a friend who is directly serviced and advised by that same advisor, or by another advisor in the same branch or region, it is difficult to set out all types of situations where a lower standard may be acceptable. Accordingly, a general prohibition is needed in order to create consistency and certainty.

(vi) One commenter suggested that the definition of a Related Person as defined under the Income Tax Act be included in the Proposed Rule or as an attachment to the Proposed Rule for ease of reference for members.

> ***IIROC staff response***
>
> We have set out the relevant section number of the *Income Tax Act*, section 251(1), as well as the current definition, in our implementation notice.

DEALER MEMBER RULE 18.14

1. Outside Business Activities

(i) One commenter requested additional information as to what IIROC is attempting to capture under Proposed Rule 18.14(d) and what ultimately would need to be reported to IIROC.

> ***IIROC staff response***
>
> Proposed Rule 18.14(c) will require a Registered Representative (RR) and Investment Representative (IR) to:
>
> - inform his or her Dealer Member of all business activity that the RR or IR are involved in outside of the Dealer Member; and
> - obtain the approval of the Dealer Member.
>
> This would include any outside business activity for which the RR/IR expects to, or actually receives, direct or indirect benefit, payment or compensation. The Registered Representative or Investment Representative may only engage in such outside business activities upon approval by the Dealer Member.
>
> IIROC staff is also of the view that when a Registered Representative or Investment Representative provides certain additional services to a client which are outside the scope of his/her registerable activities (for example: looking after a client's GIC business outside of the Dealer Member), these activities are subject to the disclosure and approval requirements set out in proposed Rule 18.14(c). Although there may not be any immediate compensation for those activities, they may be undertaken in an effort to generate more business (i.e. expected benefit) from the client.

(ii) One commenter explains that outside business activity is a source of many investor complaints. Off-book sales is on top of the list. The proposed amendments will require that all outside business activities be disclosed to and approved by the Dealer Member. We agree but believe that IIROC should make three points clear:

1. Any such approval requires the Dealer Member to perform post-approval monitoring and supervision.
2. Any undue losses incurred by clients as a result of the approval shall be for the account of the firm, NOT the dealer representative.
3. The firm should advise the client that outside business activity that has been approved and delineate the scope of that activity and the extent to which the firm will accept liability in the event that things go awry.

> ***IIROC staff response***:
>
> The following is the position of IIROC staff with regards to each of the comments made above:
>
> 1. Dealer Members must supervise the activities of the Dealer Member Representative to ensure that the outside business activities do not create any real or potential conflicts of interest.
> 2. The facts and circumstances of the case would be a factor in determining whether the Dealer Member Representative and/or the Dealer Member is held accountable for any client losses, including whether the Dealer Member failed to properly supervise the activities of the Dealer Member Representative.
> 3. The requirement to address, control and/or avoid conflicts of interest is currently addressed in section 13.4 of NI 31-103 and will further be addressed under the proposed Client Relationship Model amendments.

(iii) Two commenters are concerned about the impact of the proposal on financial planning activities engaged in by some Dealer Member Representatives.

IIROC staff response

The intent of this proposal is to deal with the issue of outside business activities generally; any issues relating financial planning activities engaged in by some Dealer Member Representatives is not within the scope of this project.

(iv) One commenter requested clarification as to why Section 18.14(d) makes it the Dealer Member's responsibility to report the outside business activities within seven days, whereas under NI 33-109 it is the individual registrant's obligation to report within seven days.

IIROC staff response

For consistency with current practices, Dealer Member Rule 3100, and Member Regulation Notice 0162 - Policy 8 - *Information Regarding Reporting* ("MR0162") , it is the Dealer Member Representative's responsibility to report the activity to the Dealer Member, and the Dealer Member's responsibility to report the activity to the regulators.

(vi) One commenter requested further clarification as to whether the Proposed Amendments extend beyond the listed parties, Registered Representatives and Investment Representatives, to all positions within a Dealer Member, similar to those individuals required to complete Item 10 of National Instrument 33-109F4 ("NI 33-109 F4").

IIROC staff response

Proposed Rule 18.14 will only be applicable to Registered Representatives and Investment Representatives. However, the outside business activities of other Approved Persons will be subject to similar approval requirements in order to comply with section 13.4 of NI 31-103. As noted in the comment, such outside business activities would have to be disclosed as per NI 33-109F4.

(vii) One commenter suggested that Section 18.14(e)(ii) contain an exemption for registrants who have roles with parent companies, affiliates or subsidiaries that are not IIROC Members.

IIROC staff response

The Proposed Amendments are not a prohibition against all outside business activities, but rather simply require that the activity be disclosed to and approved by the Dealer Member in order for the Dealer Member to ensure that it is not inappropriate, detrimental to the public interest or such that it would bring the industry into disrepute. Disclosure of such activities is equally important as such a position may create a conflict of interest. Any position with a parent company, affiliate or subsidiary of a Dealer Member is presumably disclosed to and approved by the Dealer Member and we do not see the need for setting out a specific exemption. The position of IIROC staff will be clarified in the related Guidance Note; any position with a parent, affiliate or subsidiary of a Dealer Member is not prohibited, although in most cases, it can be presumed that the position has been approved by the Dealer Member, nonetheless the position must be disclosed in order to ensure that it is disclosed to the relevant regulator.

(viii) One commenter suggested that Notice MR0434 be repealed so that Dealer Members are only required to consider the Proposed Amendments to avoid confusion.

IIROC staff response

IIROC staff has issued a new Guidance Note on disclosure and approval of outside business activities which replaces previously issued MR0434.

Attachment D

to Rules Notice 13-0162

Re: IIROC response to public comments on draft Guidance Note "Disclosure and approval of outside business activities"

This summary responds to the three comment letters received on the proposed Guidance Note on disclosure and approval of outside business activities, published for public comment on May 11, 2011. We have considered the comments received and we thank all the commenters for their submissions.

The comments have been summarized and are followed by IIROC staff responses to the comments.

General comments relating to the scope of the notice and the definition of outside business activities

- One commenter suggests amending the definition of outside business activities by eliminating references to any other activity which may give rise to potential conflict of interest or client confusion; the commenter's concern is that the proposed definition is capturing a broad range of non-business involvement.
- The same commenter suggests amending the disclosure requirements by eliminating the requirement to disclose the business activities that place an approved person in a position of influence over a potential client.
- The commenter recommends that involvement in non-business outside activity should not be subject to the disclosure, approval, record-keeping and NRD requirements unless the activity is being formally marketed to clients and the number of hours devoted to the activity exceeds 10% of the average of hours worked per week.

IIROC staff response

The definition of outside business activities and IIROC expectations relating to disclosure of outside business activities is consistent with the current requirements set out in National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (NI 31-103). In drafting the proposed definition, IIROC staff considered the following:

- Currently, section 13. 4 of NI 31-103 requires the identification of not only existing conflicts of interest but also potential conflicts of interest that may arise between an individual acting on a firm's behalf and a client. Accordingly, any activity that could result in a potential conflict of interest will also have to be identified. Outside business activities are one type of activity from which an existing or potential conflict of interest may arise.
- As per Form 4 of National Instrument 33-109 *Registration Information* (NI 33-109F4), Dealer Members and Approved Persons are required to provide information regarding all business-related officer or director positions, or any other equivalent position held, whether or not compensation is received. Consistent with the current CSA expectations, IIROC currently expects disclosure of any activity that places an individual in a position of power or influence as part of the outside business activities disclosures.

The IIROC proposed rules, consisting of both those set out in IIROC Rules Notice 10-0155 and those discussed in the relevant proposed Guidance Note (IIROC Rules Notice 11-0150) were drafted for consistency with the above noted requirements. We have however, amended the definition of "outside business activities" in the Guidance Note as follows:

> *"Any business activity conducted outside of the Dealer Member by an Approved Person, for which direct or indirect payment, compensation or other consideration or benefit is received or expected".*

Furthermore, we have clarified that consistent with the requirements and expectations set out by the provincial securities regulators, the principles set out in the Guidance Note equally apply to any other activities by which a potential conflict of interest or client confusion may arise.

- One commenter suggests that compliance with Dealer Member Rules 29.1 and 18.14 are sufficient.

Dealer Members should note that compliance with Dealer Member Rule 29.1 and 18.14 is required and should form part of the Dealer Member's policies and procedures. However, compliance with these requirements is not an alternative method of complying with the disclosure and approval requirements.

- One commenter states that "our experience with such business activities is negative. Retail investors, particularly seniors, believe they are dealing with the firm and are shocked, when things go wrong, that they are their own". The commenter believes that there is no benefit to clients for outside business activities and any control that the dealer will have over the conflicts of interest will add costs which will ultimately flow down to the client. The commenter states that managing outside

business activities will result in dealer expenses, IIROC monitoring cost, and investor risk. The commenter is concerned that the dealer will not be accountable for any "abuses that the outside business might inflict on the client" and notes that "off book" transactions are nearly always denied.

IIROC staff response

The disclosure and approval requirements set out in the proposed rules, the existing requirements set out in NI 31-103 and those best practices set out in the Guidance Note are intended to address the issues raised by the commenter.

The alternative, not allowing any outside business activities, is not appropriate for various reasons including the fact that an outright ban may impinge on an individual's right to earn a living, given that in some cases an Approved Person may need to have outside employment or business activities to supplement their income. In fact, there are few, if any, industries or professions which ban their members from any and all outside business activities. IIROC staff believes that it is more reasonable to set out conditions and limitations under which an individual may engage in outside business activities. This approach is consistent with the expectations set out by the provincial securities regulators.

- One commenter notes that given the importance of this notice to retail investors IIROC should not depend on written submissions since historically, the number of submissions from industry participants overwhelm the few submissions from retail investors.

IIROC staff response

IIROC staff agrees that consultation with investors and industry participants are equally important and that is the basis for which we issued the Guidance Note for a 60 day public comment period; the publication was to allow all interested parties to comment on any relevant proposal. With regards to this specific proposal IIROC received one letter from an industry participant and two letters from investor representatives.

Comments relating to disclosure and approval of outside business activities:

- One commenter suggests that Dealer Members be required to disclose the distinction between their business and any approved outside business activity to clients and the public, in accordance with Section 13.4 of NI 31-103 and its Companion Policy 31-103CP. The commenter states that Dealer Members should be liable for all acts and omissions relating to the outside business activities of their representatives unless it is clear that the activity is not part of the Dealer Member's business.

IIROC staff response

IIROC staff agrees that outside business activities should be clearly disclosed to clients and such is the purpose of the proposed rules and Guidance Note relating to outside business activities. We have clarified the importance of explaining the distinction between the Dealer Member's business and the outside business activity. The issue of liability is dependent on the facts of any particular case.

- One commenter suggests that proposed IIROC Dealer Member Rule 18.14(e) be amended to include a condition similar to FINRA's Supplementary Material on FINRA rule 3270 which includes the following condition: Upon receipt of a notice of a registrant's outside business activity, the member is expected to consider whether the proposed activity will be viewed by customers or the public as part of the member's business based upon factors such as the nature of the activity and the manner in which it will be offered. The commenter further suggests that Dealer Members should not permit any activity which might cause consumer confusion.
- Another commenter suggests using an approach similar to that used by FINRA, which does not require disclosure of activities with organizations that are charitable or religious in nature.

IIROC staff response

Similar to the FINRA approach, the IIROC Guidance Note clarifies that the risk of client confusion is a factor that should be considered by a Dealer Member when deciding whether to approve an outside business activity request. The Guidance Note also specifically states that "under no circumstances should an outside business activity, which might cause consumer confusion or reflect poorly on the Dealer Member or the industry, be permitted". Furthermore, as per CSA Staff Notice 31-326 *Outside business activities*, the risk of client confusion relating to an outside business activity is a factor when assessing a party's application for registration and continuing fitness for registration.

IIROC staff does not believe that a further rule amendment is necessary, as the issue of client confusion is captured by paragraphs 18.14(e)(i) and (ii)(2).

Any outside business activity that places an Approved Person in a position of influence or conflict of interest over a client or potential client must be disclosed, whether or not it is a paid position. Examples include where an individual has a leadership role in, or sits on the board (or similar body) of, an organization, such as a

social, charitable or religious organization.

- One commenter is concerned about the requirement to pre disclose outside business activities particularly with regards to the expectation to disclose activities that would place an Approved Person in a position of influence over a potential client. One example used by the commenter is that in some cases, an Approved Person may not know or remember that he or she has been named an executor of a will. The commenter further explains that a friend or family who may have appointed the approved person as the executor may be considered as a potential client.

IIROC staff response

The issues relating to pre-disclosure and assessment of whether an activity places an approved person in a position of influence over a potential client have been addressed above.

With regards to the example used by the commenter, the first issue is whether executorships are acceptable. Assuming that the appointment is not otherwise prohibited, then the Approved Person would remain subject to the applicable disclosure and approval requirements contained in the proposed rules. Having said that, IIROC staff acknowledges that such disclosure may not be possible in some rare circumstances, for instance, where the Approved Person was not, and could not have been, aware of their appointment.

- One commenter suggested amending the reference to potential clients in the following part of the Guidance Note: "any outside business activity that places an approved person in a position of influence over a client or potential client must be disclosed…" The commenter is concerned that an Approved Person can come into regular contact with what could be described as "potential clients" in any setting outside of work. The commenter suggests changing ***potential client*** to ***future client***.

IIROC staff response

The use of potential client, rather than future client, is consistent with the language used by the CSA in NI 31-103. In order to avoid confusion, this term will be retained.

- One commenter suggests that sitting on the board of a charitable, social or other not-for-profit organization is not an activity that is likely, in the ordinary course, to give rise to potential conflicts of interest, given that board decision-making is by definition consensual or majority based rather than directive by a single member. The commenter suggests that requiring such disclosure is an inappropriate invasion of privacy, especially to the extent that the organization relates to any of the 12 groups whose rights are protected under human rights legislation.

IIROC staff response

As previously explained on page 1 of this response letter, the expectation to disclose participation on the board of directors of any organization is mandated by the provincial securities regulators. The rules do not prohibit working with any charitable organizations; rather, the requirement is simply to disclose that fact in order to ensure there are no potential conflicts of interest.

- One commenter suggests that Dealer Members should monitor their representatives for unapproved outside business activities and if unapproved activities are detected, they should report any such activities to IIROC.

IIROC staff response

As previously mentioned, Dealer Members have an obligation to identify existing and potential material conflicts of interest, including an Approved Person's outside business activities. Dealer Members are expected to take reasonable steps to identify existing and potential material conflicts of interest.

- One commenter is concerned that the notice does not contain a provision for periodic examinations to validate that the approved conditions are still applicable and points out that the notice suggests annual canvassing of staff.

IIROC staff response

Currently, Dealer Members and Approved Persons are required to report any changes to the information contained in an Approved Person's application for registration; information relating to an Approved Person's outside business activities must be disclosed on the application for registration. The annual canvassing works as a periodic examination and it is to ensure that Approved Persons are complying with the above noted requirements.

- One commenter questions how the use of separate email, fax, business cards, etc. would be enforced and what sanctions would be applicable.

IIROC staff response

Dealer Members should ensure the use of separate email, fax and business cards for anyone who engages in outside business activities. IIROC would review such procedures during the course of its audit reviewing. Determining what the appropriate sanction for non-compliance would be would depend on the circumstances of the particular case.

- One commenter suggests that "compelling" should be deleted in the following phrase "Dealer Members are reminded that they must be able to provide compelling evidence of the due diligence performed as part of their outside business activity approval process" as it is unclear and unnecessary given that the Corporation reserves the right to satisfy itself as to the sufficiency of that evidence.

IIROC staff response

IIROC staff agree and have deleted the word compelling.

Comments relating to filing on NRD

- One commenter does not agree that each employment or outside business activity should be set out as a separate item on item 10 of form 33-109F4; the commenter suggests where an individual plays a similar role in a number of affiliate/related/subsidiary companies, they should be set out as one activity in item 10. The commenter would also like the same consideration as that given to insurance activities under item 13, to be given to securities activities with a foreign affiliate.

IIROC staff response

The need for detailed information is in order to ensure that both the Dealer Member and the regulators are aware of all the detailed activities carried out by the individuals including activities carried out at a Dealer Member's affiliate/subsidiary/related companies. This is important in order to identify and address regulatory issues, such as conflicts of interest.

In response the issue of multiple entries, this is mandated through NI 33-109F4 as two different questions/issues are being addressed. Item 10 relates to the individual's current employment, item 13 relates to the individuals registration with another securities or non-securities related organization. IIROC staff would like to note that individuals who have to make such multiple entries under Item 10 and/or Item 13 can copy and paste the required information, so long as it accurately addresses the item.

- The commenter suggests changing the reporting timelines to 10-days, rather than 7 days, for consistency with recent changes to NI33-109.

IIROC staff response

The Guidance Note has been updated to clarify that the time frame for reporting has changed from 7 days to 10 days.

- One commenter suggests that the title of the officer approving the outside business activity be entered on NRD.

IIROC staff response

The title of the reviewing person can be entered on NRD. Although, not a specific requirement, IIROC staff strongly encourages this practice as such information may be requested in specific cases and would be beneficial if the Dealer Member has this information readily available.

Other comments:

- One commenter suggests amending the definition of the securities related activities in Dealer Member Rule 1 and amending IIROC Dealer Member Rules 18.14 and 18.15 to require that all securities related activities be conducted through a Dealer Member.
- One commenter suggests that if all securities related activities were required to occur though the Dealer Member, this would significantly lessen the potential liability of Dealer Members.

IIROC staff response

The definition of securities related activities and its application are outside the scope of this proposal and are currently under review as part of a separate project. The commenter's suggestion is an issue that we will be looking at as part of the separate project.

- One commenter expresses concern that firms derive profits based on their reputation and name recognition and that such recognition induces retail investors to deal with their reps outside of the business, therefore, firms should be required to

bear the cost of these outside business activities and that such responsibility will provide Dealer Members with strong incentives to police unapproved outside business activities.

IIROC staff response

The Guidance Note clearly states that under no circumstances should an outside business activity cause consumer confusion and that the business activities outside of the Dealer Member must be clearly seen to be conducted outside the Dealer Member. Accordingly, any use of the Dealer Member's name to induce investors to deal with an individual's outside business activities should be prohibited. The extent of a Dealer Member's liability and responsibility to bear the cost of any outside business activity would depends on the facts and circumstances of each case.

- One commenter recommends that IIROC and CSA members undertake to determine whether IIROC Dealer Members should be required to obtain insurance to compensate investors for harm caused by their representatives' outside business activities.

Given the current disclosure requirements and practices set out above, it is the position of IIROC staff that requiring insurance, in addition to the current FIB insurance requirements, is not necessary.

- One commenter suggests that a duty be imposed on all registrants to report breaches or suspected breaches of securities regulation.

IIROC staff response

Current Dealer Member Rule 3100 requires a registrant to report to the Dealer Member any time her/she believes that they may have violated, among other things, securities legislation. Any additional requirements, such as a requirement to report when another registrant has violated securities legislation, are outside the scope of this project.

- One commenter is concerned about the potential harm of outside business activities to seniors.
- One commenter requests IIROC to provide examples of how to focus on senior related issues.

IIROC staff response

In developing rules and guidance notes relating to outside business activities, IIROC staff considered the impact on all types of clients including more vulnerable clients such as seniors. In dealing with vulnerable clients such as seniors, Dealer Members and Registered Representatives should take extra care in disclosing and explaining the distinction between the Dealer Members' business and the outside business activity that the Registered Representative may be involved with. For example, if a Registered Representative proposes to sell an insurance product to a client outside of the Dealer Member, then extra care should be taken to explain that such products are not related to the Dealer Member's business and are sold through a separate entity.

- One commenter suggests that Registered Representatives should employ a mutually agreed upon Investment Policy Statement based on the client's NAAF and financial plan and that this will help investors detect if unsuitable investments from an outside business interest are being promoted.

IIROC staff response

The use of Investment Policy Statements is outside the scope of this project.

RULES NOTICE

GUIDANCE NOTE

DISCLOSURE AND APPROVAL OF OUTSIDE BUSINESS ACTIVITIES

13-0163
June 13, 2013
Replaces MR 0434

Background

In November 2006, the IDA issued Member Regulation Notice MR0434, *Other Business Activities* ("MR0434"), in order to provide Dealer Members and Approved Persons with guidance on the issue of business activities that, although engaged in by Approved Persons, are not performed on behalf of the Dealer Member. MR0434, among other things, explained that Dealer Members should be aware of other business activities engaged in by their Approved Persons and must have in place policies and procedures requiring Approved Persons to:

- disclose all other business activities to the Dealer Member; and
- obtain the Dealer Member's approval for such other business activities.

This Guidance Note replaces MR0434 and reflects the recent amendments to IIROC Dealer Member Rule 18.14 ("the amendments") as well as the requirements set out in National Instrument 31-103, *Registration Requirements, Exemptions and ongoing Registrant obligations* ("NI 31-103"), and National Instrument 33-*109, Registration Information* ("NI33-109").

For the purposes of this Guidance Note, "outside business activities" includes any activities conducted outside of the Dealer Member by an Approved Person, for which direct or indirect payment, compensation, consideration or other benefit is received or expected.[2]

Consistent with the requirements and expectations set out by the provincial securities regulators, the principles set out in this Guidance Note equally apply to any other activities by which a potential conflict of interest or client confusion may arise.

In this Guidance Note we have set out:

(a) A summary of the requirements relating to the disclosure and approval of all outside business activities;
(b) Some considerations relating to the approval of outside business activities;
(c) Dealer Members' supervisory responsibilities relating to outside business activities; and
(d) Filing requirements – National Registration Database ("NRD") relating to outside business activity.

Summary of the requirements relating to disclosure and approval of all outside business activities

Below we have set out a summary of the various requirements relating to outside business activities; Dealer Members should note that there are differences in the individual scope of each requirement.

- General conflicts of interest identification and disclosure requirements set out in IIROC Dealer Member Rule 42 apply to all Approved Persons.
- General conflicts of interest identification and disclosure requirements set out in NI 31-103 and the associated companion policy apply to each individual acting on behalf of a Dealer Member.
- Within the context of conflict of interest related requirements, the companion policy of NI 31-103 specifically references the need for the disclosure and approval of outside business activities of registrants.
- In addition to the above noted conflict of interest related provisions in NI 31-103 and its companion policy, recent amendments in IIROC Dealer Member Rule 18.14 specifically require Registered Representatives and Investment Representatives to disclose, and obtain the approval of the Dealer Member before engaging in, any outside business activities.
- In addition to the above noted requirements, pursuant to NI 33-109, and as required through Dealer Member Rules 40 and 3100, all Approved Persons must disclose their business activities outside of their sponsoring firm, including any business related officer or director positions and any other equivalent positions held, whether or not compensation is received.

[2] The recent amendments to IIROC Dealer Member Rules, which prohibit any personal financial dealing with clients, stipulate that receiving any compensation directly from anyone other than the Dealer Member for activities conducted on behalf of a client is prohibited. It should be noted however, that an exception is provided in the case of any compensation received from a client that is in exchange for services provided through an approved outside business activity.

- The Canadian Securities Administrators ("CSA") issued CSA Staff Notice 31-326, *Outside Business Activities* (the "CSA Notice"), to remind registrants of their obligation to ensure outside business activities do not impair or impeded the performance of their regulatory obligations, including compliance with the conflicts of interest provisions under NI 31-103. The CSA Notice sets out a number of matters relating to an individual's outside business activities that the CSA will consider when assessing an initial application for registration, a change to registration and in considering continuing fitness for registration. The CSA Notice also sets out information relating a registered firm's responsibilities for monitoring and supervising the individuals whose registration it sponsors in relation to outside business activities. As set out above, the conflict of interest provisions in NI 31-103 and IIROC Dealer Member Rule 42 require Dealer Members, and where applicable Approved Persons, to take reasonable steps to identify existing material conflicts of interest and material conflicts of interest that the Dealer Member would reasonably expect to arise between the Dealer Member, including each individual acting on behalf of the Dealer Member, and a client. Given that conflicts may arise when Approved Persons are engaged in outside business activities, and in keeping with guidance provided in the Companion Policy of NI 31-103, Dealer Members should ensure that they consider whether potential conflicts of interest may arise from an Approved Person's proposed outside business activity before approving any such activity. Furthermore, if a Dealer Member concludes that it cannot properly control a potential conflict of interest it should not permit the outside business activity.

Dealer Members' pre-approval processes should be robust and impartial enough to reasonably:

- identify the risk of client confusion and/or conflicts of interest in advance; and
- ensure that approval is only granted in cases where effective controls and qualified supervisory personnel are first in place.

Under no circumstances should an outside business activity, which might cause consumer confusion or reflect poorly on the Dealer Member or the industry, be permitted. Accordingly, the reputation of others involved with the outside business activity should be considered. Dealer Members are also reminded that they must be able to provide evidence of the due diligence performed as part of their outside business activity approval process. IIROC reserves the right to satisfy itself as to the sufficiency of that evidence.

Dealer Members are also reminded that there is also an implicit obligation to ensure that the outside business activities of all Approved Persons are compatible with the ethical standards set out in Dealer Member Rule 29.1.

Some approval considerations relating to outside business activities

Dealer Members have at times expressed an interest in receiving clearly-delineated and prescriptive direction from IIROC on outside business activities. The evolving and complex nature of the financial services industry however, necessitates that Dealer Members exercise appropriate due diligence and judgment. The following are therefore offered as considerations, but do not represent an exhaustive list of factors that a Dealer Member should consider when assessing an outside business activity:

- Outside business activities should not materially impair a Dealer Member's ability to discharge its "duty of care" to its clients. Therefore:

  - The amount of time that a Registered Representative or Investment Representative devotes to an outside business activity is an important consideration. Outside activities that are likely to hinder a client's ability to access their dealer account assets and, where it is part of the service offered, to access suitable advice should not be permitted until the prospect of such disruptions has been effectively eliminated; and
  - Outside activities (e.g. positions with public issuers) that may prevent a Registered Representative from providing fully-informed and unbiased counsel to his/her clients should not be permitted unless the conflict is disclosed and adequately controlled. Consistent with section 13.4 of NI 31-103 CP, Dealer Members and Approved Persons are reminded that some conflicts of interest are so fundamentally contrary to another person's or company's interests, that controls and/or disclosure cannot effectively address them and they should therefore, be avoided. Furthermore, as noted in Dealer Member Rule 42.2(3) any existing or potential material conflict of interest between the Approved Person and the client that cannot be addressed in a fair, equitable and transparent manner, and consistent with the best interests of the client or clients, must be avoided.

- Outside business activities should not involve the use of client information.

  - Customers provide confidential information to Dealer Members solely for the purposes of their dealings with Dealer Members. They may also grant permission for the Dealer Member to provide that information to affiliates of the Dealer Member that provide other services that may be of interest to the customer. That permission does not, however, extend to an individual Approved Person's outside business activities. Therefore training and controls should be in place to prevent Approved Persons from making use of such information in their pursuit of outside business activities.

- Business activities "outside" of the Dealer Member must be clearly seen to be outside the Dealer Member. The distinction between the Dealer Member's business and the outside business activity should be clear to clients. Therefore:

  - The use of a Dealer Member's premises, records, logos, trade name(s), stationery, support staff or contact facilities (phone/fax numbers, mail/e-mail/instant or text-messaging addresses, etc.) while conducting outside business activities should not be permitted.
  - As noted in section 13.4 of NI 31-103CP Dealer Members should ensure that their clients are adequately informed about any conflicts of interests that may affect the services the firm provides to them. The timing of the disclosure depends on when and what a reasonable investor would expect to be informed of. Outside business activities of Approved Persons are one type of activity which may give rise to a conflict of interest for which disclosure may be needed.

- The approval and control processes for outside business activities should be robust and impartial. Therefore:

  - Dealer Members' policies and procedures, as well as their training programs (both initial and ongoing), should emphasize the requirement to disclose all outside business activities and obtain pre-approval of the outside business activities and the process by which they may seek that pre-approval. Furthermore, it would be advisable for Dealer Members to include their approval/disapproval criteria in their outside business activity policy and consider annual "outside business activity" canvasses of their staff;
  - Dealer Members' records should include complete supporting evidence regarding its handling of all outside business activity approval requests, including any special conditions, policies, procedures and controls that have been imposed and how compliance will be monitored; and
  - Approved Persons should never adjudicate their own outside business activity request.

Outside business activities should comply with both the letter and spirit of Dealer Member Rules 18.14(1)(e), 29.1 and 42 and therefore no outside business activity which might cause consumer confusion or reflect poorly on the Dealer Member or the industry should be permitted.

As part of their approval process, Dealer Members should also consider the criteria set out in CSA Notice which explains what the CSA will take into account in relation to an individual's outside business activities when assessing an individual's application for registration, change in registration or continued fitness for registration. Among other things, the CSA will consider whether: a) the outside business activity places the individual in a position of power or influence (i.e. acting as a religious leader such as a preacher or sitting on board of any organization including charities) over clients or potential clients, in particular clients or potential clients that may be vulnerable; and b) the outside business activity provides the individual with access to privileged, confidential or insider information relevant to their registerable activities.

Supervision of outside business activities

In order to comply with the requirements set out in IIROC Dealer Member Rules 18.14(1)(e), 29.1 and 42, as well as section 13.4 of NI 31-103, Dealer Members must have policies and procedures in place that:

a) Require all of their Approved Persons to disclose their outside business activities to the Dealer Member, prior to engaging in such activities;
b) Ensure that the Dealer Member has the ability to identify conflicts of interest; and
c) Determine the risks that a conflict may give rise to and respond appropriately to the conflict of interest.

Once identified, conflicts can be addressed either through avoidance or by disclosure and supervision. Conflicts of interest must be addressed in a fair, equitable and transparent manner, and considering the best interests of the client(s).

Dealer Members should refer to the CSA Staff Notice which sets out the CSA's expectations relating to a Dealer Member's responsibility to monitor and supervise outside business activities. Among other things, the Notice states that this includes ensuring the Dealer Member's Chief Compliance Officer is able to properly supervise and monitor the outside business activities; maintain proper records of such supervision; and assess whether an individual's lifestyle is consistent with the Dealer Member's knowledge of the individual's business activities as well as staying alert to other indicators of possible fraudulent activity.

Filing Requirements – National Registration Database ("NRD")

This Notice also sets out the process for reporting outside business activities, via NRD, to IIROC. Dealer Members are reminded that all Approved Persons are required to disclose their outside business activities on NRD.

Item 10 of Form33-109F4 is intended to capture all current employment information, as well as outside business activities. Individuals must treat each employment relationship or outside business activity as a separate item and therefore, make

separate entries addressing all elements below. Please also note that changes to employment relationships and outside business activities must be reported within ten (10) days of the change, pursuant to section 4.1 of NI 33-109.

This reporting requirement includes the need to update item 10, to include references to activities with any affiliate/related/subsidiary company of the Dealer Member. Although generally any position with a parent, affiliate or subsidiary of a Dealer Member would have been approved by the Dealer Member, nonetheless the position must be disclosed to the relevant regulators similar to the disclosure of any other employment relationship or outside business activity.

The reporting requirement also includes situations where the Approved Person conducts business through a "trade name" or conducts other business activities outside of the Dealer Member. Reporting of a trade name is required under item 1(3) of Form 33-109F4 if the trade name is used for purposes of Dealer Member activities. If a trade name will be used for outside business activities (e.g. insurance) the trade name is required to be filed under both item 1(3) and item 10 of NI 33-109F4.

In situations where insurance activities are being conducted through a registered insurance provider or through the Dealer Member's related/affiliate/subsidiary entity, this information only needs to be reported under item 13(3)(a) of Form 33-109F4, but must include the name of the insurance firm. In situations where the individual is conducting insurance activities through another entity, with or without other financial planning services, individuals must report this business activity under both items 10 and 13(3)(a) of Form 33-109F4 and they must address all items pursuant to guidelines provided below.

IIROC's acknowledgement of these notices, via NRD, does not represent IIROC's approval of the individual's outside business activity or that the Corporation agrees that all potential conflicts of interest have been addressed. As a result, IIROC may request further information following it's acknowledgement of the notice, where deemed necessary.

Item 10 of Form 33-109F4 requires that all business and employment activities must be disclosed, including business and employment activities outside of the individual's sponsoring firm, and including all business related officer or director positions and any other equivalent positions held, whether compensation is received or not. Any outside business activity that places an Approved Person in a position of influence over a client or potential client must be disclosed, whether or not it is a paid position. Examples include where an individual has a leadership role in, or sits on the board (or similar body) of, an organization, such as a social, charitable or religious organization.

Requirements under item 10 of the Form 33-109F4 are identified below for further clarity:

1. Start Date
2. Firm information

   - Self explanatory as presented in Form 33-109F4.

3. Description of duties

   - Disclose details here on type of business, position with firm and duties associated with the position. If the individual fails to provide full details on the type of business and the duties associated with the outside business activity, it will be considered a deficiency.

4. Number of hours per week

   - Individuals should disclose approximate number of hours devoted solely to the outside business activity on a weekly basis.

5. Conflict of interest:

   - Disclose any potential for confusion by clients and any potential for conflicts of interest arising from the activities as a registrant and the outside business activities described above
     A response to this item is required in all cases when you are involved in outside business activities. The disclosure must contain the following:

     (i) Confirmation as to whether there is any potential for confusion by clients and any potential for conflicts of interest arising from the outside business activities. In the event that the disclosure indicates no conflicts of interest are foreseen, an explanation must be provided as to why this is believed to be the case.
     (ii) The sponsoring firm must confirm that it has reviewed the outside business activity to ensure compliance with the firm's policies and procedures and the issues set out in this Notice. Confirmation must include the name and title of the officer or Supervisor who performed the review. The Approved

Person must also confirm that they are aware of the firm's policies and procedures relating to outside business activities.

IIROC may request additional information to clarify the outside business activities.

This Notice replaces previously issued MR-0434.

13.2 Marketplaces

13.2.1 CNSX Markets – Notice 2013-003 – Request for Comments – Passive-only Order Type

CNSX MARKETS – NOTICE 2013-003 – REQUEST FOR COMMENTS – PASSIVE-ONLY ORDER TYPE

June 13, 2013

CNSX Markets Inc. ("CNSX" or the "Exchange") intends to make available to CNSX Dealers a "passive-only" order type that will re-price or reject orders that would otherwise be executable upon entry. The Exchange is publishing this 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 attached as Appendix B to the Exchange's recognition order.

Comments may be provided no later than July 15, 2013 and should be addressed to:

Mark Faulkner
Vice President, Listings and Regulation
CNSX Markets Inc.
220 Bay Street, 9th Floor
Toronto, ON, M5J 2W4
Fax: 416.572.4160
Email: Mark.Faulkner@cnsx.ca

A copy should be provided to:

Susan Greenglass
Director, Market Regulation
Ontario Securities Commission
Suite 1903, Box 55
20 Queen Street West
Toronto, ON, M5H 3S8
Fax: 416.595.8940
Email: Marketregulation@osc.gov.on.ca

Terms not defined in this Notice are defined in the CNSX Rules.

Proposed Change

CNSX Markets Inc. ("CNSX" or the "Exchange") will be providing for CNSX Dealers with Gateway Access Agreements a new optional feature that will re-price or cancel incoming orders that would otherwise be executable on entry. The change will provide the CNSX Dealers with the ability to designate the orders as "passive-only" orders.

Effective Date

The passive-only order functionality will be introduced, following public comment and OSC approval, on the later of:

I. the date that the Exchange is notified that the change is approved;

II. if applicable, the date of publication of the notice of approval on the OSC website; and

III. a date designated by the Exchange.

Rationale

CNSX Dealers have requested the ability to re-price or cancel orders that would otherwise have to be routed to other marketplaces due to OPR. They have also requested the ability to designate particular orders as "passive only", i.e. orders that would either be cancelled or re-priced to the nearest price increment away from an executable price. Both types of functionality are provided by other marketplaces and by third party vendors for order entry on all marketplaces operating in Canada at this time (including CNSX Markets), and effectively standardize CNSX's offering with other marketplaces. A more detailed description of the "passive only" functionality is as follows:

Passive Only (Re-price or Reject)

Orders can be re-priced to the nearest price increment or rejected to ensure that a particular order will be booked (or cancelled). This feature can be enabled for all orders on a particular client gateway or an order by order basis by the CNSX Dealer.
Examples:

Symbol "XYZ", bid/ask on CNSX System, is $10.00 - $10.03

a) Incoming order to sell at $10.00, marked passive-only. The order will be cancelled without trading.

b) Incoming order to sell at $10.00, marked passive-only with the re-price flag. The order will book as a $10.01 offer.

Impact

The order type will provide CNSX Dealers with an additional trading tool at their option. Interested parties will simply have to arrange for new network connections to the service. There is no requirement to use the feature, and there will be no direct impact on any other marketplace or participant as a result of a CNSX Dealer using or not using this new feature. Implementation will not require any changes to communications protocols for order entry or market data.

Risk

There is no anticipated increase to systemic risk in the Canadian financial system as a result of the proposed functionality.

Exchange Compliance

The new functionality does not affect Exchange compliance with Ontario Securities law, nor will it have a detrimental effect on fair access or the maintenance of a fair and orderly market.

Consultation

The enhancements to the functionality being implemented have been requested by numerous CNSX Dealers and their clients dating back to the original introduction of the Order Protection Rule. Although concerns have been expressed in some quarters that the "passive only" tag on an order can be used as an information gathering tool by sophisticated traders, the feature is supported by all other "lit" equity marketplaces operating in Canada. This issue was considered and we do not believe it poses a significant risk to CNSX Dealers. Advance consultation with access vendors and market information vendors was not required, as no technical changes will be required on their part in order to offer these services.

Technological Change

The proposed change will not require any technological changes or development by CNSX Dealers. CNSX Dealers wishing to avail themselves of the new service will have to provision new network connections to the CNSX Trading and Access System. Once the connection has been set up, the gateway will then be configured to provide the desired feature. No protocol changes for order entry or market data are required.

Comparable Functionality

The feature is common and currently available through marketplaces or third party vendors for all "lit" marketplaces in Canada.

The proposed change is recommended on the basis that:

(i) it is not contrary to the provisions of the Securities Act or UMIR;

(ii) it is not contrary to the public interest;

(iii) it is warranted in the opinion of CNSX Staff after consideration of the circumstances of, and consultation with CNSX Dealers.

13.3 Clearing Agencies

13.3.1 CDCC – Notice of Commission Order – Third Variation to the Temporary Exemption Order

CANADIAN DERIVATIVES CLEARING CORPORATION (CDCC)

THIRD VARIATION TO THE TEMPORARY EXEMPTION ORDER

(SECTION 144 OF THE SECURITIES ACT (Ontario))

NOTICE OF COMMISSION ORDER

On June 7, 2013 the Commission granted CDCC an order (Third Variation Order) pursuant to section 144 of the *Securities Act* (Ontario) (Act) further varying a temporary exemption order (Temporary Exemption Order) dated February 15, 2011, as varied and restated by the Commission pursuant to section 144 of the Act on February 14, 2012 and February 26, 2013. The Temporary Exemption Order exempts CDCC for an interim period from the requirement in subsection 21.2(0.1) of the Act to be recognized as a clearing agency. The Third Variation Order amends the Temporary Exemption Order (as varied and restated) by extending CDCC's temporary exemption until the earlier of (i) the date that the Commission renders a final order recognizing CDCC as a clearing agency under subsection 21.2 (0.1) of the Act or exempting it from the requirement to be recognized as a clearing agency under section 147 of the Act and (ii) October 15, 2013.

A copy of the Third Variation Order is published in Chapter 2 of this Bulletin.

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